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CALL TO ORDER

The Senate was called to order by President Atwater at 10:00 a.m. A quorum present—40:

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

PRAYER

The following prayer was offered by Rev. Lupton P. Abshire, Rector, St. John's Episcopal Church, Tallahassee:

O Eternal Lord God, from whom alone comes true wisdom and understanding; mutual consideration and compassion; strength and quiet confidence. We beseech you to direct aright the minds, hearts, and wills of these Senators and fellow Floridians gathered here today who are about to take counsel together on matters pertaining to the common life of our great State of Florida; that in all their deliberations and decisions they may faithfully discharge the duties of their office, and ever promote the health, the safety, and the well-being of all those whom they seek to serve.

Keep them ever mindful of the aged and infirmed, the widowed and orphans, the sick and suffering; the poor and oppressed, the unemployed and the destitute, prisoners and captives, and all those who remember and care for them; and all this, we pray, for your love's sake. Amen.

PLEDGE

Senate Pages Artaveya Ingram of Tallahassee; Nick Powell and Rose Laure Jean-Joseph of Miami; and Victoria S. Webster, daughter of former Senator Daniel Webster, of Orlando, led the Senate in the pledge of allegiance to the flag of the United States of America.

DOCTOR OF THE DAY

The President recognized Dr. Dennis F. Saver of Vero Beach, sponsored by Senator Haridopolos, as doctor of the day. Dr. Saver specializes in Family Medicine.

ADOPTION OF RESOLUTIONS

At the request of Senator Hill—

By Senator Hill—

SR 972—A resolution urging support of the American Stroke Association's "Power to End Stroke" campaign and recognizing May 2009 as "Power to End Stroke Month" in Florida.

WHEREAS, stroke is the third leading cause of death in the United States, striking about 700,000 Americans each year and killing 150,000, and

WHEREAS, stroke is also a leading cause of serious long-term disability in the United States, with more than 1.1 million adults experiencing functional limitations or difficulty with activities of daily living resulting from stroke, and

WHEREAS, on the average, a stroke occurs every 45 seconds in the United States and takes a life every 3 minutes, and

WHEREAS, the estimated direct and indirect costs of stroke in the United States this year will be more than $62 billion, and

WHEREAS, the majority of Americans are unaware of their risk factors for a stroke and are unaware of the signs and symptoms of an impending stroke, and

WHEREAS, statistics show that African Americans have almost twice the risk of a first stroke compared to Caucasians, primarily because of their increased risk of hypertension, high cholesterol, and diabetes, and

WHEREAS, the American Stroke Association in 2008 launched the "Power to End Stroke" campaign, the goal of which is to educate and empower African Americans, as well as those of other ethnic groups, to fight stroke in their communities, NOW, THEREFORE,

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

That the Senate recognizes May 2009 as "Power to End Stroke Month" in Florida and urges all residents of this state to recognize that stroke must be taken seriously in order to reduce its risks.

BE IT FURTHER RESOLVED that the Senate urges all Floridians to support the American Stroke Association's "Power to End Stroke" campaign by becoming familiar with the warning signs, symptoms, and risk factors associated with stroke and living stronger, healthier lives.

—**SR 972** was introduced, read and adopted by publication.

At the request of Senator Hill—

By Senator Hill—

SR 2808—A resolution recognizing August 8, 2009, as "'Bullet' Bob Hayes Day" in Florida.

WHEREAS, Robert Lee Hayes was born on December 20, 1942, in Jacksonville and attended Jacksonville's Matthew Gilbert High School, where he was a standout on the football and track and field teams, and

WHEREAS, "Bullet" Bob Hayes attended Florida Agricultural and Mechanical University, where he remained a two-sport stand-out in both track and football and was the Amateur Athletic Union 100-yard dash champion from 1962–1964 and the National Collegiate Athletic Association 200-meter dash champion in 1964, and

WHEREAS, at the 1964 Summer Olympics in Tokyo, Japan, "Bullet" Bob Hayes won the 100-meter gold medal, tying the then-world record of 10.05 seconds, and anchored the United States 400-meter relay team to a gold medal victory in a world record 39.06 seconds, where his relay split of 8.6 seconds earned him the title "World's Fastest Human," and

WHEREAS, in 1964, the National Football League's Dallas Cowboys drafted "Bullet" Bob Hayes in the seventh round, taking a chance on a sprinter with blazing speed, and

WHEREAS, in addition to playing wide receiver, "Bullet" Bob Hayes returned punts for the Cowboys and was the NFL's leading punt returner in 1968 with a 20.8 yards-per-return average and two touchdowns, including a 90-yard touchdown against the Pittsburgh Steelers, and

WHEREAS, playing with speed that forced opposing teams' defenses to change to the zone style of defense, "Bullet" Bob Hayes was named to the NFL Pro Bowl three times and the NFL All Pro Team four times, and

WHEREAS, "Bullet" Bob Hayes helped Dallas win five Eastern Conference titles and two National Football Conference titles, played in two Super Bowls, and was instrumental in Dallas' first-ever Super Bowl victory in 1972, making Hayes the only person to win both an Olympic gold medal and a Super Bowl ring, and

WHEREAS, for his many outstanding contributions to the Dallas Cowboys' football organization, "Bullet" Bob Hayes was enshrined in the Dallas Cowboys' Ring of Honor in 2001, and

WHEREAS, after battling with prostate cancer and liver ailments, "Bullet" Bob Hayes died of kidney failure in his hometown of Jacksonville on September 18, 2002, and

WHEREAS, "Bullet" Bob Hayes was selected as a member of the Pro Football Hall of Fame's Class of 2009 and will be enshrined on August 8, 2009, NOW, THEREFORE,

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

That in recognition of the tremendous talents and achievements of Robert Lee Hayes, August 8, 2009, is recognized as "'Bullet' Bob Hayes Day" in Florida.

—**SR 2808** was introduced, read and adopted by publication.

At the request of Senator Hill—

By Senator Hill—

SR 2810—A resolution recognizing May 12, 2009, as "Fibromyalgia Awareness Day" in Florida.

WHEREAS, an estimated 10 million people in the United States and millions of people worldwide have been diagnosed with fibromyalgia, a disease for which there is no known cause or cure, and

WHEREAS, it often takes an average of 5 years to receive a diagnosis of fibromyalgia, and medical professionals frequently are inadequately educated on the diagnosis and treatment of fibromyalgia, and

WHEREAS, fibromyalgia is a chronic pain disorder that is becoming an increasingly common diagnosis and taking a toll emotionally, financially, and socially on patients, their family, friends, coworkers, and communities, and

WHEREAS, fibromyalgia is life-altering, preventing patients from contributing to society at the level they once did because of myriad symptoms that can come and go unpredictably and vary in severity, and

WHEREAS, the chronically ill place a larger burden on the health care and insurance systems and employers due to the costs associated with treatment, medications, and sometimes hospitalizations associated with the disorder, and

WHEREAS, society as a whole is also affected when patients are physically unable to work and must depend on government assistance to survive, and

WHEREAS, increased awareness and expanded knowledge of the realities of life with fibromyalgia will allow the community at large to better support patients and their families, friends, coworkers, and employers who struggle with the challenges of this chronic-pain disorder, and

WHEREAS, the National Fibromyalgia Association is a nonprofit charitable organization and the publisher of Fibromyalgia AWARE, the first and only consumer magazine on fibromyalgia, and

WHEREAS, the National Fibromyalgia Association and Fibro Chronic Babes of Jacksonville and other groups around the country have joined together to promote fibromyalgia awareness and support, including improved education, diagnosis, research, and treatment, and

WHEREAS, the National Fibromyalgia Association is urging fibromyalgia patients and their supporters, health care providers, and the public to join its efforts on or around May 12, 2009, to walk for a solution in their community or participate in an effort to bring awareness to the far-reaching effects of fibromyalgia, NOW, THEREFORE,

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

That May 12, 2009 is recognized as "Fibromyalgia Awareness Day" in Florida, and the Senate urges all Floridians to support the search for a cure and assist individuals and families in dealing with this disorder.

—**SR 2810** was introduced, read and adopted by publication.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for CS for SB 2108 with an amendment and that the Senate be asked to concur with the bill as amended by the House or agree to conference.

Robert L. "Bob" Ward, Clerk

CS for CS for SB 2108—A bill to be entitled An act relating to the clerks of court; amending s. 25.381, F.S.; requiring the Supreme Court and Attorney General to jointly enter into a contract with a vendor to publish copies of Florida cases; amending s. 28.241, F.S.; redirecting a portion of certain civil filing fees to the Clerks of the Court Trust Fund within the Justice Administrative Commission; eliminating a requirement that a portion of such fees be deposited into the Department of Financial Services' Administrative Trust Fund; amending s. 28.246, F.S.; requiring the clerk to refer certain unpaid accounts to a private attorney or a collection agent; amending s. 28.35, F.S.; providing for the Florida Clerks of Court Operations Corporation to be administratively housed within the Justice Administrative Commission; requiring the Chief Justice of the Supreme Court to designate a member of the corporation's executive council to represent the state courts system; deleting provisions exempting the corporation from ch. 287, F.S., relating to

procurement, and from ch. 120, F.S., relating to administrative procedures; revising the duties of the corporation; requiring that the Florida Clerks of Court Operations Corporation develop measures and standards for reviewing the performance of clerks of court and notify the Legislature and the Supreme Court of any clerk not meeting the standards; conforming cross-references; deleting provisions relating to the certification of the amount of the proposed budget for each clerk; providing for the clerks of court to be funded pursuant to state appropriations rather than from filing fees, service charges, court costs, and fines; providing for the Florida Clerks of Court Operations Corporation to be funded pursuant to the General Appropriations Act rather than a contract with the Chief Financial Officer; revising requirements for the audits of clerks of court; amending s. 28.36, F.S.; providing a procedure for the clerks of court to prepare budget requests for submission to the Florida Clerks of Court Operations Corporation, with a copy to the Supreme Court; providing requirements for the budget requests; requiring the corporation to determine whether projected court-related revenues are less than the proposed budget for a clerk; requiring that a clerk increase fees and service charges to resolve a deficit; requiring the corporation to compare a clerk's expenditures and costs with the clerk's peer group and for the clerk to submit documentation justifying higher expenditures; requiring that the corporation and the Chief Financial Officer review the clerks' budget requests and make recommendations to the Legislature; authorizing the Chief Financial Officer to conduct, and the Chief Justice of the Supreme Court to request, an audit of the corporation or a clerk of court; providing for the Legislature to make appropriations for the budgets of the clerks; requiring that the corporation release appropriations each quarter; deleting provisions authorizing the Legislative Budget Commission to approve budgets; amending s. 28.37, F.S.; clarifying the requirement for all court-related fines, fees, service charges, and costs to be deposited into the Clerks of the Court Trust Fund; deleting obsolete provisions relating to the funding of the clerks of court; requiring that a specified percentage of all court-related fines collected by the clerk be deposited into the clerk's Public Records Modernization Trust Fund and used exclusively for additional court-related operational needs and programs; amending s. 34.041, F.S., relating to filing fees; conforming provisions to changes made by the act; amending s. 43.16, F.S., relating to the duties of the Justice Administrative Commission; conforming provisions to the transfer of the Florida Clerks of Court Operations Corporation to the commission; amending s. 43.27, F.S.; requiring that the clerk of court obtain the consent of the chief judge of the circuit concerning the clerk's office hours; amending s. 45.035, F.S.; revising the service charge for certain sales conducted by electronic means; requiring the service charge to be paid by the winning bidder; amending s. 142.01, F.S.; requiring the deposit of revenues received in the fine and forfeiture funds of the clerks of court into the Clerks of the Court Trust Fund within the Justice Administrative Commission; amending s. 216.011, F.S.; redefining the term "state agency" for purposes of the fiscal affairs of the state to include the Florida Clerks of Court Operations Corporation; amending s. 197.542, F.S.; adding the costs to conduct an electronic tax deed sale to certain other costs which must be paid by the certificate holder; amending s. 318.18, F.S.; authorizing certain local governments to impose a surcharge on certain infractions or violations to repay bonds relating to court facilities; requiring a clerk of court to report the amount of surcharge collections; requiring that the clerks of court submit financial data to the Executive Office of the Governor; transferring the Clerks of the Court Trust Fund from the Department of Revenue to the Justice Administrative Commission; providing a finding that the act fulfills an important state interest; providing an effective date.

House Amendment 1 (153253) (with title amendment)—Remove everything after the enacting clause and insert:

Section 1. Subsections (1) and (2) of section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to $295 in all cases in which there are not more than five defendants and an additional filing fee of up to $2.50 for each defendant in excess of five. Of the first $85 in filing fees, $80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, *$3.50* ~~and $5~~ must be remitted to the Department of Revenue for deposit into the *Clerks of the Court Trust Fund within the Justice Administrative Commission and used* ~~Department of Financial Services' Administrative Trust Fund~~ to fund ~~the contract with~~ the Florida Clerks of Court Operations Corporation created in s. 28.35*, and $1.50 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services*. The next $15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund. One-third of any filing fees collected by the clerk of the circuit court in excess of $100 shall be remitted to the Department of Revenue for deposit into the ~~Department of Revenue~~ Clerks of the Court Trust Fund *within the Justice Administrative Commission*. An additional filing fee of $4 shall be paid to the clerk. The clerk shall remit $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the *Clerks of the Court* ~~Department of Financial Services' Administrative~~ Trust Fund *within the Justice Administrative Commission* to fund clerk education. An additional filing fee of up to $18 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to $85 for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. No additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized herein or by general law.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed $50. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court and includes petitions for modification of a final judgment of dissolution. A party is exempt from paying the fee for any of the following:

1. A writ of garnishment;

2. A writ of replevin;

3. A distress writ;

4. A writ of attachment;

5. A motion for rehearing filed within 10 days;

6. A motion for attorney's fees filed within 30 days after entry of a judgment or final order;

7. A motion for dismissal filed after a mediation agreement has been filed;

8. A disposition of personal property without administration;

9. Any probate case prior to the discharge of a personal representative;

10. Any guardianship pleading prior to discharge;

11. Any mental health pleading;

12. Motions to withdraw by attorneys;

13. Motions exclusively for the enforcement of child support orders;

14. A petition for credit of child support;

15. A Notice of Intent to Relocate and any order issuing as a result of an uncontested relocation;

16. Stipulations;

17. Responsive pleadings; or

18. Cases in which there is no initial filing fee.

(c) Any party other than a party described in paragraph (a) who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, or third-party complaint shall pay the clerk of court a fee of $295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund.

(d) The clerk of court shall collect a service charge of $10 for issuing a summons. The clerk shall assess the fee against the party seeking to have the summons issued.

(2) Upon the institution of any appellate proceeding from any lower court to the circuit court of any such county, including appeals filed by a county or municipality as provided in s. 34.041(5), or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a filing fee not to exceed $280 for filing a notice of appeal from the county court to the circuit court and, in addition to the filing fee required under s. 25.241 or s. 35.22, $100 for filing a notice of appeal from the circuit court to the district court of appeal or to the Supreme Court. If the party is determined to be indigent, the clerk shall defer payment of the fee. The clerk shall remit the first $80 to the Department of Revenue for deposit into the General Revenue Fund. ~~One third of the fee collected by the clerk in excess of $80 also shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.~~

Section 2. Paragraph (b) of subsection (5) and subsection (6) of section 28.246, Florida Statutes, are amended to read:

28.246 Payment of court-related fees, charges, and costs; partial payments; distribution of funds.—

(5) When receiving partial payment of fees, service charges, court costs, and fines, clerks shall distribute funds according to the following order of priority:

(b) That portion of fees, service charges, court costs, and fines which are required to be retained by the clerk of the court or deposited into the Clerks of the Court Trust Fund *within the Justice Administrative Commission*.

To offset processing costs, clerks may impose either a per-month service charge pursuant to s. 28.24(26)(b) or a one-time administrative processing service charge at the inception of the payment plan pursuant to s. 28.24(26)(c).

(6) A clerk of court *shall* ~~may~~ pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney's fees and costs pursuant to s. 938.29 which remain unpaid *after* ~~for~~ 90 days *by referring* ~~or more, or refer~~ the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the clerk of the court must have attempted to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established by the court, find this to be cost-effective and follow any applicable procurement practices. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.

Section 3. Section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(1)(a) The Florida Clerks of Court Operations Corporation is ~~hereby~~ created as a public corporation organized to perform the functions specified in this section *and s. 28.36 and shall be administratively housed within the Justice Administrative Commission. The corporation shall be a budget entity within the Justice Administrative Commission, and its employees shall be considered state employees. The corporation is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the corporation shall be governed by the classification plan and salary and benefits plan of the Justice Administrative Commission. The classification plan must have a separate chapter for the corporation.* All clerks of the circuit court shall be members of the corporation and hold their position and authority in an ex officio capacity. The functions assigned to the corporation shall be performed by an executive council pursuant to the plan of operation approved by the members.

(b) The executive council shall be composed of eight clerks of the court elected by the clerks of the courts for a term of 2 years, with two clerks from counties with a population of fewer than 100,000, two clerks from counties with a population of at least 100,000 but fewer than 500,000, two clerks from counties with a population of at least 500,000 but fewer than 1 million, and two clerks from counties with a population of more than 1 million. *The executive council shall also include, as ex officio members, a designee of the President of the Senate and a designee of the Speaker of the House of Representatives. The Chief Justice of the Supreme Court shall designate one additional member to represent the state courts system.*

(c) The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. ~~The corporation is not subject to the procurement provisions of chapter 287 and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.~~

(d) The functions assigned to the corporation under this section and ss. 28.36 and 28.37 are considered to be for a valid public purpose.

(2) The duties of the corporation shall include the following:

(a) Adopting a plan of operation.

(b) Conducting the election of directors as required in paragraph (1)(a).

(c) Recommending to the Legislature changes in the various court-related fines, fees, service charges, and court costs established by law ~~to ensure reasonable and adequate funding of the clerks of the court in the performance of their court related functions~~.

~~(d) Pursuant to contract with the Chief Financial Officer, establishing a process for the review and certification of proposed court-related budgets submitted by clerks of the court for completeness and compliance with this section and ss. 28.36 and 28.37. This process shall be designed and be of sufficient detail to permit independent verification and validation of the budget certification. The contract shall specify the process to be used in determining compliance by the corporation with this section and ss. 28.36 and 28.37.~~

(d) ~~(e)~~ Developing and certifying a uniform system of performance measures and applicable performance standards for the functions specified in *paragraph (3)(a) and the service unit costs required in s. 28.36* ~~paragraph (4)(a)~~ and *measures for* clerk performance in meeting the performance standards. These measures and standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. *The corporation shall develop the performance measures and performance standards in consultation with the Legislature and the Supreme Court. The Legislature may modify the clerk performance measures and performance standards in legislation implementing the General Appropriations Act or other law.* When the corporation finds a clerk has not met the performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. *The corporation shall notify the Legislature and the Supreme Court of any clerk not meeting performance standards and provide a copy of any corrective action plans.*

(e) ~~(f)~~ Reviewing ~~and certifying~~ proposed budgets submitted by clerks of the court *pursuant to s. 28.36* ~~utilizing the process approved by the Chief Financial Officer pursuant to paragraph (d) for the purpose of making the certification in paragraph (3)(a). As part of this process, the corporation shall:~~

~~1. Calculate the maximum authorized annual budget pursuant to the requirements of s. 28.36.~~

~~2. Identify those proposed budgets exceeding the maximum annual budget pursuant to s. 28.36(5) for the standard list of court-related functions specified in paragraph (4)(a).~~

~~3. Identify those proposed budgets containing funding for items not included on the standard list of court-related functions specified in paragraph (4)(a).~~

~~4. Identify those clerks projected to have court-related revenues insufficient to fund their anticipated court-related expenditures.~~

(f) ~~(g)~~ Developing and conducting clerk education programs.

(g) ~~(h)~~ Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court ~~for court-related functions~~ pursuant to general law.

~~(3)(a) The Clerks of Court Operations Corporation shall certify to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Department of Revenue by October 15 of each year, the amount of the proposed budget certified for each clerk; the revenue projection supporting each clerk's budget; each clerk eligible to retain some or all of the state's share of fines, fees, service charges, and costs; the amount to be paid to each clerk from the Clerks of the Court Trust Fund within the Department of Revenue; the performance measures and standards approved by the corporation for each clerk; and the performance of each clerk in meeting the performance standards.~~

~~(b) Prior to December 1 of each year, the Chief Financial Officer shall review the certifications made by the corporation for the purpose of determining compliance with the approved process and report its findings to the President of the Senate, the Speaker of the House of Representatives and to the Department of Revenue. To determine compliance with this process, the Chief Financial Officer may examine the budgets submitted to the corporation by the clerks.~~

(3) ~~(4)~~(a) The ~~list of~~ court-related functions *that* clerks may *perform are* ~~fund from filing fees, service charges, court costs, and fines shall be~~ limited to those functions expressly authorized by law or court rule. Those functions ~~must~~ include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses; payment of expenses for meals or lodging provided to jurors; data collection and reporting; processing of jurors; determinations of indigent status; and reasonable administrative support ~~costs~~ to enable the clerk of the court to carry out these court-related functions.

(b) The ~~list of~~ functions *that* clerks may not fund from *state appropriations* ~~filing fees, service charges, court costs, and fines shall~~ include:

1. Those functions not specified within paragraph (a).

2. Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a).

3. Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a).

4. Functions identified as local requirements in law or local optional programs.

(4) ~~(5)~~ The corporation shall *prepare a legislative budget request for the resources necessary to perform its duties, submit the request pursuant to chapter 216, and* be funded *as a budget entity in the General Appropriations Act* ~~pursuant to contract with the Chief Financial Officer. Funds shall be provided to the Chief Financial Officer for this purpose as appropriated by general law. These funds shall be available to the corporation for the performance of the duties and responsibilities as set forth in this section.~~ The corporation may hire staff and pay other expenses from *state appropriations* ~~these funds~~ as necessary to perform the official duties and responsibilities of the corporation as described *by law* ~~in this section~~.

(5) ~~(6)~~(a) The corporation shall submit an annual audited financial statement to the Auditor General in a form and manner prescribed by the Auditor General. The Auditor General shall conduct an annual audit of the operations of the corporation, including the use of funds and compliance with the provisions of this section and ss. 28.36 and 28.37.

(b) Certified public accountants conducting audits of counties pursuant to s. 218.39 shall report, as part of the audit, whether or not the clerks of the courts have complied with the *requirements of this section and s. 28.36. In addition, each clerk of court shall forward a copy of the portion of the financial audit relating to the court-related duties of the clerk of court to the Supreme Court* ~~budgets certified by the Florida Clerk of Courts Operations Corporation pursuant to the budget review process pursuant to contract with the Chief Financial Officer and with the performance standards developed and certified pursuant to this section.~~ The Auditor General shall develop a compliance supplement for the audit of compliance with the budgets and applicable performance standards certified by the corporation.

Section 4. Section 28.36, Florida Statutes, is amended to read:

28.36 Budget procedure.—There is ~~hereby~~ established a budget procedure for the *preparing budget requests for funding for the* court-related functions of the clerks of the court.

(1) Each clerk of court shall prepare a budget request for the last quarter of the county fiscal year and the first three quarters of the next county fiscal year. The proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Florida Clerks of Court Operations Corporation in the manner and form prescribed by the corporation to meet the requirements of law. Each clerk shall forward a copy of his or her budget request to the Supreme Court. The budget requests must be provided to the corporation by October 1 of each year.

~~(1) Only those functions on the standard list developed pursuant to s. 28.35(4)(a) may be funded from fees, service charges, court costs, and fines retained by the clerks of the court. No clerk may use fees, service charges, court costs, and fines in excess of the maximum budget amounts as established in subsection (5).~~

~~(2) For the period July 1, 2004, through September 30, 2004, and for each county fiscal year ending September 30 thereafter, each clerk of the court shall prepare a budget relating solely to the performance of the standard list of court related functions pursuant to s. 28.35(4)(a).~~

~~(3) Each proposed budget shall further conform to the following requirements:~~

~~(a) On or before August 15 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the standard list of court-related functions of the clerk's office developed pursuant to s. 28.35(4)(a) for the county fiscal year beginning the following October 1.~~

~~(b) The proposed budget must be balanced, such that the total of the estimated revenues available must equal or exceed the total of the anticipated expenditures. These revenues include the following: cash balances brought forward from the prior fiscal period; revenue projected to be received from fees, service charges, court costs, and fines for court-related functions during the fiscal period covered by the budget; and supplemental revenue that may be requested pursuant to subsection (4). The anticipated expenditures must be itemized as required by the corporation, pursuant to contract with the Chief Financial Officer.~~

~~(c) The proposed budget may include a contingency reserve not to exceed 10 percent of the total budget, provided that, overall, the proposed budget does not exceed the limits prescribed in subsection (5).~~

~~(4) If a clerk of the court estimates that available funds plus projected revenues from fines, fees, service charges, and costs for court-related services are insufficient to meet the anticipated expenditures for the standard list of court related functions in s. 28.35(4)(a) performed by his or her office, the clerk must report the revenue deficit to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation pursuant to contract with the Chief Financial Officer. The corporation shall verify that the proposed budget is limited to the standard list of court related functions in s. 28.35(4)(a).~~

(2) ~~(a)~~ *Each clerk shall include in his or her budget request a projection of the amount of court-related fees, service charges, and any other court-related clerk fees which will be collected during the proposed budget period.* If the corporation *determines* ~~verifies~~ that the proposed budget is limited to the standard list of court-related functions in *s. 28.35(3)(a)* ~~s. 28.35(4)(a)~~ and *the projected court-related revenues are less than the proposed budget, the* ~~a revenue deficit is projected, a~~ clerk ~~seeking to retain revenues pursuant to this subsection~~ shall increase all fees, ser-

vice charges, and any other court-related clerk fees and charges to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less.

(3) Each clerk shall include in his or her budget request the number of personnel and the proposed budget for each of the following core services:

(a) Case processing.

(b) Financial processing.

(c) Jury management.

(d) Information and reporting.

Central administrative costs shall be allocated among the core-services categories.

(4) The budget request must identify the service units to be provided within each core service. The service units shall be developed by the corporation, in consultation with the Supreme Court, the Chief Financial Officer, and the appropriation committees of the Senate and the House of Representatives.

(5) The budget request must propose a unit cost for each service unit. The corporation shall provide a copy of each clerk's budget request to the Supreme Court.

(6) The corporation shall review each individual clerk's prior-year expenditures, projected revenue, proposed unit costs, and the proposed budget for each of the core-services categories. The corporation shall compare each clerk's prior-year expenditures and unit costs for core services with a peer group of clerks' offices having a population of a similar size and a similar number of case filings. If the corporation finds that the expenditures, unit costs, or proposed budget of a clerk are significantly higher than those of clerks in that clerk's peer group, the corporation shall require the clerk to submit documentation justifying the difference in each core-services category. Justification for higher expenditures may include, but are not limited to, collective bargaining agreements, county civil service agreements, and the number and distribution of courthouses served by the clerk. If the expenditures and unit costs are not justified, the corporation shall recommend a reduction in the funding for that core-services category in the budget request to an amount similar to the peer group of clerks or to an amount that the corporation determines is justified.

(7) The corporation shall complete its review and adjustments to the clerks' budget requests and make its recommendations to the Legislature and the Supreme Court by December 1 each year.

(8) The Chief Financial Officer shall review the proposed unit costs associated with each clerk of court's budget request and make recommendations to the Legislature. The Chief Financial Officer may conduct any audit of the corporation or a clerk of court as authorized by law. The Chief Justice of the Supreme Court may request an audit of the corporation or any clerk of court by the Chief Financial Officer.

(9) The Legislature shall appropriate the total amount for the budgets of the clerks in the General Appropriations Act. The Legislature may reject or modify any or all of the unit costs recommended by the corporation. If the Legislature does not specify the unit costs in the General Appropriations Act or other law, the unit costs recommended by the corporation shall be the official unit costs for that budget period.

(10) For the 2009-2010 fiscal year, the corporation shall release appropriations in an amount equal to one-twelfth of each clerk's approved budget each month. The statewide total appropriation for the 2009-2010 fiscal year shall be set in the General Appropriations Act. The corporation shall determine the amount of each clerk of court budget, but the statewide total of such amounts may not exceed the amount listed in the General Appropriations Act. Beginning in the 2010-2011 fiscal year, the corporation shall release appropriations to each clerk quarterly. The amount of the release shall be based on the prior quarter's performance of service units identified in the four core services and the established unit costs for each clerk. ~~If, after increasing fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law, a revenue deficit is still projected, the corporation shall, pursuant to the terms of the contract with the Chief Financial Officer, certify a revenue deficit and notify the Department of Revenue that the clerk is authorized to retain revenues, in an amount necessary to fully fund the projected revenue deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund pursuant to s. 28.37. If a revenue deficit is projected for that clerk after retaining all of the projected collections from the court related fines, fees, service charges, and costs, the Department of Revenue shall certify the amount of the revenue deficit amount to the Executive Office of the Governor and request release authority for funds appropriated for this purpose from the Department of Revenue Clerks of the Court Trust Fund. Notwithstanding provisions of s. 216.192 related to the release of funds, the Executive Office of the Governor may approve the release of funds appropriated to resolve projected revenue deficits in accordance with the notice, review, and objection procedures set forth in s. 216.177 and shall provide notice to the Chief Financial Officer. The Department of Revenue is directed to request monthly distributions from the Chief Financial Officer in equal amounts to each clerk certified to have a revenue deficit, in accordance with the releases approved by the Governor.~~

~~(b) If the Chief Financial Officer finds the court related budget proposed by a clerk includes functions not included in the standard list of court related functions in s. 28.35(4)(a), the Chief Financial Officer shall notify the clerk of the amount of the proposed budget not eligible to be funded from fees, service charges, costs, and fines for court related functions and shall identify appropriate corrective measures to ensure budget integrity. The clerk shall then immediately discontinue all ineligible expenditures of court related funds for this purpose and reimburse the Clerks of the Court Trust Fund for any previously ineligible expenditures made for non-court related functions, and shall implement any corrective actions identified by the Chief Financial Officer.~~

~~(5)(a) For the county fiscal year October 1, 2004, through September 30, 2005, the maximum annual budget amount for the standard list of court related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall not exceed:~~

~~1. One hundred and three percent of the clerk's estimated expenditures for the prior county fiscal year; or~~

~~2. One hundred and five percent of the clerk's estimated expenditures for the prior county fiscal year for those clerks in counties that for calendar years 1998-2002 experienced an average annual increase of at least 5 percent in both population and case filings for all case types as reported through the Summary Reporting System used by the state courts system.~~

~~(b) For the county fiscal year 2005-2006, the maximum budget amount for the standard list of court related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be the approved budget for county fiscal year 2004-2005 adjusted by the projected percentage change in revenue between the county fiscal years 2004-2005 and 2005-2006.~~

~~(c) For the county fiscal years 2006-2007 and thereafter, the maximum budget amount for the standard list of court related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be established by first rebasing the prior fiscal year budget to reflect the actual percentage change in the prior fiscal year revenue and then adjusting the rebased prior fiscal year budget by the projected percentage change in revenue for the proposed budget year. The rebasing calculations and maximum annual budget calculations shall be as follows:~~

~~1. For county fiscal year 2006-2007, the approved budget for county fiscal year 2004-2005 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2005, and June 30, 2006. This result is the rebased budget for the county fiscal year 2005-2006. Then the rebased budget for the county fiscal year 2005-2006 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2005-2006 and 2006-2007. This result shall be the maximum annual budget amount for the standard list of court related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for each clerk for the county fiscal year 2006-2007.~~

~~2. For county fiscal year 2007-2008, the rebased budget for county fiscal year 2005-2006 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2006, and June 30, 2007. This result is the rebased budget for the county fiscal year 2006-2007. The rebased budget for county fiscal year 2006-2007 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2006-2007 and 2007-2008. This result shall be the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for county fiscal year 2007-2008.~~

~~3. For county fiscal years 2008-2009 and thereafter, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be calculated as the rebased budget for the prior county fiscal year adjusted by the projected percentage change in revenues between the prior county fiscal year and the county fiscal year for which the maximum budget amount is being authorized. The rebased budget for the prior county fiscal year shall always be calculated by adjusting the rebased budget for the year preceding the prior county fiscal year by the actual percentage change in revenues between the 12-month period ending June 30 of the year preceding the prior county fiscal year and the 12-month period ending June 30 of the prior county fiscal year.~~

~~(6) The Legislative Budget Commission may approve increases to the maximum annual budgets approved for individual clerks of the court pursuant to this section for court-related duties, if either of the following conditions exist:~~

~~(a) The additional funding is necessary to pay the cost of performing new or additional functions required by changes in law or court rule. Before the Legislative Budget Commission may approve an increase in the maximum annual budget of any clerk under this paragraph, the Clerk of the Court Operations Corporation must provide the Legislative Budget Commission with a statement of the impact of the proposed budget changes on state revenues, and evidence that the respective clerk of the court is meeting or exceeding the established performance standards for measures on the fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs.~~

~~(b) The additional funding is necessary to pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature. Before the Legislative Budget Commission may approve an increase in the maximum annual budget of any clerk under this paragraph, the Clerk of the Court Operations Corporation must provide the Legislative Budget Commission with a statement of the impact of the proposed budget changes on state revenues; evidence that the respective clerk of the court is meeting or exceeding the established performance standards for measures on the fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs; and a proposed staffing model, including the cost and number of staff necessary to support each new judge or magistrate.~~

~~The total amount of increases approved by the Legislative Budget Commission for each county fiscal year shall not exceed an amount equal to 2 percent of the maximum annual budgets approved pursuant to this section for all clerks, in the aggregate, for that same county fiscal year.~~

(11) ~~(7)~~ The corporation may submit proposed legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives *relating to the preparation of budget requests of the clerks of court* ~~no later than November 1 in any year for approval of clerk budget request amounts exceeding the restrictions in this section for the following October 1. If proposed legislation is recommended, the corporation shall also submit supporting justification with sufficient detail to identify the specific proposed expenditures that would cause the limitations to be exceeded for each affected clerk and the estimated fiscal impact on state revenues.~~

Section 5. Section 28.37, Florida Statutes, is amended to read:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(1) Pursuant to s. 14(b), Art. V of the State Constitution, selected salaries, costs, and expenses of the state courts system and court-related functions shall be funded from a portion of the revenues derived from statutory fines, fees, service charges, and costs collected by the clerks of the court.

(2) Except as otherwise provided in ss. 28.241 and 34.041, all court-related fines, fees, service charges, and costs are considered state funds and shall be remitted by the clerk to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. However, 10 percent of all court-related fines collected by the clerk shall be deposited into the clerk's Public Records Modernization Trust Fund to be used exclusively for additional clerk court-related operational needs and program enhancements.

~~(2) Beginning August 1, 2004, except as otherwise provided in ss. 28.241 and 34.041, one third of all fines, fees, service charges, and costs collected by the clerks of the court during the prior month for the performance of court related functions shall be remitted to the Department of Revenue for deposit in the Department of Revenue Clerks of the Court Trust Fund. These collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the prior month due to the state on or before the 20th day of each month. The Department of Revenue shall make a monthly transfer of the funds in the Department of Revenue Clerks of the Court Trust Fund that are not needed to resolve clerk of the court revenue deficits, as specified in s. 28.36, to the General Revenue Fund.~~

~~(3) For the period of October 1, 2003, to June 30, 2004, those clerks operating as fee officers for court-related services shall determine the amount of fees collected and expenses generated for court-related services. Any excess fees generated during this period shall be remitted to the county on December 31, 2004. However, any billings for payment of due process services rendered before July 1, 2004, may be paid by the clerk from these funds. Due process services shall include, but not be limited to, court reporter services, court interpreter services, expert witness services, mental health evaluations, and court appointed counsel services. In addition, any deficit experienced by the clerk for court-related services during the period from October 1, 2003, to June 30, 2004, shall be funded by the county.~~

~~(4) Beginning January 1, 2005, for the period July 1, 2004, through September 30, 2004, and each January 1 thereafter for the preceding county fiscal year of October 1 through September 30, the clerk of the court must remit to the Department of Revenue for deposit in the General Revenue Fund the cumulative excess of all fees, service charges, court costs, and fines retained by the clerks of the court, plus any funds received by the clerks of the court from the Department of Revenue Clerk of the Court Trust Fund under s. 28.36(4)(a), over the amount needed to meet the approved budget amounts established under s. 28.36.~~

~~(5) The Department of Revenue shall collect any funds that the corporation determines upon investigation were due on January 1 but not remitted to the department.~~

Section 6. Subsection (1) of section 28.43, Florida Statutes, is amended to read:

28.43 Adoption of rules relating to ss. 28.35, 28.36, and 28.37.—

(1) The Department of Revenue may adopt rules necessary to carry out its responsibilities in ss. 28.35, 28.36, and 28.37. The rules shall include forms and procedures for transferring funds from the clerks of the court to the Clerks of the Court Trust Fund within the *Justice Administrative Commission* ~~Department of Revenue~~.

Section 7. Paragraph (b) of subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

(1)

(b) The first $80 of the filing fee collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. The next $15 of the filing fee collected under subparagraph (a)4., and the first $15 of each filing fee collected under subparagraph (a)6., shall be deposited in the state courts' Mediation and Arbitration Trust Fund. ~~One third of any filing fees collected by the clerk under this section in excess of the first $95 collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the~~

~~Department of Revenue Clerks of the Court Trust Fund.~~ An additional filing fee of $4 shall be paid to the clerk. The clerk shall transfer $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the *Clerks of the Court* ~~Department of Financial Services' Administrative~~ Trust Fund *within the Justice Administrative Commission* to fund clerk education. Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Except as otherwise provided herein, all filing fees shall be *remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission* ~~retained as fee income of the office of the clerk of circuit court~~. Filing fees imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318.

Section 8. Subsection (5) of section 43.16, Florida Statutes, is amended to read

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem Program*, and the Florida Clerks of Court Operations Corporation*.

(b) Each state attorney, public defender, ~~and~~ criminal conflict and civil regional counsel*,* ~~and~~ the Guardian Ad Litem Program*, and the Florida Clerks of Court Operations Corporation* shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward same to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public defender, a criminal conflict and civil regional counsel, or the Guardian Ad Litem Program, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

Section 9. Section 43.27, Florida Statutes, is amended to read

43.27 Office hours of clerks of court.—*With the advice and consent of the chief judge of the circuit,* the clerks of the courts of the several counties may establish the hours during which the office of clerk may be open to the public. The hours should conform as nearly as possible to the customary weekday hours of business prevailing in the county. The clerk may prescribe that the office be open such additional hours as public needs require. *The clerk of court may not close any office of the clerk of court during customary weekday hours without the consent of the chief judge of the circuit.*

Section 10. Subsection (3) of section 45.035, Florida Statutes, as amended by section 3 of chapter 2009-21, Laws of Florida, is amended to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(3) If the sale is conducted by electronic means, as provided in s. 45.031(10), the clerk shall receive *an additional* ~~a~~ service charge *not to exceed* ~~of~~ $70 ~~as provided in subsection (1)~~ for services in conducting or contracting for the electronic sale, which service charge shall be assessed as costs and *paid by the winning bidder* ~~shall be advanced by the plaintiff before the sale~~. If the clerk requires advance electronic deposits to secure the right to bid, such deposits shall not be subject to the fee under s. 28.24(10). The portion of an advance deposit from a winning bidder required by s. 45.031(3) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

Section 11. Paragraph (y) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(y) All officers and employees of the Justice Administrative Commission, Office of the State Attorney, Office of the Public Defender, regional offices of capital collateral counsel, offices of criminal conflict and civil regional counsel, and Statewide Guardian Ad Litem Office, including the circuit guardian ad litem programs *and the Florida Clerks of Court Operations Corporation*.

Section 12. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund; *disposition of revenue;* clerk of the circuit court.—

(1) There shall be established by the clerk of the circuit court in each county of this state a separate fund to be known as the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions. The fund shall consist of the following:

(a) ~~(1)~~ Fines and penalties pursuant to ss. 28.2402(2), 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

(b) ~~(2)~~ That portion of civil penalties directed to this fund pursuant to s. 318.21.

(c) ~~(3)~~ Court costs pursuant to ss. 28.2402(1)(b), 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and (11)(a), and 938.05(3).

(d) ~~(4)~~ Proceeds from forfeited bail bonds, unclaimed bonds, unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a), 379.2203(1), and 903.26(3)(a).

(e) ~~(5)~~ Fines and forfeitures pursuant to s. 34.191.

(f) ~~(6)~~ All other revenues received by the clerk as revenue authorized by law to be retained by the clerk.

(2) All revenues received by the clerk in the fine and forfeiture fund from court-related fees, fines, costs, and service charges are considered state funds and shall be remitted monthly to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

(3) Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section.

Section 13. Subsection (4) of section 197.542, Florida Statutes, is amended to read:

197.542 Sale at public auction.—

(4)(a) A clerk may conduct electronic tax deed sales in lieu of public outcry. The clerk must comply with the procedures provided in this chapter, except that electronic proxy bidding shall be allowed and the clerk may require bidders to advance sufficient funds to pay the deposit required by subsection (2). The clerk shall provide access to the electronic sale by computer terminals open to the public at a designated location. A clerk who conducts such electronic sales may receive electronic deposits and payments related to the sale. The portion of an advance deposit from a winning bidder required by subsection (2) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

(b) Nothing in this subsection shall be construed to restrict or limit the authority of a charter county from conducting electronic tax deed sales. In a charter county where the clerk of the circuit court does not conduct all electronic sales, the charter county shall be permitted to receive electronic deposits and payments related to sales it conducts, as well as to subject the winning bidder to a fee, consistent with the schedule in s. 28.24(10).

(c) The costs of electronic tax deed sales shall be added to the charges for the costs of sale under subsection (1) and paid by the certificateholder when filing an application for a tax deed.

Section 14. Section 213.131, Florida Statutes, is amended to read:

213.131 ~~Department of Revenue~~ Clerks of the Court Trust Fund *within the Justice Administrative Commission*.—The ~~Department of Revenue~~ Clerks of the Court Trust Fund is created within the *Justice Administrative Commission* ~~Department of Revenue. Funds received by the department from the clerks of court shall be credited to the trust fund as provided in ch. 2001-122, Laws of Florida, to be used for the purposes set forth in such legislation~~.

Section 15. Paragraph (qq) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(qq) "State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, "state agency" or "agency" includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, *the Florida Clerks of Court Operations Corporation,* the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms "state agency" or "agency" include the judicial branch.

Section 16. Subsection (13) of section 318.18, Florida Statutes, is amended to read:

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

(13)*(a)* In addition to any penalties imposed for noncriminal traffic infractions pursuant to this chapter or imposed for criminal violations listed in s. 318.17, a board of county commissioners or any unit of local government *that* ~~which~~ is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968:

1. ~~(a)~~ May impose by ordinance a surcharge of up to *$30* ~~$15~~ for any infraction or violation to fund state court facilities. The court shall not waive this surcharge. Up to 25 percent of the revenue from such surcharge may be used to support local law libraries provided that the county or unit of local government provides a level of service equal to that provided prior to July 1, 2004, which shall include the continuation of library facilities located in or near the county courthouse or *any annex to the courthouse* ~~annexes~~.

2. ~~(b)~~ *May, if such board or unit* ~~That~~ imposed increased fees or service charges by ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the purpose of securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to finance state court facilities, ~~may~~ impose by ordinance a surcharge for any infraction or violation for the exclusive purpose of securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to fund state court facilities until the date of stated maturity. The court shall not waive this surcharge. Such surcharge may not exceed an amount per violation calculated as the quotient of the maximum annual payment of the principal and interest on the bonds as of July 1, 2003, divided by the number of traffic citations for county fiscal year 2002-2003 certified as paid by the clerk of the court of the county. Such quotient shall be rounded up to the next highest dollar amount. The bonds may be refunded only if savings will be realized on payments of debt service and the refunding bonds are scheduled to mature on the same date or before the bonds being refunded. Notwithstanding any of the foregoing provisions of this *subparagraph* ~~paragraph~~ that limit the use of surcharge revenues, if the revenues generated as a result of the adoption of this ordinance exceed the debt service on the bonds, the surplus revenues may be used to pay down the debt service on the bonds; fund other state-court-facility construction projects as may be certified by the chief judge as necessary to address unexpected growth in caseloads, emergency requirements to accommodate public access, threats to the safety of the public, judges, staff, and litigants, or other exigent circumstances; or support local law libraries in or near the county courthouse or *any annex to the courthouse* ~~annexes~~.

3. May impose by ordinance a surcharge for any infraction or violation for the exclusive purpose of securing payment of the principal and interest on bonds issued by the county on or after July 1, 2009, to fund state court facilities until the stated date of maturity. The court may not waive this surcharge. The surcharge may not exceed an amount per violation calculated as the quotient of the maximum annual payment of the principal and interest on the bonds, divided by the number of traffic citations certified as paid by the clerk of the court of the county on August 15 of each year. The quotient shall be rounded up to the next highest dollar amount. The bonds may be refunded if savings are realized on payments of debt service and the refunding bonds are scheduled to mature on or before the maturity date of the bonds being refunded. If the revenues generated as a result of the adoption of the ordinance exceed the debt service on the bonds, the surplus revenues may be used to pay the debt service on the bonds; to fund other state court facility construction projects certified by the chief judge as necessary to address unexpected growth in caseloads, emergency requirements to accommodate public access, threats to the safety of the public, judges, staff, and litigants, or other exigent circumstances; or to support local law libraries in or near the county courthouse or any annex to the courthouse.

(b) A county may not impose ~~both of~~ the surcharges authorized under *subparagraphs (a)1., 2., and 3.* ~~paragraphs (a) and (b)~~ concurrently. The clerk of court shall report, no later than 30 days after the end of the quarter, the amount of funds collected under this subsection during each quarter of the fiscal year. The clerk shall submit the report, in a format developed by the Office of State Courts Administrator, to the chief judge of the circuit, the Governor, the President of the Senate, ~~and~~ the Speaker of the House of Representatives*, and the board of county commissioners*.

Section 17. *Each clerk of court shall provide financial data concerning his or her expenditures for court-related duties, including expenditures for court-related information technology, to the Executive Office of the Governor for the purposes contained in SB 1796 or similar legislation.*

Section 18. *(1) By January 15, 2010, the Office of Program Policy Analysis and Government Accountability, in consultation with the Chief Financial Officer and the Auditor General, shall provide a report to the President of the Senate and the Speaker of the House of Representatives regarding the operation and functions of the clerks of court and the courts. The Office of Program Policy Analysis and Government Accountability shall examine who is performing each court-related function, how each function is funded, and how efficiently these functions are performed. The clerks of court, the Florida Clerks of Court Operations Corporation, and the state courts system are directed to cooperate fully with the office and, upon request, provide any and all information necessary to the review without cost or delay. The report shall describe in detail the base budget for each of the clerks and for the state courts system and report on the overall efficiency of the current process. Administrative overhead shall be calculated separately, and any apparent means to reduce such overhead shall be explored and included in the report. The study shall list each court-related function, a recommendation on who should perform the function, and a recommendation for how to pay for such function.*

(2) The Technology Review Workgroup shall develop a proposed plan for identifying and recommending options for implementing the integrated computer system established in s. 29.008(1)(f)2., Florida Statutes. The plan shall describe the approaches and processes for evaluating the existing computer systems and data-sharing networks of the state courts system and the clerks of the court; identifying the required business and technical requirements; reliably estimating the cost, work, and change requirements; and examining the use of the funds collected under s. 28.24(12)(e), Florida Statutes. The plan may also address any necessary policy, operational, fiscal, or technical changes, including, but not limited to, potential changes to the distribution and use of funds collected under s. 28.24(12)(e), Florida Statutes, that may be needed in order to manage, implement, and operate an integrated computer system. The plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than February 1, 2010. The clerks of

court, the Florida Clerks of Court Operations Corporation, and the state courts system are directed to cooperate fully with the workgroup and provide any and all information necessary for the completion of the project without cost or delay upon request. The workgroup shall work in conjunction with the Auditor General and consider the results of the plans, studies, and reports of the Office of Program Policy Analysis and Government Accountability under subsection (1). Until July 1, 2011, a clerk may not purchase any new software unless a clerk is already obligated by a contract for new software entered into before May 1, 2009. A clerk may purchase regular and necessary upgrades to existing software if otherwise budgeted. Until July 1, 2011, a clerk may not purchase any computer hardware unless a clerk is already obligated by a contract for new hardware entered into before May 1, 2009. However, a clerk may purchase hardware necessary to replace broken equipment or necessary to equip new staff and only if otherwise budgeted. A clerk may apply to the Florida Clerks of Court Operations Corporation for a limited and specific exception to these purchasing limits. The corporation shall report all such exceptions to the President of the Senate and the Speaker of the House of Representatives.

Section 19. *The Clerks of the Court Trust Fund within the Department of Revenue, FLAIR number 73-2-588, is transferred along with all balances and obligations to the Justice Administrative Commission.*

Section 20. *The Legislature finds and declares that this act fulfills an important state interest.*

Section 21. *Sections 25.311, 25.321, 25.331, 25.361, and 25.381, Florida Statutes, are repealed.*

Section 22. This act shall take effect upon becoming a law.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to the clerks of court; amending s. 28.241, F.S.; redirecting a portion of certain civil filing fees to the Clerks of the Court Trust Fund within the Justice Administrative Commission; revising a requirement that a portion of such fees be deposited into the Department of Financial Services Administrative Trust Fund for a specified purpose; eliminating a requirement that a portion of such fees be deposited into the Clerks of the Court Trust Fund; conforming terminology to changes made by the act; amending s. 28.246, F.S.; conforming terminology to changes made by the act; requiring the clerk to refer certain unpaid accounts to a private attorney or a collection agent; amending s. 28.35, F.S.; providing for the Florida Clerks of Court Operations Corporation to be administratively housed within the Justice Administrative Commission; providing that the corporation is not subject to control, supervision, or direction by the commission; requiring employees of the corporation to be governed by the classification, salary, and benefits plan of the commission in a separate chapter; providing for legislative designees to the corporation's executive council; requiring the Chief Justice of the Supreme Court to designate a member of the corporation's executive council to represent the state courts system; deleting provisions exempting the corporation from ch. 287, F.S., relating to procurement, and from ch. 120, F.S., relating to administrative procedures; revising the duties of the corporation; requiring that the corporation develop measures and standards for reviewing the performance of clerks of court and notify the Legislature and the Supreme Court of any clerk not meeting the standards; conforming cross-references; deleting provisions relating to the certification of the amount of the proposed budget for each clerk; providing for the clerks of court to be funded pursuant to state appropriations rather than from filing fees, service charges, court costs, and fines; providing for the corporation to be funded pursuant to the General Appropriations Act rather than a contract with the Chief Financial Officer; requiring the corporation to submit a legislative budget request; revising requirements for the audits of clerks of court; amending s. 28.36, F.S.; providing a procedure for the clerks of court to prepare budget requests for submission to the Florida Clerks of Court Operations Corporation, with a copy to the Supreme Court; providing requirements for the budget requests; requiring the corporation to determine whether projected court-related revenues are less than the proposed budget for a clerk; requiring that a clerk increase fees and service charges to resolve a deficit; requiring the corporation to compare a clerk's expenditures and costs with the clerk's peer group and for the clerk to submit documentation justifying higher expenditures; requiring that the corporation and the Chief Financial Officer review the clerks' budget requests and make recommendations to the Legislature; authorizing the Chief Financial Officer to conduct, and the Chief Justice of the Supreme Court to request, an audit of the corporation or a clerk of court; providing for the Legislature to make appropriations for the budgets of the clerks; requiring that the corporation release appropriations; specifying criteria for such release; deleting obsolete provisions; deleting provisions authorizing the Legislative Budget Commission to approve budgets; amending s. 28.37, F.S.; clarifying the requirement for depositing court-related fines, fees, service charges, and costs into the Clerks of the Court Trust Fund within the Justice Administrative Commission; requiring that a specified percentage of all court-related fines collected by the clerk be deposited into the clerk's Public Records Modernization Trust Fund and used exclusively for additional court-related operational needs and programs; deleting obsolete provisions relating to the funding of the clerks of court; amending s. 28.43, F.S.; conforming terminology to changes made by the act; amending s. 34.041, F.S., relating to filing fees; conforming provisions to changes made by the act; amending s. 43.16, F.S., relating to the duties of the Justice Administrative Commission; conforming provisions to the transfer of the Florida Clerks of Court Operations Corporation to the commission; amending s. 43.27, F.S.; requiring that the clerk of court obtain the consent of the chief judge of the circuit concerning the clerk's office hours; amending s. 45.035, F.S.; revising the service charge for certain sales conducted by electronic means; requiring the service charge to be paid by the winning bidder; amending s. 110.205, F.S.; providing that positions in the Florida Clerks of Court Operations Corporation are excluded from career service exemption; amending s. 142.01, F.S.; requiring the deposit of revenues received in the fine and forfeiture funds of the clerks of court into the Clerks of the Court Trust Fund within the Justice Administrative Commission; amending s. 197.542, F.S.; adding the costs to conduct an electronic tax deed sale to certain other costs which must be paid by the certificate holder; amending s. 213.131, F.S.; conforming terminology and provisions to changes made by the act; amending s. 216.011, F.S.; redefining the term "state agency" for purposes of the fiscal affairs of the state to include the Florida Clerks of Court Operations Corporation; amending s. 318.18, F.S.; authorizing certain local governments to impose a surcharge on certain infractions or violations to repay bonds relating to court facilities; requiring a clerk of court to report the amount of surcharge collections; requiring that the clerks of court submit financial data to the Executive Office of the Governor; requiring the Office of Program Policy Analysis and Government Accountability, in consultation with the Chief Financial Officer and the Auditor General, to provide a report regarding the operation and relationship of the clerks of court and the courts to the Legislature by a specified date; providing report requirements; requiring the Technology Review Workgroup to develop a proposed plan for identifying and recommending options for implementing the integrated computer system and submit the plan to the Legislature by a specified date; providing plan requirements; providing specified restrictions for the purchase of computer software and hardware; providing an exception; transferring the Clerks of the Court Trust Fund from the Department of Revenue to the Justice Administrative Commission; providing a finding that the act fulfills an important state interest; repealing ss. 25.311, 25.321, 25.331, 25.361, and 25.381, F.S., relating to the distribution and resupply of copies of the reports of decisions of the Supreme Court and district court of appeals, the declaration that such reports remain the public property of the state, the authorization of the Supreme Court to obtain state publications for exchange purposes, and the publication, purchase, and distribution of the reports of the opinions of the Supreme Court and the district courts of appeal, respectively; providing an effective date.

On motion by Senator Pruitt, the Senate concurred in the House amendment.

CS for CS for SB 2108 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Mr. President	Crist	Garcia
Alexander	Dean	Gardiner
Altman	Detert	Gelber
Aronberg	Deutch	Haridopolos
Baker	Diaz de la Portilla	Hill
Bennett	Dockery	Jones
Bullard	Fasano	Joyner
Constantine	Gaetz	Justice

King	Pruitt	Smith
Lawson	Rich	Sobel
Lynn	Richter	Villalobos
Oelrich	Ring	Wilson
Peaden	Siplin	Wise

Nays—None

Vote after roll call:

Yea—Storms

Yea to Nay—Crist

Votes Recorded:

May 8, 2009: Yea to Nay—Crist

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

Consideration of **CS for CS for SB 1978** was deferred.

On motion by Senator Fasano—

CS for CS for SB 682—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; creating the Division of Service Operations of the department; amending s. 455.217, F.S.; conforming provisions and transferring to the Division of Service Operations from the Division of Technology certain responsibilities related to examinations; revising certain requirements for the department concerning the use of outside vendors for the development, preparation, and evaluation of examinations; repealing s. 509.233(1) and (7), F.S., relating to a 3-year pilot program for local governments to allow patrons' dogs within certain designated outdoor portions of public food service establishments; abrogating the repeal of the program; requiring that the Office of Program Policy Analysis and Government Accountability perform a study and make certain recommendations to the Legislature by a specified date regarding the enactment of laws to provide for protection and remedies from certain online poker activities; providing an effective date.

—was read the second time by title.

Senator Constantine moved the following amendment which was adopted:

Amendment 1 (740674) (with title amendment)—Between lines 25 and 26 insert:

Section 1. *Effective July 1, 2010, all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Bureau of Onsite Sewage Programs in the Department of Health, as authorized and governed by ss. 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006, 381.0061, 381.0064-381.0068, and 489.551-558, are transferred by a type II transfer, pursuant to s. 20.06(2), to the Florida Department of Environmental Protection. In addition all existing powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts associated with county health departments' onsite sewage programs are transferred to the Department of Environmental Protection. The Department of Environmental Protection in cooperation with the Department of Health must develop a plan to implement the type II transfer and deliver the proposal to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 15, 2010.*

And the title is amended as follows:

Delete lines 2-3 and insert: An act relating to government reorganization; transferring by a type II transfer the Bureau of Onsite Sewage from the Department of Health to the Department of Environmental Protection; amending s. 20.165, F.S.;

Senator Justice moved the following amendment which was adopted:

Amendment 2 (254980) (with title amendment)—Between lines 60 and 61 insert:

Section 4. *The pilot rate review board may not meet before July 1, 2010, for the purpose of raising rates.*

And the title is amended as follows:

Delete line 16 and insert: repeal of the program; prohibiting the pilot rate review board from meeting before a specified date for the purpose of raising rates; requiring that the Office of

Senator Aronberg moved the following amendment which was adopted:

Amendment 3 (529060) (with title amendment)—Between lines 67 and 68 insert:

Section 5. Subsection (8) is added to section 509.233, Florida Statutes, to read:

509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions; pilot program.—

(8) This section may be cited as the "Dixie Cup Clary Local Control Act."

And the title is amended as follows:

Delete line 22 and insert: amending s. 509.233, F.S.; providing a short title; providing an effective date.

Senator Pruitt moved the following amendment:

Amendment 4 (907778) (with title amendment)—Between lines 67 and 68 insert:

Section 5. *The Division of Alcoholic Beverages and Tobacco may license any winery producing or selling less than 250,000 gallons of wine annually for a $250 annual fee if all taxes are paid, no underage sales or deliveries are made, and such winery is not owned by another winery producing or selling more than 250,000 gallons of wine annually. The winery must hold the license to ship wine and all penalties applicable to the shipping of wine shall apply equally to shipments made from in-state and out-of-state wineries. The division shall adopt rules by January 1, 2010, to implement this section and establish applications for the shipping license.*

And the title is amended as follows:

Delete line 22 and insert: authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to license certain in-state and out-of-state wineries that meet specified conditions to ship wine; requiring that the division adopt rules; providing an effective date.

POINT OF ORDER

Senator Dockery raised a point of order that pursuant to Rule 7.1 **Amendment 4** contained language of a bill not reported favorably by all Senate committees; and also pursuant to Rule 7.1 **Amendment 4** was not germane to the bill and was therefore out of order.

The President referred the point of order and the amendment to Senator Villalobos, Chair of the Committee on Rules.

Further consideration of **CS for CS for SB 682** with pending **Amendment 4 (907778)** and pending point of order was deferred.

Consideration of **CS for CS for SB 880**, **CS for CS for CS for HB 439** and **CS for CS for SB 424** was deferred.

On motion by Senator Fasano, by two-thirds vote **CS for CS for HB 479** was withdrawn from the Committees on Community Affairs; Ethics and Elections; and Governmental Oversight and Accountability.

On motion by Senator Fasano, the rules were waived and—

CS for CS for HB 479—A bill to be entitled An act relating to retirement; amending s. 121.021, F.S.; redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for members of the Elected Officers' Class; revising the dates for when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to participation in the Elected Officers' Class for retired members; amending s. 121.055, F.S.; revising provisions relating to participation in the Senior Management Service Class; revising benefit payment procedures for the Senior Management Service Optional Annuity Program; clarifying when a participant is considered retired; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to retirement benefits; deleting a restriction on the reemployment of certain personnel by the Florida School for the Deaf and the Blind; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; revising limitations on the payment of retirement benefits for certain retired persons who are reemployed by an employer participating in a state-administered retirement program; prohibiting certain persons holding public office from enrolling in the Florida Retirement System; deleting a provision authorizing an employing agency to reemploy a retired member as a firefighter or paramedic after a specified period; providing applicability; revising provisions relating to reemployment of retirees of the Public Employee Optional Retirement Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; clarifying that DROP participation cannot be canceled; clarifying maximum DROP participation; providing for the suspension of DROP benefits to a participant who is reemployed; deleting obsolete provisions; revising employer contribution requirements; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members may not be eligible to purchase service credit; amending s. 121.122, F.S.; providing that certain retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; revising conditions under which a retiree is entitled to certain additional retirement benefits; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; requiring the State Retirement Commission to use certain requirements used by the Secretary of Management Services before approving a disability retirement benefit; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the commission; amending s. 121.35, F.S.; revising a compulsory membership exception for certain members failing to elect membership in the optional retirement program; providing a cross-reference; defining the term "retiree" for purposes of the State University System Optional Retirement Program; amending s. 121.4501, F.S.; revising the definition of "eligible employee" for purposes of the Public Employee Optional Retirement Program; amending s. 121.591, F.S.; providing a cross-reference; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing s. 121.093, F.S., relating to instructional personnel reemployment after retirement from a developmental research school or the Florida School for the Deaf and the Blind; repealing s. 121.094, F.S., relating to instructional personnel reemployment after retirement from a charter school; repealing s. 121.45, F.S., relating to interstate compacts relating to pension portability; providing a declaration of important state interest; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 1182** and read the second time by title.

Senator Lawson moved the following amendment:

Amendment 1 (873430) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (10), (11), (18), (29), (39), (52), and (53) of section 121.021, Florida Statutes, are amended, and subsections (63) and (64) are added to that section, to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, *municipality, metropolitan planning organization,* or special district of the state~~, or any city of the state~~ which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d). *Employers are not agents of the department, the state board, or the Division of Retirement, and the department, the state board, and the division are not responsible for erroneous information provided by representatives of employers.*

(11) "Officer or employee" means any person receiving salary payments for work performed in a regularly established position and, if employed by a *municipality* ~~city~~, a metropolitan planning organization, or a special district, employed in a covered group. *The term does not apply to state employees covered by a leasing agreement under s. 110.191, other public employees covered by a leasing agreement, or a co-employer relationship.*

(18) "Past service" of any member, as provided in s. 121.081(1), means the number of years and complete months and any fractional part of a month, recognized and credited by an employer and approved by the administrator, during which the member was in the active employ of *a governmental* ~~an~~ employer *and for which the employee is not entitled to a benefit before* ~~prior to~~ his or her date of participation.

(29) "Normal retirement date" means the ~~first day of any month following the~~ date a member attains *normal retirement age and is vested, which is determined as follows* ~~one of the following statuses~~:

(a) If a Regular Class member, *a Senior Management Service Class member, or an Elected Officers' Class* ~~the~~ member:

1. *The first day of the month the member* completes 6 or more years of creditable service and attains age 62; or

2. *The first day of the month following the date the member* completes 30 years of creditable service, regardless of age~~, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system~~.

(b) If a Special Risk Class member~~, the member~~:

1. *The first day of the month the member* completes 6 or more years of creditable service in the Special Risk Class and attains age 55;

2. *The first day of the month following the date the member* completes 25 years of creditable service in the Special Risk Class, regardless of age; or

3. *The first day of the month following the date the member* completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

~~(c) If a Senior Management Service Class member, the member:~~

~~1. Completes 6 years of creditable service in the Senior Management Service Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

~~(d) If an Elected Officers' Class member, the member~~:

~~1. Completes 6 years of creditable service in the Elected Officers' Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

"Normal retirement age" is attained on the "normal retirement date."

(39)(a) "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with *an employer, however:* ~~employers under this system, as defined in subsection (10), but in the event~~

1. For termination dates occurring before July 1, 2010, if a member *is* ~~should be~~ employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence *constitutes* ~~shall constitute~~ a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination ~~for a member,~~ if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or *state* board may require other evidence of termination as it deems necessary.

2. For termination dates occurring on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as it deems necessary.

(b) "Termination" for a member electing to participate *in* ~~under~~ the Deferred Retirement Option Program occurs when the ~~Deferred Retirement Option~~ program participant ceases all employment relationships with *an employer* ~~employers under this system~~ in accordance with s. 121.091(13), *however:* ~~but~~

1. For termination dates occurring before July 1, 2010, if ~~in the event~~ the ~~Deferred Retirement Option Program~~ participant *is* ~~should be~~ employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.

2. For termination dates occurring on or after July 1, 2010, if the DROP participant becomes employed by any such employer within the next 6 calendar months, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence constitutes a continuation of the employment relationship.

(52) "Regularly established position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, ~~the term means~~ a position *that* ~~which~~ is authorized and established pursuant to law and is compensated from a salaries *and benefits* appropriation pursuant to s. 216.011(1)*(mm)* ~~(dd)~~, or an established position *that* ~~which~~ is authorized pursuant to s. 216.262(1)(a) and (b) and is compensated from a salaries account as provided *in s. 216.011(1)(nn)* ~~by rule~~.

(b) *With respect to* ~~In~~ a local *employer* ~~agency~~ (district school board, county agency, community college, city, metropolitan planning organization, *charter school, charter technical career center,* or special district), ~~the term means~~ a regularly established position *that* ~~which~~ will be in existence for a period beyond 6 consecutive months, except as provided by rule.

(53) "Temporary position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ is compensated from an other personal services (OPS) account~~,~~ as provided ~~for~~ in s. 216.011(1)(dd).

(b) *With respect to* ~~In~~ a local *employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ will exist for less than 6 consecutive months, or other ~~employment~~ position as determined by rule of the division, regardless of whether it will exist for 6 consecutive months or longer.

(63) "State board" means the State Board of Administration.

(64) "Trustees" means the Board of Trustees of the State Board of Administration.

Section 2. Subsection (6) is added to section 121.031, Florida Statutes, to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(6) Unless prior written approval is obtained from the department or state board, any promotional materials or advertisements that, directly or indirectly, refer to the "Florida Retirement System" or the "FRS" must contain a disclaimer that the information is not approved or endorsed by the Florida Retirement System.

Section 3. Paragraph (a) of subsection (1) and paragraphs (c) and (f) of subsection (2) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(a) *Participation in the Florida Retirement System is* ~~The provisions of this law shall be~~ compulsory *for* ~~as to~~ all officers and employees, except elected officers who meet the requirements of s. 121.052(3), who are employed on or after December 1, 1970, *by* ~~of~~ an employer other than those referred to in paragraph (2)(b).~~, and~~ Each officer or employee, as a condition of employment, *becomes* ~~shall become~~ a member of the system *on the* ~~as of his or her~~ date of employment, except that a person who is retired from any state retirement system and is reemployed on or after December 1, 1970, may not renew his or her membership in any state retirement system except as provided in s. 121.091(4)(h) for a person who recovers from disability, ~~and~~ as provided in *s. 121.053* ~~s. 121.091(9)(b)8.~~ for a person who is elected to public office, and, effective July 1, 1991, as provided in s. 121.122 for all other retirees.

1. Officers and employees of the University Athletic Association, Inc., a nonprofit association connected with the University of Florida, employed on and after July 1, 1979, *may* ~~shall~~ not participate in any state-supported retirement system.

2. ~~1.~~ Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan *adopted* ~~provided~~ by rule ~~adopted~~ by the Board of Regents may not participate in the Florida Retirement System. Effective July 1, 2008, any person appointed ~~thereafter~~ to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System notwithstanding ~~the provisions of~~ s. 121.35(2)(a).

~~2.~~ For purposes of this *subparagraph* ~~paragraph~~, the term*:*

a. "Faculty position" *means* ~~is defined as~~ a position assigned the principal responsibility of teaching, research, or public service activities or administrative responsibility directly related to the academic mission of the college. ~~The term~~

b. "Clinical faculty" *means* ~~is defined as~~ a faculty position appointment in conjunction with a professional position in a hospital or other clinical environment at a college. ~~The term~~

c. "Faculty practice plan" includes professional services to patients, institutions, or other parties which are rendered by the clinical faculty employed by a college that has a faculty practice plan at a state university authorized by the Board of Governors.

(2) OPTIONAL PARTICIPATION.—

(c) Employees of public community colleges or charter technical career centers sponsored by public community colleges, ~~as~~ designated in s. 1000.21(3), who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and ~~in~~ s. 1012.875 may ~~elect~~, in lieu of participating in the Florida Retirement System, *elect* to withdraw from the ~~Florida Retirement~~ system altogether and participate in *the State Community College System* ~~an~~ Optional Retirement Program provided by the employing agency under s. 1012.875~~, to be known as the State Community College System Optional Retirement Program~~. ~~Pursuant thereto:~~

1. Through June 30, 2001, the cost to the employer for such annuity *equals* ~~shall equal~~ the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class defined benefit program, plus the portion of the contribution rate required by s. 112.363(8) *which* ~~that~~ would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The employer shall deduct an amount ~~to provide~~ for the administration of the ~~optional retirement~~ program. The employer ~~providing the optional program~~ shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in ~~such~~ an optional retirement program *is* ~~shall be~~ irrevocable ~~for~~ as long as the employee holds a position eligible for participation, except as provided in subparagraph 3. Any service creditable under the Florida Retirement System *is* ~~shall be~~ retained after the member withdraws from the ~~Florida Retirement~~ system; however, additional service credit in the ~~Florida Retirement~~ system *may* ~~shall~~ not be earned while a member of the optional retirement program.

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, ~~to choose~~ to transfer from the optional retirement program to the defined benefit program of the Florida Retirement System or to the Public Employee Optional Retirement Program, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the Public Employee Optional Retirement Program, any contributions, interest, and earnings creditable to the employee under the State Community College System Optional Retirement Program *is* ~~shall be~~ retained by the employee in the State Community College System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) ~~shall~~ govern the election.

b. If the employee chooses to move to the defined benefit program of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State Community College System Optional Retirement Program.

(I) The cost for such credit *is the* ~~shall be an~~ amount representing the present value of *the* ~~that~~ employee's accumulated benefit obligation for the affected period of service. The cost shall be calculated as if the benefit commencement occurs on the first date the employee *becomes* ~~would become~~ eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation *must* ~~shall~~ include any service already maintained under the defined benefit plan in addition to the years under the State Community College System Optional Retirement Program. The present value of any service already maintained *must* ~~under the defined benefit plan shall~~ be applied as a credit to total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

(II) The employee must transfer from his or her State Community College System Optional Retirement Program account and from other employee moneys as necessary, a sum representing the present value of *the* ~~that~~ employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the State Community College System Optional Retirement Program.

4. Participation in the optional retirement program *is* ~~shall be~~ limited to ~~those~~ employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership or renewed membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12) or s. 121.122.

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and~~:~~

~~(A)~~ the duties and responsibilities of the position include ~~either~~ the formulation, interpretation, or implementation of policies*,* ~~;~~ or

~~(B) The duties and responsibilities of the position include~~ the performance of functions that are unique or specialized within higher education and that frequently ~~involve the~~ support ~~of~~ the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

5. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively. *A participant who receives a program distribution funded by employer contributions shall be deemed to be retired from a state-administered retirement system if the participant is subsequently employed with an employer that participates in the Florida Retirement System.*

6. Eligible community college employees *are* ~~shall be~~ compulsory members of the Florida Retirement System until, pursuant to ~~the procedures set forth in~~ s. 1012.875, a written election to withdraw from the ~~Florida Retirement~~ system and ~~to~~ participate in the State Community College System Optional Retirement Program is filed with the program administrator and received by the division.

a. *A* ~~Any~~ community college employee whose program eligibility results from initial employment *must* ~~shall~~ be enrolled in the State Community College System Optional Retirement Program retroactive to the first day of eligible employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the community college *to* ~~for~~ the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

b. *A* ~~Any~~ community college employee whose program eligibility *is* ~~results from a change in status~~ due to the subsequent designation of the employee's position as one of those specified in subparagraph 4.*,* or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in subparagraph 4.*, must* ~~shall~~ be enrolled in the program *on* ~~upon~~ the first day of the first full calendar month that such change in status becomes effective. The employer retirement contributions paid from the effective date through the month of the employee plan change *must* ~~shall~~ be transferred to the community college *to* ~~for~~ the

employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

7. Effective July 1, 2003, through December 31, 2008, any participant of the State Community College System Optional Retirement Program who has service credit in the defined benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the defined benefit plan to the optional retirement program and the actual date of transfer may, during ~~his or her~~ employment, ~~elect to~~ transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for *the* ~~such~~ period of service credit. Upon ~~such~~ transfer, all ~~such~~ service credit previously earned under the defined benefit program of the Florida Retirement System during this period *is* ~~shall be~~ nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

(f)1. *If* ~~Whenever~~ an employer that participates in the Florida Retirement System undertakes the transfer, merger, or consolidation of governmental services or *assumes the* functions *and activities of an employing governmental entity that was not an employer under the system*, the employer must notify the department at least 60 days *before* ~~prior to~~ such action and ~~shall~~ provide documentation as required by the department. *The transfer, merger, or consolidation of governmental services or assumption of governmental functions and activities must occur between public employers. The current or former employer may pay the employees' past service cost, unless prohibited under this chapter. This subparagraph does not apply to the transfer, merger, or consolidation of governmental services or assumption of functions and activities of a public entity under a leasing agreement having a co-employer relationship. Employers and employees of a public governmental employer whose service is covered by a leasing agreement under s. 110.191, any other leasing agreement, or a co-employer relationship are not eligible to participate in the Florida Retirement System.*

2. *If* ~~When~~ the agency to which a member's employing unit is transferred, merged, or consolidated does not participate in the Florida Retirement System, a member *may* ~~shall~~ elect in writing to remain in the Florida Retirement System or to transfer to the local retirement system operated by *the* ~~such~~ agency. If *the* ~~such~~ agency does not participate in a local retirement system, the member shall continue membership in the Florida Retirement System. In either case, ~~the~~ membership *continues* ~~shall continue~~ for as long as the member is employed by the agency to which his or her unit was transferred, merged, or consolidated.

Section 4. Paragraph (f) of subsection (2) and paragraph (e) of subsection (3) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected officers.—

(2) MEMBERSHIP.—The following holders of elective office, hereinafter referred to as "elected officers," whether assuming elective office by election, reelection, or appointment, are members of the Elected Officers' Class, except as provided in subsection (3):

(f) Any elected officer of a municipality or special district *assuming office* on ~~or after~~ July 1, 1997, *through June 30, 2009,* as provided in *subsection (3)* ~~paragraph (3)(e)~~. *On or after July 1, 2010, an elected officer shall become a member only if the governing body of the municipality or special district, at the time it joins the Florida Retirement System for its elected officers, elects, by majority vote, to include all its elected positions in the Elected Officers' Class.*

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f) assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraphs (3)(a)-(d):

(e) ~~Effective July 1, 2001,~~ The governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected Officers' Class.

1. Effective July 1, 1997, such election must be made between July 1, 1997, and December 31, 1997, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

2. Effective July 1, 2001, such election *must* ~~shall~~ be made between July 1, 2001, and December 31, 2001, and *is* ~~shall be~~ irrevocable. The designation of such positions *is* ~~shall be~~ effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

3. Effective July 1, 2009, such election must be made between July 1, 2009, and December 31, 2009, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

Section 5. Paragraph (b) of subsection (1) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(1)

(b) *A* ~~Any~~ retired member of the Florida Retirement System, or *an* ~~any~~ existing system as defined in s. 121.021(2), who, on or after July 1, 1990, *serves in* ~~is serving in, or is elected or appointed to,~~ an elective office covered by the Elected Officers' Class shall be enrolled in the appropriate subclass of the Elected Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). ~~Pursuant thereto:~~

1. *The* ~~Any such retired~~ member *may* ~~shall be eligible to~~ continue to receive retirement benefits as well as compensation for the elected officer service *if* ~~for as long as~~ he or she remains in an elective office covered by the Elected Officers' Class.

2. If *the* ~~any such~~ member serves in an elective office covered by the Elected Officers' Class and becomes vested under that class, he or she *is* ~~shall be~~ entitled to receive an additional retirement benefit for *the* ~~such~~ elected officer service.

3. *The* ~~Such~~ member *is* ~~shall be~~ entitled to purchase additional retirement credit in the Elected Officers' Class for any postretirement service performed in an elected position eligible for the Elected Officers' Class *before* ~~prior to~~ July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position *before* ~~prior to~~ July 1, 1991, by paying the applicable Elected Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, *is* ~~shall be~~ the difference between *the* ~~such~~ contribution and the total applicable contribution for the period being claimed, plus interest. The employer ~~of such member~~ may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service. *Any retiree who served in an elective office before July 1, 1990, suspended his or her retirement benefits, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.*

4. Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions *of* ~~in~~ s. 121.122 may be used in conjunction with creditable service earned under this paragraph, *if* ~~provided~~ applicable vesting requirements and other existing statutory conditions required by this chapter are met.

5. *A member* ~~An elected officer who is elected or appointed to an elective office and is~~ participating in the Deferred Retirement Option Program *before July 1, 2010,* is not subject to termination as provided in s. 121.021(39)(b), or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the

officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds such an elective office, as follows:

a. At the end of the 60-month DROP period:

(I) The officer's DROP account *may not* ~~shall~~ accrue ~~no~~ additional monthly benefits, but shall continue to earn interest as provided in s. 121.091(13). *However, an officer whose DROP participation begins on or after July 1, 2010, may not continue to earn interest as provided in s. 121.091(13).*

(II) ~~No~~ Retirement contributions *are not* ~~shall be~~ required of the employer of the elected officer and ~~no~~ additional retirement credit *may not* ~~shall~~ be earned under the Florida Retirement System.

b. ~~Nothing herein shall prevent~~ An elected officer *may* ~~from~~ voluntarily *terminate* ~~terminating~~ his or her elective office at any time and ~~electing to~~ receive his or her DROP proceeds. However, until termination ~~requirements are fulfilled~~ as *defined* ~~provided~~ in s. 121.021(39) *occurs, an* ~~any~~ elected officer whose termination limitations are extended by this section *is* ~~shall be~~ ineligible for renewed membership in the system and *may not* ~~shall~~ receive ~~no~~ pension payments, DROP lump sum payments, or any other state payment other than the statutorily determined salary, travel, and per diem for the elective office.

c. Upon termination, the officer shall receive his or her accumulated DROP account, plus interest, and shall accrue and commence receiving monthly retirement benefits, which *must* ~~shall~~ be paid on a prospective basis only.

However, an officer electing to participate in the Deferred Retirement Option Program on or before June 30, 2002, *is* ~~shall~~ not ~~be~~ required to terminate and *remains* ~~shall remain~~ subject to the provisions of this subparagraph as adopted in section 1 of chapter 2001-235, Laws of Florida.

Section 6. Paragraph (f) of subsection (1) and paragraph (e) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(f) Effective July 1, 1997:

1. *An* ~~Any~~ elected state officer eligible for membership in the Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. *An* ~~Any~~ elected ~~county~~ officer *of a local agency employer* eligible for membership in the Elected Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected ~~county~~ officers *of a local agency employer*, elect to *withdraw from the Florida Retirement System* ~~participate in a lifetime monthly annuity program~~, as provided in subparagraph (b)2., in lieu of membership in the Senior Management Service Class.

(6)

(e) *Benefits.*—

1. Benefits shall be payable under the Senior Management Service Optional Annuity Program only to participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid by the designated company in accordance with the terms of the annuity contract or contracts applicable to the participant. A participant must be terminated from all employment with all Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employer-funded benefit. Benefits funded by employer contributions shall be payable *under the terms of the contract* ~~only as a lifetime annuity~~ to the participant, his or her beneficiary, or his or her estate, *in addition to* ~~except for~~:

a. A lump-sum payment to the beneficiary upon the death of the participant;

b. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him or her to optional annuity program participation. ~~A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under the provisions of this chapter.~~ Such cash-out must be a complete liquidation of the account balance with that company and is subject to the provisions of the Internal Revenue Code*;*

c. A mandatory distribution of a de minimis account of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him or her to optional annuity program participation as authorized by the department; or

d. ~~c.~~ A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the participant's account directly to the custodian of an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant.

As used in this subparagraph, a "de minimis account" means an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under this chapter.

2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

3. *Except as provided in subparagraph 4.,* a participant who *terminates employment and* receives optional annuity program benefits funded by employer contributions shall be deemed to be retired from a state-administered retirement system in the event of subsequent employment with any employer that participates in the Florida Retirement System.

4. A participant who receives optional annuity program benefits funded by employer contributions as a mandatory distribution of a de minimis account authorized by the department will not be considered a retiree.

Section 7. Paragraph (a) of subsection (6) of section 121.071, Florida Statutes, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(6)(a) Required employee contributions for all service other than current service, including, but not limited to, prior service, past service, military service, leave-of-absence service, out-of-state service, and certain non-Florida Retirement System in-state service, shall be paid by cash, personal check, cashier's check, ~~or~~ money order*, or a direct rollover or transfer from a qualified plan as provided under the Internal Revenue Code. The payment must* ~~only; shall~~ be accompanied by a statement identifying the service for which payment is made~~;~~ and shall be made in a lump sum for the total amount due or in annual payments of not less than $100, except for the final payment if less than $100, unless another method of payment is authorized by law or rule.

Section 8. Paragraphs (a), (b), (e), (f), and (h) of subsection (1) of section 121.081, Florida Statutes, are amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)(a) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who* ~~that~~ become a covered group under this system. The governing body of a covered group in compliance with s. 121.051(2)(b) may elect to provide benefits *for* ~~with respect to~~ past service earned *before* ~~prior to~~ January 1, 1975, in accordance with this

chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The member contribution for both regular and special risk members *is* ~~shall be~~ 4 percent of the gross annual salary for each year of past service claimed, plus 4-percent employer matching contribution, plus 4-percent interest thereon compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until July 1, 1975, and 6.5-percent interest compounded annually thereafter until date of payment. Once the total cost for a member has been figured to date, then after July 1, 1975, 6.5-percent compounded interest shall be added each June 30 thereafter on any unpaid balance until the cost of such past service liability is paid in full. The following formula shall be used in calculating past service earned *before* ~~prior to~~ January 1, 1975: (Annual gross salary multiplied by 8 percent) multiplied by the 4-percent or 6.5-percent compound interest table factor, as may be applicable. The resulting product equals cost to date for each particular year of past service.

(b) Past service earned after January 1, 1975, may be claimed by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who become* ~~that becomes~~ a covered group under this system. The governing body of a covered group may elect to provide benefits *for* ~~with respect~~ to past service earned after January 1, 1975, in accordance with this chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The employer shall contribute an amount equal to the contribution rate in effect at the time the service was earned, multiplied by the employee's gross salary for each year of past service claimed, plus 6.5-percent interest thereon, compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until date of payment.

(e) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by a member of the Florida Retirement System who formerly was an officer or employee of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district, notwithstanding the status or form of the retirement system, if any, of that *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district and irrespective of whether *such* officers or employees ~~of that city, metropolitan planning organization, or special district~~ now or hereafter become a covered group under the Florida Retirement System. Such member may claim creditable service and be entitled to the benefits accruing to the regular class of members as provided for the past service claimed under this paragraph by paying into the retirement trust fund an amount equal to the total actuarial cost of providing the additional benefit resulting from such past-service credit, discounted by the applicable actuarial factors to date of retirement.

(f) *If* ~~When~~ any person~~, either prior to this act or hereafter,~~ becomes entitled to and *participates* ~~does participate~~ in one of the retirement systems *under* ~~consolidated within or created by~~ this chapter through the consolidation or merger of governments or the transfer of functions between units of government, ~~either~~ at the state or local level or between state and local units, or through the assumption of functions or activities by a state or local unit from an employing *governmental* entity *that* ~~which~~ was not an employer under the system, and such person becomes a member of the Florida Retirement System, such person *is* ~~shall be~~ entitled to receive past-service credit ~~as defined in s. 121.021(18)~~ for the time *the* ~~such~~ person performed services for, and was an employee of, such state or local unit or other *governmental* employing entity *before* ~~prior to~~ the transfer, merger, consolidation, or assumption of functions and activities. Past-service credit allowed by this paragraph *is* ~~shall~~ also ~~be~~ available to any person who becomes a member of an existing system *before*~~, as defined in s. 121.021(2), prior to~~ December 1, 1970, through the transfer, merger, consolidation, or assumption of functions and activities set forth in this paragraph and who subsequently becomes a member of the Florida Retirement System. However, credit for the past service may not be granted until contributions are made in the manner provided in this subsection. If a person rejected Florida Retirement System membership at the time of the transfer, merger, ~~or~~ consolidation, *or assumption of governmental functions and activities,* the required contributions shall be at total actuarial cost as specified in paragraph (e). Such contributions or accrued interest may not be paid from any *public* ~~state~~ funds.

(h) The following provisions apply to the purchase of past service:

1. Notwithstanding any of the provisions of this subsection, past-service credit may not be purchased under this chapter for any service that is used to obtain a *pension or* benefit from *a* ~~any~~ local retirement system. *Eligibility to receive or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.*

2. A member may not receive past service credit under paragraphs (a), (b), (e), or (f) for any leaves of absence without pay, except that credit for active military service leaves of absence may be claimed under paragraphs (a), (b), and (f), in accordance with s. 121.111(1).

3. A member may not receive past service credit for co-employer service. Co-employer service or a co-employer relationship is employment in a single position simultaneously covered and reported by both a public employer and a private employer.

4. ~~3.~~ If a member does not *want* ~~desire~~ to receive credit for all of his or her past service, the period the member claims must be the most recent past service prior to his or her participation in the Florida Retirement System.

5. ~~4.~~ The cost of past service purchased by an employing agency for its employees may be amortized over *the* ~~such~~ period of time ~~as is~~ provided in the agreement, but not to exceed 15 years, calculated in accordance with rule 60S-1.007(5)(f), Florida Administrative Code.

6. ~~5.~~ The retirement account of each member for whom past service is being provided by his or her employer shall be credited with all past service the employer agrees to purchase as soon as the agreement between the employer and the department is executed. ~~Pursuant thereto:~~

a. Each ~~such~~ member's account shall also be posted with the total contribution his or her employer agrees to make *on* ~~in~~ the member's behalf for past service earned *before* ~~prior to~~ October 1, 1975, excluding those contributions representing the employer's matching share and the compound interest calculation on the total contribution. However, a portion of any contributions paid by an employer for past service credit earned on and after October 1, 1975, may not be posted to *the* ~~a~~ member's account.

b. A refund of contributions payable after an employer has made a written agreement to purchase past service for employees of the covered group *includes* ~~shall include~~ contributions for past service which are posted to *the* ~~a~~ member's account. However, contributions for past service earned on and after October 1, 1975, are not refundable.

Section 9. Subsections (9), (13), and (14) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system and ~~may~~ receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

(b)~~1.~~ Any person *whose retirement is effective before July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates before July 1, 2010,* ~~who is retired under this chapter~~, except under the disability retirement provisions of subsection (4) *or as provided in s. 121.053*, may be reemployed by *an* ~~any private or public~~ employer *that participates in a state-administered retirement system* ~~after retirement~~ and receive retirement benefits and compensation from *that* ~~his or her~~ employer without any limitations, except that *the* ~~a~~ person may not *be*

reemployed by an employer ~~receive both a salary from reemployment with any agency~~ participating in the Florida Retirement System ~~and retirement benefits under this chapter~~ for ~~a period of~~ 12 *calendar* months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. ~~2.~~ *A retiree* ~~Any person to whom the limitation in subparagraph 1. applies~~ who violates such reemployment limitation ~~and who is reemployed with any agency participating in the Florida Retirement System~~ before completion of the 12-month limitation period *must* ~~shall~~ give timely notice of this fact in writing to the employer and to the Division *of Retirement or the state board* and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. *A retiree* ~~Any person~~ employed in violation of this paragraph and *an employer who* ~~any employing agency which knowingly~~ employs or appoints such person *are* ~~without notifying the Division of Retirement to suspend retirement benefits shall be~~ jointly and severally liable for reimbursement to the retirement trust fund*, including the Florida Retirement Systme Trust Fund and the Public employee Optional Retirement Program Trust Fund, from which the benefits were paid* ~~of any benefits paid during the reemployment limitation period~~. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. ~~Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and~~ Retirement benefits shall remain suspended until ~~such~~ repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

a. ~~3.~~ A district school board may reemploy a *retiree* ~~retired member~~ as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. A district school board may reemploy a *retiree* ~~retired member~~ as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~other retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph *2.* ~~7.~~

b. ~~4.~~ A community college board of trustees may reemploy a *retiree* ~~retired member~~ as an adjunct instructor~~, that is, an instructor who is noncontractual and part-time,~~ or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph *2.* ~~7.~~ A *retiree* ~~retired member~~ may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months of retirement. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph* ~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

c. ~~5.~~ The State University System may reemploy a *retiree* ~~retired member~~ as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the *retiree* ~~retired member~~ has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph *2.* ~~7.~~, as appropriate. A *retiree* ~~retired member~~ may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months ~~of retirement~~. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph* ~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

d. ~~6.~~ The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a *retiree* ~~retired member~~ as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph *2.* ~~7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.~~

e. A developmental research school may reemploy a retiree as a substitute or hourly teacher or an education paraprofessional as defined in s. 1012.01(2) on a noncontractual basis after he or she has been retired for 1 calendar month. A developmental research school may reemploy a retiree as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A developmental research school that reemploys retired teachers and education paraprofes-

sionals is subject to the retirement contribution required by subparagraph 2.

f. A charter school may reemploy a retiree as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month. A charter school may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A charter school that reemploys such teachers is subject to the retirement contribution required by subparagraph 2.

2. ~~7.~~ The employment ~~by an employer~~ of *a* ~~any~~ retiree or DROP participant of *a* ~~any~~ state-administered retirement system *does not affect* ~~shall have no effect on~~ the average final compensation or years of creditable service of the retiree or DROP participant. *Before* ~~Prior to~~ July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who *is* ~~has been~~ retired under *a* ~~any~~ state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees *who have* ~~with~~ renewed membership or*, as provided in* subsection (13)*, for* ~~with respect to~~ DROP participants.

~~8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.~~

3. ~~9.~~ Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office *if*~~, provided that~~ he or she *terminates* ~~shall be required to terminate~~ his or her nonelected covered employment. *Such* ~~Anyperson who exercises this election~~ shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. *A* ~~No~~ person who seeks to exercise the provisions of this subparagraph~~,~~ as *they* ~~the same~~ existed *before* ~~prior to~~ May 3, 1984, *may not be* ~~shall be~~ deemed to be retired under those provisions, unless such person is eligible to retire under ~~the provisions of~~ this subparagraph, as amended by chapter 84-11, Laws of Florida.

~~10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.~~

~~11. An employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retired contribution required in subparagraph 8. Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the Retirement System Trust Fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780 hour reemployment limitation.~~

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, except as provided under the disability retirement provisions of subsection (4) or under s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that his or her employer without limitation, except that the person may not be reemployed by an employer participating in the Florida Retirement System for 6 calendar months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13). A retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system.

(d) ~~(c)~~ The provisions of this subsection apply to retirees, as defined in s. 121.4501(2)~~(j)~~, of the Public Employee Optional Retirement Program ~~created in part II~~, subject to the following conditions:

1. *The* ~~Such~~ retirees may not be reemployed with an employer participating in the Florida Retirement System ~~as provided in paragraph (b)~~ until such person has been retired for *6* ~~3~~ calendar months~~, unless the participant has reached the normal retirement requirements of the defined benefit plan as provided in s. 121.021(29)~~.

2. *A* ~~Such~~ retiree employed in violation of this subsection and *an employer* ~~any employing agency~~ that knowingly employs or appoints such person *are* ~~shall be~~ jointly and severally liable for reimbursement of any benefits paid to the retirement trust fund from which the benefits were paid, including the Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. *The employer* ~~To avoid liability, such employing agency~~ must have a written statement from the retiree that he or she is not retired from a state-administered retirement system.

(e) The limitations of this subsection apply to reemployment in any capacity irrespective of the category of funds from which the person is compensated.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to ~~the provisions of~~ this section, the Deferred Retirement Option Program, hereinafter referred to as ~~the~~ DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the *Florida Retirement* System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP. Participation in ~~the~~ DROP by an eligible member beyond the initial 60-month period as authorized in this subsection shall be on an annual contractual basis for all participants.

(a) *Eligibility of member to participate in* ~~the~~ *DROP.*—All active Florida Retirement System members in a regularly established position, and all active members of ~~either~~ the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122*,* which ~~systems~~

are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in ~~the~~ DROP *if* ~~provided that~~:

1. The member is not a renewed member ~~of the Florida Retirement System~~ under s. 121.122~~,~~ or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains 57, or age 52 for Special Risk Class members. *A member who delays DROP participation during the 12-month period immediately following his or her maximum DROP deferral date, except as provided in subparagraph 6., loses a month of DROP participation for each month delayed.* ~~For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 12 months after the effective date of this section.~~ A member who fails to make an election within *the* ~~such~~ 12-month limitation period *forfeits* ~~shall forfeit~~ all rights to participate in ~~the~~ DROP. The member shall advise his or her employer and the division in writing of the date ~~on which the~~ DROP *begins* ~~shall begin~~. *The* ~~Such~~ beginning date may be subsequent to the 12-month election period~~,~~ but must be within the *original* 60-month *participation* ~~or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month limitation~~ period ~~as~~ provided in subparagraph (b)1. When establishing eligibility of the member to participate in ~~the~~ DROP ~~for the 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum participation period~~, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member *who has* ~~with~~ dual normal retirement dates *is* ~~shall be~~ eligible to elect to participate in DROP ~~within 12 months~~ after attaining normal retirement date in either class.

3. The employer of a member electing to participate in ~~the~~ DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in ~~the~~ DROP begins and the date the member's employment and DROP participation will terminate.

4. Simultaneous employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in ~~the~~ DROP *is* ~~shall be~~ permissible *if* ~~provided~~ such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the *maximum participation* ~~60-month limitation~~ period ~~as~~ provided in subparagraph (b)1.

5. A DROP participant may change employers while participating in ~~the~~ DROP, subject to the following:

a. A change of employment must take place without a break in service so that the member receives salary for each month of continuous DROP participation. If a member receives no salary during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division *of the identity of the new employer* on forms required by the division ~~as to the identity of the new employer~~.

c. The new employer shall acknowledge, in writing, the participant's DROP termination date, which may be extended but not beyond the *maximum participation* ~~original 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month~~ period provided in subparagraph (b)1., shall acknowledge liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment, and *is* ~~shall be~~ subject to the adjustment required in sub-subparagraph (c)5.d.

6. Effective July 1, 2001, for instructional personnel as defined in s. 1012.01(2), election to participate in ~~the~~ DROP *may* ~~shall~~ be made at any time following the date on which the member first reaches normal retirement date. The member shall advise his or her employer and the division in writing of the date on which *DROP begins* ~~the Deferred Retirement Option Program shall begin~~. When establishing eligibility of the member to participate in ~~the~~ DROP for the 60-month ~~or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum~~ participation period~~, as~~ provided in subparagraph (b)1., the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member *who has* ~~with~~ dual normal retirement dates *is* ~~shall be~~ eligible to elect to participate in either class.

(b) *Participation in* ~~the~~ *DROP.*—

1. An eligible member may elect to participate in ~~the~~ DROP for a period not to exceed a maximum of 60 calendar months. *However,* ~~or, with respect to~~ members who are instructional personnel employed by the Florida School for the Deaf and the Blind and *authorized* ~~who have received authorization~~ by the Board of Trustees of the Florida School for the Deaf and the Blind ~~to participate in the DROP beyond 60 months~~, ~~or~~ who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and *authorized* ~~who have received authorization~~ by the district school superintendent ~~to participate in the DROP beyond 60 calendar months~~, *or who are instructional personnel as defined in s. 1012.01(2)(a) employed by a developmental research school and authorized by the school's director, or if the school has no director, by the school's principal, may participate in DROP for up to 36 calendar months beyond the 60-month period.* ~~96 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 calendar months, 96 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of the DROP.~~

2. Upon deciding to participate in ~~the~~ DROP, the member shall submit, on forms required by the division:

a. A written election to participate in ~~the~~ DROP;

b. Selection of ~~the~~ DROP participation and termination dates *that*~~,~~ ~~which~~ satisfy the limitations stated in paragraph (a) and subparagraph

1. *The* ~~Such~~ termination date *must* ~~shall~~ be in a binding letter of resignation *to* ~~with~~ the employer~~,~~ establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of *the* ~~his or her~~ employer;

c. A properly completed DROP application for service retirement as provided in this section; and

d. Any other information required by the division.

3. The DROP participant *is* ~~shall be~~ a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122. *DROP participation is final and may not be canceled by the participant after the first payment is credited during the DROP participation period.* However, participation in ~~the~~ DROP does not alter the participant's employment status*,* and *the member is* ~~such employee shall~~ not ~~be~~ deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

4. Elected officers *are* ~~shall be~~ eligible to participate in ~~the~~ DROP subject to the following:

a. An elected officer who reaches normal retirement date during a term of office may defer the election to participate ~~in the DROP~~ until the next succeeding term in that office. *An* ~~Such~~ elected officer who exercises this option may participate in ~~the~~ DROP for up to 60 calendar months or ~~a period of~~ no longer than *the* ~~such~~ succeeding term of office, whichever is less.

b. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly*;* ~~, except,~~ however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP *is* ~~shall be~~ null and void as provided in sub-subparagraph (c)5.d.

c. An elected officer who is dually employed and elects to participate in DROP *must meet* ~~shall be required to satisfy~~ the definition of termination *in s. 121.021(39)* within the *original* 60-month *period* or *maximum participation* ~~, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month limitation~~ period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer *shall* ~~will~~ be enrolled as a renewed member in the Elected Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.122, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of ~~the~~ DROP benefits shall be made as provided in paragraph (c).

(c) *Benefits payable under* ~~*the*~~ *DROP.—*

1. Effective *on* ~~with~~ the date of DROP participation, the member's initial normal monthly benefit, including creditable service, optional form of payment, and average final compensation, and the effective date of retirement *are* ~~shall be~~ fixed. The beneficiary established under the Florida Retirement System *is* ~~shall be~~ the beneficiary eligible to receive any DROP benefits payable if the DROP participant dies *before completing* ~~prior to the completion of~~ the period of DROP participation. *If* ~~In the event~~ a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable. *The* ~~Such~~ retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest ~~shall~~ accrue monthly in the *Florida Retirement* System Trust Fund. *The* ~~Such~~ interest *accrues* ~~shall accrue~~ at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death*, except as provided in s. 121.053(1)(b)5*.

2. Each employee who elects to participate in ~~the~~ DROP *may* ~~shall be allowed to~~ elect to receive a lump-sum payment for accrued annual leave earned in accordance with agency policy upon beginning participation in ~~the~~ DROP. *The* ~~Such~~ accumulated leave payment certified to the division upon commencement of DROP shall be included in the calculation of the member's average final compensation. The employee electing *the* ~~such~~ lump-sum payment *is* ~~upon beginning participation in DROP will~~ not ~~be~~ eligible to receive a second lump-sum payment upon termination, except to the extent the employee has earned additional annual leave which*,* combined with the original payment*,* does not exceed the maximum lump-sum payment allowed by the employing agency's policy or rules. *An* ~~Such~~ early lump-sum payment shall be based on the hourly wage of the employee at the time he or she begins participation in ~~the~~ DROP. If the member elects to wait and receive *a* ~~such~~ lump-sum payment upon termination of DROP and termination of employment with the employer, any accumulated leave payment made at that time *may not* ~~cannot~~ be included in the member's retirement benefit, which was determined and fixed by law when the employee elected to participate in ~~the~~ DROP.

3. The effective date of DROP participation and the effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in ~~the~~ DROP, provided such date is properly established, with the written confirmation of the employer, and the approval of the division, on forms required by the division.

4. Normal retirement benefits and *any* interest ~~thereon~~ shall continue to accrue in ~~the~~ DROP until the established termination date of ~~the~~ DROP~~,~~ or until the participant terminates employment or dies prior to such date*, except as provided in s. 121.053(1)(b)5*. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under ~~the~~ DROP shall be calculated and provided to participants.

5. At the conclusion of the participant's DROP, the division shall distribute the participant's total accumulated DROP benefits, subject to the following ~~provisions~~:

a. The division shall receive verification by the participant's employer or employers that *the* ~~such~~ participant has terminated *all* employment *relationships* as provided in s. 121.021(39)~~(b)~~.

b. The terminated DROP participant or, if deceased, *the* ~~such~~ participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed below. *If* ~~For~~ a participant or beneficiary ~~who~~ fails to elect a method of payment within 60 days *after* ~~of~~ termination of ~~the~~ DROP, the division *shall* ~~will~~ pay a lump sum as provided in sub-sub-subparagraph (I).

(I) Lump sum.—All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover.—All accrued DROP benefits, plus interest, shall be paid from ~~the~~ DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum.—A portion of the accrued DROP benefits shall be paid to ~~the~~ DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits *must* ~~shall~~ be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions *must* ~~shall~~ be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary *must comply* ~~complies~~ with the minimum distribution requirements of the Internal Revenue Code.

d. A DROP participant who fails to terminate *all* employment *relationships* as *provided* ~~defined~~ in s. 121.021(39)~~(b)~~ shall be deemed *as*

not ~~to be~~ retired, and the DROP election *is* ~~shall be~~ null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of ~~the~~ DROP, and each employer with whom the participant continues employment *must* ~~shall be required to~~ pay to the *Florida Retirement* System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for the applicable Florida Retirement System class of membership during the period the member participated in ~~the~~ DROP, plus 6.5 percent interest compounded annually.

6. The retirement benefits of any DROP participant who terminates all employment relationships as provided in s. 121.021(39) but is reemployed in violation of the reemployment provisions subsection (9) shall be suspended during those months in which the retiree is in violation. Any retiree in violation of this subparagraph and any employer that employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits are jointly and severally liable for any benefits paid during the reemployment limitation period. To avoid liability, the employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retiree while employed in violation of the reemployment limitations must be repaid to the Florida Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired retiree's first 6 calendar months shall apply toward repayment of benefits received in violation of the reemployment limitation.

7. ~~6.~~ The accrued benefits of any DROP participant, and any contributions accumulated under *the* ~~such~~ program, *are* ~~shall~~ not ~~be~~ subject to assignment, execution, attachment, or ~~to~~ any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, and federal income tax levies.

8. ~~7.~~ DROP participants *are* ~~shall~~ not ~~be~~ eligible for disability retirement benefits as provided in subsection (4).

(d) *Death benefits under* ~~*the*~~ *DROP.*—

1. Upon the death of a DROP participant, the named beneficiary *is* ~~shall be~~ entitled to apply for and receive the accrued benefits in ~~the~~ DROP as provided in sub-subparagraph (c)5.b.

2. The normal retirement benefit accrued to ~~the~~ DROP during the month of a participant's death *is* ~~shall be~~ the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in ~~the~~ DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in ~~the~~ DROP, but *before* ~~prior to~~ the first monthly benefit *is* ~~being~~ credited to ~~the~~ DROP, Florida Retirement System benefits *are* ~~shall be~~ paid in accordance with subparagraph (7)(c)1. or subparagraph 2.

4. A DROP *participant's* ~~participants'~~ survivors *are* ~~shall~~ not ~~be~~ eligible to receive Florida Retirement System death benefits as provided in paragraph (7)(d).

(e) *Cost-of-living adjustment.*—On each July 1, the *participant's* ~~participants'~~ normal retirement benefit shall be increased as provided in s. 121.101.

(f) *Retiree health insurance subsidy.*—DROP participants are not eligible to apply for the retiree health insurance subsidy payments as provided in s. 112.363 until such participants have terminated employment and participation in ~~the~~ DROP.

(g) *Renewed membership.*—DROP participants *are* ~~shall~~ not ~~be~~ eligible for renewed membership in the Florida Retirement System under ss. 121.053 and 121.122 until *all employment relationships are terminated* ~~termination of employment is effectuated~~ as provided in s. 121.021(39)~~(b)~~.

(h) *Employment limitation after DROP participation.*— Upon ~~satisfying the definition of~~ termination of *all* employment *relationships* as provided in s. 121.021(39)~~(b)~~, DROP participants *are* ~~shall be~~ subject to *the same* ~~such~~ reemployment limitations as other retirees. Reemployment restrictions applicable to retirees as provided in subsection (9) *do* ~~shall~~ not apply to DROP participants until their employment and participation in ~~the~~ DROP are terminated.

(i) *Contributions.*—

1. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 8.0 percent of such participant's gross compensation for the period of July 1, 2002, through June 30, 2003, and *the percentage* ~~11.56 percent~~ of such compensation *required by s. 121.71* thereafter, which shall constitute the entire employer DROP contribution with respect to such participant. Such contributions, payable to the *Florida Retirement* System Trust Fund in the same manner as required in s. 121.071, *must* ~~shall~~ be made as appropriate for each pay period and are in addition to contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. Such employer, social security, and health insurance subsidy contributions are not included in ~~the~~ DROP.

2. The employer shall, in addition to subparagraph 1., also withhold one-half of the entire social security contribution required for the participant. Contributions for social security by each participant and each employer, in the amount required for social security coverage as ~~now or hereafter~~ provided by the federal Social Security Act, *are* ~~shall be~~ in addition to contributions specified in subparagraph 1.

3. All employers paying the salary of a DROP participant filling a regularly established position shall contribute the percent of such participant's gross compensation required in s. 121.071(4), which ~~shall~~ constitute the employer's health insurance subsidy contribution with respect to such participant. Such contributions *must* ~~shall~~ be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(j) *Forfeiture of retirement benefits.*—~~Nothing in~~ This section *does not* ~~shall be construed to~~ remove DROP participants from the scope of s. 8(d), Art. II of the State Constitution, s. 112.3173, and paragraph (5)(f). DROP participants who commit a specified felony offense while employed *are* ~~will be~~ subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(k) *Administration of program.*—The division shall *adopt* ~~make such~~ rules as ~~are~~ necessary for the effective and efficient administration of this subsection. The division *is* ~~shall~~ not ~~be~~ required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

(14) PAYMENT OF BENEFITS.—This subsection applies to the payment of benefits to a payee (retiree or beneficiary) under the Florida Retirement System:

(a) Federal income tax shall be withheld in accordance with federal law, unless the payee elects otherwise on Form W-4P. The division shall prepare and distribute to each recipient of monthly retirement benefits an appropriate income tax form that reflects the recipient's income and federal income tax withheld for the calendar year just ended.

(b) Subject to approval by the division in accordance with rule 60S-4.015, Florida Administrative Code, a payee receiving retirement benefits under the ~~Florida Retirement~~ system may also have the following payments deducted from his or her monthly benefit:

1. Premiums for life and health-related insurance policies from approved companies.

2. Life insurance premiums for the State Group Life Insurance Plan, if authorized in writing by the payee and by the department ~~of Management Services~~.

3. Repayment of overpayments from the Florida Retirement System Trust Fund, the State Employees' Health Insurance Trust Fund, or the State Employees' Life Insurance Trust Fund, upon notification of the payee.

4. Payments to an alternate payee for alimony *or* ~~,~~ child support *pursuant to an income deduction order under s. 61.1301*, or division of marital assets pursuant to a qualified domestic relations order under s. 222.21 ~~or an income deduction order under s. 61.1301~~.

5. Payments to the Internal Revenue Service for federal income tax levies, upon notification of the division by the Internal Revenue Service.

(c) A payee *must* ~~shall~~ notify the division of any change in his or her address. The division may suspend benefit payments to a payee if correspondence sent to the payee's mailing address is returned due to an incorrect address. Benefit payments shall be resumed upon notification to the division of the payee's new address.

(d) A payee whose retirement benefits are reduced by the application of maximum benefit limits under s. 415(b) of the Internal Revenue Code, as specified in s. 121.30(5), shall have the portion of his or her calculated benefit in the Florida Retirement System defined benefit plan which exceeds such federal limitation paid through the Florida Retirement System Preservation of Benefits Plan, as provided in s. 121.1001.

(e) The Division of Retirement may issue retirement benefits payable for division of marital assets pursuant to a qualified domestic relations order directly to the alternate payee, any court order to the contrary notwithstanding, in order to meet Internal Revenue Code requirements.

(f) ~~(e)~~ *A* ~~No~~ benefit may *not* be reduced for the purpose of preserving the member's eligibility for a federal program.

(g) ~~(f)~~ The division shall adopt rules establishing procedures for determining that ~~the~~ persons to whom benefits are being paid are still living. The division shall suspend the benefits being paid to any payee *if* ~~when~~ it is unable to contact such payee and to confirm that he or she is still living.

Section 10. Section 121.1115, Florida Statutes, is amended to read:

121.1115 Purchase of retirement credit for out-of-state *or* ~~and~~ federal service.—Effective January 1, 1995, a member ~~of the Florida Retirement System~~ may purchase creditable service for periods of public employment in another state and receive creditable service for such periods of employment. Service with the Federal Government, including any *active* military service, may be claimed. Upon completion of each year of service earned under the Florida Retirement System, a member may purchase up to 1 year of retirement credit for his or her out-of-state service, subject to the following provisions:

(1) LIMITATIONS AND CONDITIONS.—To receive credit for the out-of-state service:

(a) The out-of-state service ~~being claimed~~ must have been:

1. Performed in a position of employment with the state or a political subdivision thereof or with the Federal Government;

2. Covered by a retirement or pension plan provided by the state or political subdivision, or by the Federal Government, as appropriate; and

3. Performed prior to a period of membership in the Florida Retirement System.

(b) The member must have completed a minimum of 6 years of creditable service under the Florida Retirement System, excluding out-of-state service and in-state service claimed and purchased under s. 121.1122.

(c) Not more than 5 years of creditable service may be claimed for creditable service aggregated under ~~the provisions of~~ this section and s. 121.1122.

(d) The out-of-state service credit ~~claimed under this section~~ shall be credited only as service in the Regular Class ~~of membership~~, and any benefit or pension based thereon *is* ~~shall be~~ subject to the limitations and restrictions of s. 112.65.

(e) The member is not eligible for and may not receive a pension or benefit from a retirement or pension plan based on or including the out-of-state service. Eligibility for or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.

(f) ~~(e) A member shall be eligible~~ To receive service credit for out-of-state service performed after leaving the Florida Retirement System*, the member must complete* ~~only upon return to membership and completion of~~ at least 1 year of creditable service in the Florida Retirement System following the out-of-state service.

(2) COST.—For each year claimed, the member must pay into the *Florida Retirement* System Trust Fund an amount equal to 20 percent of the member's annual compensation for the first full work year of creditable service earned under the Florida Retirement System, but not less than $12,000, plus interest at 6.5 percent compounded annually from the date of first annual salary earned until full payment is made. The employer may pay all or a portion of the cost of this service credit.

Section 11. Subsection (2) of section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic schools and colleges, including charter schools and charter technical career centers.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic employment performed in this state, as provided in this section.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 6 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under ~~the provisions of~~ this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class ~~of membership~~ and *is* ~~shall be~~ subject to ~~the provisions of~~ s. 112.65.

(d) Service credit may not be purchased under this section if the member is eligible to receive or is receiving a pension or benefit from a retirement or pension plan based on or including the service. Eligibility for or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.

(e) ~~(d)~~ A member *is* ~~shall be~~ eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only *after* ~~upon returning to membership and~~ completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

(f) ~~(e)~~ The service claimed must have been service covered by a retirement or pension plan provided by the employer.

Section 12. Section 121.122, Florida Statutes, is amended to read:

121.122 Renewed membership in system.—

(1) Except as provided in s. 121.053, effective July 1, 1991, any retiree of a state-administered retirement system who is *initially reemployed* ~~employed~~ in a regularly established position with a covered employer shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System or, effective July 1, 1997, any retiree of a state-administered retirement system who is *initially reemployed* ~~employed~~ in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055, and shall be entitled to receive an additional retirement benefit, subject to the following conditions:

~~(1)~~(a) Such member *must* ~~shall~~ resatisfy the age and service requirements as provided in this chapter for initial membership under the system, unless such member elects to participate in the Senior Management Service Optional Annuity Program in lieu of the Senior Management Service Class, as provided in s. 121.055(6).

(b) Such member *is* ~~shall~~ not ~~be~~ entitled to disability benefits as provided in s. 121.091(4).

(c) Such member must meet the reemployment after retirement limitations as provided in s. 121.091(9), as applicable.

(2) Upon renewed membership *or reemployment of a retiree*, the employer of such member shall pay the applicable employer contributions as required by ss. *121.71, 121.74, 121.76, and 112.363* ~~121.055(3) and 121.071(1)(a) and (4)~~.

(3) Such member *is* ~~shall be~~ entitled to purchase additional retirement credit in the Regular Class or the Senior Management Service Class, as applicable, for any postretirement service performed in a regularly established position as follows:

(a) For regular class service prior to July 1, 1991, by paying the Regular Class applicable employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund; or

(b) For Senior Management Service Class prior to June 1, 1997, as provided in s. 121.055(1)(j).

The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

(4) No creditable service for which credit was received, or which remained unclaimed, at retirement may be claimed or applied toward service credit earned following renewed membership. However, service earned as an elected officer with renewed membership in the Elected Officers' Class may be used in conjunction with creditable service earned under this section, provided the applicable vesting requirements and other existing statutory conditions required by this chapter are met.

(5) Notwithstanding any other limitations provided in this section, a participant of the State University System Optional Retirement Program*, the State Community College Optional Retirement Program,* or the Senior Management Service Optional Annuity Program who terminated employment and commenced receiving *a distribution* ~~an annuity~~ under ~~the provisions of~~ the optional program, who *initially* renews membership ~~in the Regular Class~~ as required by this section upon reemployment after retirement, and who had previously earned creditable Florida Retirement System service that was not included in any retirement benefit may include such previous service toward vesting and service credit in the second career benefit provided under renewed membership.

(6) *A* ~~Any~~ renewed member who is not receiving the maximum health insurance subsidy provided in s. 112.363 *is* ~~shall be~~ entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit *may* ~~shall~~ be received only at the time of payment of the second career retirement benefit. ~~In no case shall~~ The total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership *may not* exceed the maximum allowed in s. 112.363.

Section 13. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—*Each year* ~~Beginning January 1, 1993, and each January thereafter,~~ the department shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits *that provides* ~~. Such statement should provide~~ the member with basic data about the member's retirement account. *At a minimum* ~~Minimally~~, it *must* ~~shall~~ include the member's retirement plan, *accrued service credit* ~~the amount of funds on deposit in the retirement account~~, and an estimate of retirement benefits.

Section 14. Section 121.1905, Florida Statutes, is amended to read:

121.1905 Division of Retirement; creation.—

~~(1)~~ There is created the Division of Retirement within the Department of Management Services.

~~(2) The mission of the Division of Retirement is to provide quality and cost effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.~~

Section 15. Paragraph (a) of subsection (2) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(2) A member shall be entitled to a hearing before the State Retirement Commission pursuant to ss. 120.569 and 120.57(1) on the merits of any written adverse decision of the administrator, if he or she files with the commission a written request for such hearing within 21 days after receipt of such written decision from the administrator. For the purpose of such hearings, the commission shall be an "agency head" as defined by s. 120.52.

(a) The commission *may* ~~shall have the authority to~~ issue orders as a result of *the* ~~a~~ hearing that *are* ~~shall be~~ binding on all parties to the dispute *and* ~~. The commission~~ may order any action that it deems appropriate. Any disability retirement order of the commission *that* ~~issued pursuant to this subsection which~~ sustains the application of the member may include an amount, to be determined by the commission, for reasonable attorney's fees and taxable costs, which shall be calculated in accordance with the statewide uniform guidelines for taxation of costs in civil actions. The amount of the attorney's *fees* ~~fee~~ may not exceed 50 percent of the initial yearly benefit awarded under s. 121.091(4). In cases involving disability retirement, the ~~State Retirement~~ commission shall require the member to present *substantial* competent medical evidence *that meets the requirements of s. 121.091(4)(c)2. and 3.,* and may require vocational evidence*,* before awarding disability retirement benefits.

Section 16. Paragraph (a) of subsection (1) of section 121.24, Florida Statutes, is amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(1) The commission shall conduct its business within the following guidelines:

(a) For purposes of hearing appeals under s. 121.23, the commission may meet in panels ~~consisting~~ of *no* ~~not~~ fewer than three members. ~~For the purpose of meeting in these panels, a quorum shall be not fewer than two members. For all other purposes,~~ A quorum shall consist of three members. The concurring vote of a majority of the members present *is* ~~shall be~~ required to reach a decision, issue orders, and conduct the business of the commission.

Section 17. Paragraph (h) of subsection (3) and paragraphs (a) and (e) of subsection (5) of section 121.35, Florida Statutes, are amended, and paragraph (g) is added to subsection (5) of that section, to read:

121.35 Optional retirement program for the State University System.—

(3) ELECTION OF OPTIONAL PROGRAM.—

(h) A participant in the optional retirement program may not participate in more than one state-administered retirement system, plan, or class simultaneously. Except as provided in s. 121.052(6)(d), a participant who is or becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for the optional program and one of which is not, may remain a member of the optional program and contributions shall be paid as required only on the salary earned in the position eligible for the optional program during *the* ~~such~~ period of dual employment; or, within 90 days after becoming dually employed, he or she may elect membership in the Regular Class of the Florida Retirement System in lieu of the optional program and contributions shall be paid as required on the total salary received for all employment. At retirement, the average final compensation used to

calculate any benefits for which the member becomes eligible under the Florida Retirement System *must* ~~shall~~ be based on all salary reported for both positions during such period of dual employment. *If the* ~~When such~~ member ceases to be dually employed, he or she may, within 90 days, elect to remain in the Florida Retirement System class for which he or she is eligible or to again become a participant in the optional retirement program. Failure to elect membership in the optional program within 90 days shall result in compulsory membership in the Florida Retirement System, except that a member filling a faculty position *at* ~~under~~ a *college that has a* faculty practice plan at the University of Florida*, at* ~~or~~ the Medical Center at the University of South Florida*, or other state university* shall again participate in the optional retirement program as required in s. 121.051(1)(a).

(5) BENEFITS.—

(a) Benefits *are* ~~shall be~~ payable under the optional retirement program only to vested participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with s. 403(b) of the Internal Revenue Code and ~~in accordance with~~ the terms of the annuity contract or contracts applicable to the participant. Benefits ~~shall~~ accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and the earnings thereon. The participant must be terminated from all employment *relationships* with all Florida Retirement System employers, as provided in s. 121.021(39), to begin receiving the employer-funded benefit. Benefits funded by employer contributions *are* ~~shall be~~ payable in accordance with the following terms and conditions:

1. Benefits shall be *paid* ~~payable~~ only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable *department* ~~board~~ rule or policy.

3. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the participant's designated beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death, as provided in paragraph (c). No other death benefits *are* ~~shall be~~ available *to* ~~for~~ survivors of participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer, at the employer's discretion.

(e) A participant who chooses to receive his or her benefits upon termination *as defined in s. 121.021(39) must* ~~of employment shall have responsibility to~~ notify the provider company of the date ~~on which~~ he or she wishes benefits funded by employer contributions to begin. Benefits may be deferred until ~~such time as~~ the participant chooses to make such application.

(g) For purposes of this section, "retiree" means a former participant of the optional retirement program who has terminated employment and has taken a distribution as provided in this subsection, except for a mandatory distribution of a de minimis account authorized by the department.

Section 18. Paragraphs (a) and (b) of subsection (1) of section 121.591, Florida Statutes, is amended to read:

121.591 Benefits payable under the Public Employee Optional Retirement Program of the Florida Retirement System.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed in the manner prescribed by the state board or the department. The state board or department, as appropriate, may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the rules of the state board and department. In accordance with their respective responsibilities as provided herein, the State Board of Administration and the Department of Management Services shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received. The State Board of Administration and the Department of Management Services, as appropriate, are authorized to cash out a de minimis account of a participant who has been terminated from Florida Retirement System covered employment for a minimum of 6 calendar months. A de minimis account is an account containing employer contributions and accumulated earnings of not more than $5,000 made under the provisions of this chapter. Such cash-out must either be a complete lump-sum liquidation of the account balance, subject to the provisions of the Internal Revenue Code, or a lump-sum direct rollover distribution paid directly to the custodian of an eligible retirement plan, as defined by the Internal Revenue Code, on behalf of the participant. If any financial instrument issued for the payment of retirement benefits under this section is not presented for payment within 180 days after the last day of the month in which it was originally issued, the third-party administrator or other duly authorized agent of the State Board of Administration shall cancel the instrument and credit the amount of the instrument to the suspense account of the Public Employee Optional Retirement Program Trust Fund authorized under s. 121.4501(6). Any such amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings thereon shall be forfeited. Any such forfeited amounts are assets of the Public Employee Optional Retirement Program Trust Fund and are not subject to the provisions of chapter 717.

(1) NORMAL BENEFITS.—Under the Public Employee Optional Retirement Program:

(a) Benefits in the form of vested accumulations as described in s. 121.4501(6) shall be payable under this subsection in accordance with the following terms and conditions:

1. To the extent vested, benefits shall be payable only to a participant.

2. Benefits shall be paid by the third-party administrator or designated approved providers in accordance with the law, the contracts, and any applicable board rule or policy.

3. To receive benefits under this subsection, the participant must be terminated from all employment with all Florida Retirement System employers, as provided in s. 121.021(39).

4. Benefit payments may not be made until the participant has been terminated for 3 calendar months, except that the board may authorize by rule for the distribution of up to 10 percent of the participant's account after being terminated for 1 calendar month if a participant has reached the normal retirement requirements of the defined benefit plan, as provided in s. 121.021(29).

5. If a member or former member of the Florida Retirement System receives an invalid distribution from the Public Employee Optional Retirement Program Trust Fund, such person shall repay the full invalid distribution to the trust fund within 90 days after receipt of final notification by the State Board of Administration or the third-party administrator that the distribution was invalid. If such person fails to repay the full invalid distribution within 90 days after receipt of final notification, the person may be deemed retired from the Public Employee Optional Retirement Program by the state board, as provided pursuant to s. 121.4501(2)(j), and shall be subject to the provisions of s. 121.122. If such person is deemed retired by the state board, any joint and several liability set out in *s. 121.091(9)(d)2.* ~~s. 121.091(9)(e)2.~~ becomes null and void, and the state board, the Department of Management Services, or the employing agency is not liable for gains on payroll contributions that have not been deposited to the person's account in the Public Employee Optional Retirement Program, pending resolution of the invalid distribution. The member or former member who has been deemed retired or who has been determined by the board to have taken an invalid distribution may appeal the agency decision through the complaint process as provided under s. 121.4501(9)(f)3. As used in this subparagraph, the term "invalid distribution" means any distribution from an account in the Public Employee Optional Retirement Program which is taken in violation of the provisions of this section, s. 121.091(9), or s. 121.4501.

(b) If a participant elects to receive his or her benefits upon termination of employment *as defined in s. 121.021(39)*, the participant must submit a written application or an equivalent form to the third-party

administrator indicating his or her preferred distribution date and selecting an authorized method of distribution as provided in paragraph (c). The participant may defer receipt of benefits until he or she chooses to make such application, subject to federal requirements.

Section 19. Subsection (1) of section 238.183, Florida Statutes, is amended to read:

238.183 Developmental research school and Florida School for the Deaf and the Blind instructional personnel; reemployment after retirement.—

(1) Notwithstanding any other law, instructional personnel, as defined in s. 1012.01(2), employed by a developmental research school or the Florida School for the Deaf and the Blind are eligible for reemployment after retirement in the same manner as classroom teachers who are employed by the district school boards, as described in ss. 121.091(9)(b)~~3.~~ and 238.181(2)(c).

Section 20. Paragraph (g) of subsection (3) and subsection (8) of section 1012.33, Florida Statutes, are amended to read:

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

(3)

(g) Beginning July 1, 2001, for each employee who enters into a written contract, pursuant to this section, in a school district in which the employee was not employed as of June 30, 2001, or was employed as of June 30, 2001, but has since broken employment with that district for 1 school year or more, for purposes of pay, a district school board must recognize and accept each year of full-time public school teaching service earned in the State of Florida or outside the state and for which the employee received a satisfactory performance evaluation. Instructional personnel employed pursuant to s. 121.091(9)(b)~~3.~~ are exempt from the provisions of this paragraph.

(8) Notwithstanding any other provision of law, *a retired* ~~any~~ member ~~who has retired~~ may interrupt retirement and be reemployed in any public school. *A* ~~Any~~ member ~~so~~ reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)~~; however, no regular retirement employee shall be eligible to renew membership under a retirement system created by chapter 121 or chapter 238~~.

Section 21. *Sections 121.093, 121.094, and 121.45, Florida Statutes, are repealed.*

Section 22. *The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, as well as the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner as required by s. 14, Art. X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that the amendment of s. 121.091, Florida Statutes, by this act fulfills an important state interest.*

Section 23. This act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to retirement; amending s. 121.021, F.S.; redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for members of the Elected Officers' Class; revising the dates when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to participation in the Elected Officers' Class for retired members; providing that a member whose DROP participation begins after a certain date may not continue to earn interest on his or her DROP account after the end of the 60-month DROP period; amending s. 121.055, F.S.; revising provisions relating to participation in the Senior Management Service Class; revising provisions relating to de minimis accounts; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to retirement benefits; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; providing that retirees of a state-administered retirement system who retire after a certain date may not be reemployed by an employer participating in the Florida Retirement System for 6 months; revising provisions relating to reemployment of retirees of the Public Employee Optional Retirement Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; clarifying that DROP participation may not be canceled; clarifying maximum DROP participation; providing for the suspension of DROP benefits to a participant who is reemployed; deleting obsolete provisions; revising employer contribution requirements; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members are not eligible to purchase service credit; amending s. 121.122, F.S.; providing that certain retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; revising conditions under which a retiree is entitled to certain additional retirement benefits; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; requiring the State Retirement Commission to use certain requirements used by the Secretary of Management Services before approving a disability retirement benefit; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the commission; amending s. 121.35, F.S.; revising a compulsory membership exception for certain members failing to elect membership in the optional retirement program; providing a cross-reference; defining the term "retiree" for purposes of the State University System Optional Retirement Program; amending ss. 121.591 and 238.183, F.S.; providing and conforming cross-references; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing s. 121.093, F.S., relating to instructional personnel reemployment after retirement from a developmental research school or the Florida School for the Deaf and the Blind; repealing s. 121.094, F.S., relating to instructional personnel reemployment after retirement from a charter school; repealing s. 121.45, F.S., relating to interstate compacts relating to pension portability; providing a declaration of important state interest; providing an effective date.

On motion by Senator Fasano, further consideration of **CS for CS for HB 479** with pending **Amendment 1 (873430)** was deferred.

On motion by Senator Fasano—

SB 442—A bill to be entitled An act relating to the Education Dollars for Duty program; amending s. 250.10, F.S.; revising provisions relating to the duties of the Adjutant General; removing the duties of the Board of Governors and the State Board of Education for the Education Dollars for Duty program; providing for education assistance for members of the Florida National Guard who enroll in a private institution; revising the application requirements for the program to include active drilling

members; requiring that a member serve in the guard for the period specified in the member's enlistment or reenlistment contract; providing that a member who has obtained a master's degree is ineligible to participate in the program; providing that college preparatory courses are authorized for the program; deleting provisions relating to the State Tuition Exemption Program; authorizing the Department of Military Affairs to pay tuition and fees for current members; providing that members are eligible to use the program upon enlistment; requiring that the department pay the tuition and fees for a member enrolled in a nonpublic postsecondary institution which are equal to the amount required to pay for tuition and fees at a public postsecondary education institution; amending s. 1009.21, F.S.; revising a provision relating to the classification of members of the Florida National Guard as residents for tuition purposes to conform to changes made by the act; amending s. 1009.26, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

The Committee on Military Affairs and Domestic Security recommended the following amendments which were moved by Senator Fasano and failed:

Amendment 1 (736754)—Delete lines 78-79 and insert: courses that do not meet degree requirements, ~~or~~ courses that do not meet requirements for completion of career training*, or other courses as determined by program definitions*.

Amendment 2 (862620)—Delete line 179 and insert: member received payments, *regardless of whether the obligation to reimburse the department was incurred before, on, or after July 1, 2009,* unless the Adjutant General finds that

The Committee on Transportation and Economic Development Appropriations recommended the following amendment which was moved by Senator Fasano:

Amendment 3 (280430) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (7), (8), and (9) of section 250.10, Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—

(7) The Adjutant General~~, the Board of Governors of the State University System, and the State Board of Education~~ shall develop *an* education assistance *program* ~~programs~~ for members in good standing of the ~~active~~ Florida National Guard who enroll in *an authorized course of study at* a public *or nonpublic* institution of higher learning in the state *which has been accredited by an accrediting body recognized by the United States Department of Education. This program shall be known as the Educational Dollars for Duty program (EDD).*

(a) The *program* ~~programs~~ shall set forth application requirements, including, but not limited to, requirements that the applicant:

1. Be 17 years of age or older.

2. Be presently domiciled in the state.

3. Be *an active drilling* ~~a~~ member *and* in good standing in the ~~active~~ Florida National Guard at the beginning of and throughout the entire academic term for which benefits are received.

4. Maintain continuous satisfactory participation in the ~~active~~ Florida National Guard for any school term for which exemption benefits are received.

5. Upon enrollment in *the* ~~a~~ program ~~specified in subsection (8) or subsection (9)~~, complete a memorandum of agreement to comply with the rules of the program and serve in the ~~active~~ Florida National Guard for *the period specified in the member's enlistment or reenlistment contract* ~~3 years after completion of the studies for which an exemption is granted or tuition and fees are paid~~.

(b) The *program* ~~programs~~ shall define those members of the ~~active~~ Florida National Guard who are ineligible to participate in the program and those courses of study which are not authorized for the program.

1. *Ineligible* ~~Such~~ members include, but are not limited to*,* ~~:~~

~~a.~~ any member, commissioned officer, warrant officer, or enlisted person who has *obtained a master's degree using the program* ~~a baccalaureate degree~~.

~~b. Any member who has 15 years or more of total military service creditable toward retirement.~~

~~c. Any member who has not completed basic military training.~~

2. Courses not authorized include noncredit courses, courses that do not meet degree requirements, ~~or~~ courses that do not meet requirements for completion of career training*, or other courses as determined by program definitions*.

3. College-preparatory courses are authorized for the program.

(c) The Adjutant General~~, together with the Board of Governors of the State University System and the State Board of Education,~~ shall adopt rules for the overall policy, guidance, administration, implementation, and proper *use* ~~utilization~~ of the program. Such rules must include, but not be limited to, guidelines for certification by the Adjutant General of a guard member's eligibility, procedures for notification to an institution of a guard member's termination of eligibility, and procedures for restitution when a guard member fails to comply with the penalties described in this section.

~~(8) The Department of Military Affairs may administer a tuition exemption program, known as the State Tuition Exemption Program (STEP), for members of the Florida National Guard who qualify pursuant to subsection (7).~~

~~(a) Members of the Florida National Guard are exempt from payment of one half of tuition and fees, subject to the following limitations:~~

~~1. A member may not participate in the STEP Program for more than 10 years following the date of enrollment in the tuition assistance program.~~

~~2. Florida National Guard members shall be admitted on a space-available basis.~~

~~(b) Notwithstanding paragraph (a) and subject to appropriations, the Department of Military Affairs may pay one half the cost of tuition and fees for required courses for members of the Florida National Guard if a member is unable to obtain admittance on a space available basis and, at least on one previous occasion, the member was denied admission to the required course.~~

~~(c) Courses not authorized include noncredit courses, courses that do not meet degree requirements, or courses that do not meet requirements for completing career training.~~

~~(d) Penalties for noncompliance with program requirements include, but are not limited to:~~

~~1. If a member of the active Florida National Guard receives an exemption from tuition and fees for any academic term and fails to maintain satisfactory participation in the Florida National Guard during that academic term, the member forfeits his or her exemption and shall pay the institution granting the exemption all tuition charges and student fees for the academic term for which the exemption was granted.~~

~~2. If a member of the active Florida National Guard leaves the Florida National Guard during the 3 year period the member has agreed to serve after completing the courses for which an exemption was granted, the member shall reimburse the institution granting the exemption for all tuition charges and student fees for which the member received an exemption, unless the Adjutant General finds that there are justifiable extenuating circumstances.~~

~~3. If the service of a member of the active Florida National Guard is terminated or the member is placed on scholastic probation while receiving an exemption, the exemption shall be immediately forfeited and the member shall pay the institution granting the exemption all tuition charges and student fees for the academic term for which the exemption was granted.~~

~~4. If a member defaults on any repayment made under this paragraph, the institution may charge the member the maximum interest rate authorized by law.~~

(8) ~~(9)~~ Subject to appropriations, the Department of Military Affairs may pay the full cost of tuition and fees for required courses for *current* members of the Florida National Guard ~~who enlist after June 30, 1997~~. *Members are eligible to use the program upon enlistment in the Florida National Guard.If a member is enrolled in a nonpublic postsecondary education institution or a nonpublic vocational-technical program, the Department of Military Affairs shall pay an amount equal to the amount that would be required to pay for the average tuition and fees at a public postsecondary education institution or public vocational-technical program.* ~~This program shall be known as the Educational Dollars for Duty program (EDD) and is the primary program for these members~~.

(a) *A member may participate in the program if he or she maintains satisfactory participation in, and is an active drilling member of, the Florida National Guard. Inactive members of the Florida National Guard and members of the Individual Ready Reserve (IRR) are not eligible to participate in the program.* ~~A member may not participate in the EDD program for more than 5 years following the date of eligibility for the program.~~

~~(b) Courses not authorized include noncredit courses, courses that do not meet the degree requirements, or courses that do not meet requirements for completing career training.~~

~~(c) College preparatory classes are authorized courses.~~

(b) ~~(d)~~ Penalties for noncompliance with program requirements include, but are not limited to*, the following*:

1. If a member of the ~~active~~ Florida National Guard receives payment of tuition and fees for any academic term and fails to maintain satisfactory participation in the Florida National Guard during that academic term, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for the academic term for which the member received payment.

2. If a member of the ~~active~~ Florida National Guard leaves the Florida National Guard during the ~~3-year~~ period *specified in the member's enlistment or reenlistment contract* ~~the member has agreed to serve after completing the courses for which payments were made~~, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for which the member received payments, *regardless of whether the obligation to reimburse the department was incurred before, on, or after July 1, 2009,* unless the Adjutant General finds that there are justifiable extenuating circumstances.

3. If the service of a member of the ~~active~~ Florida National Guard is terminated or the member is placed on scholastic probation while receiving payments, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for the academic term for which the member received payment.

4. If a member defaults on any reimbursement made under this paragraph, the department may charge the member the maximum interest rate authorized by law.

Section 2. Paragraph (a) of subsection (10) of section 1009.21, Florida Statutes, is amended to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(a) Active duty members of the Armed Services of the United States residing or stationed in this state, their spouses, and dependent children, and active *drilling* members of the Florida National Guard ~~who qualify under s. 250.10(7) and (8) for the tuition assistance program~~.

Section 3. Subsection (8) of section 1009.26, Florida Statutes, is amended, and subsections (9) and (10) of that section are renumbered as subsections (8) and (9), respectively, to read:

1009.26 Fee waivers.—

~~(8) Fees shall be waived for certain members of the active Florida National Guard pursuant to s. 250.10(8).~~

Section 4. This act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Educational Dollars for Duty program; amending s. 250.10, F.S.; revising provisions relating to the duties of the Adjutant General; removing the duties of the Board of Governors of the State University System and the State Board of Education with respect to the Educational Dollars for Duty program; providing for education assistance for members of the Florida National Guard who enroll in an authorized course of study at a public or nonpublic institution of higher learning; revising the application requirements for the program to include active drilling members; requiring that a member serve in the guard for the period specified in the member's enlistment or reenlistment contract; providing that a member who has obtained a master's degree is ineligible to participate in the program; revising courses not authorized for the program; providing that college preparatory courses are authorized for the program; deleting provisions relating to the State Tuition Exemption Program; authorizing the Department of Military Affairs to pay tuition and fees for current members; providing that members are eligible to use the program upon enlistment; requiring that the department pay the tuition and fees for a member enrolled in a nonpublic postsecondary institution or a nonpublic vocational-technical program which are equal to the amount required to pay for tuition and fees at a public postsecondary education institution or public vocational-technical program; prohibiting participation by certain members; providing for applicability of a requirement to reimburse the department for tuition charges and student fees under specified circumstances; amending s. 1009.21, F.S.; revising a provision relating to the classification of members of the Florida National Guard as residents for tuition purposes; amending s. 1009.26, F.S.; eliminating a reference to educational fee waivers for certain members of the Florida National Guard; providing an effective date.

Senator Fasano moved the following substitute amendment:

Amendment 4 (638720) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (7), (8), and (9) of section 250.10, Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—

(7) The Adjutant General~~, the Board of Governors of the State University System, and the State Board of Education~~ shall develop *an* education assistance *program* ~~programs~~ for members in good standing of the ~~active~~ Florida National Guard who enroll in *an authorized course of study at* a public *or nonpublic* institution of higher learning in the state *which has been accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. This program shall be known as the Educational Dollars for Duty program (EDD).*

(a) The *program* ~~programs~~ shall set forth application requirements, including, but not limited to, requirements that the applicant:

1. Be 17 years of age or older.

2. Be presently domiciled in the state.

3. Be *an active drilling* ~~a~~ member *and* in good standing in the ~~active~~ Florida National Guard at the beginning of and throughout the entire academic term for which benefits are received.

4. Maintain continuous satisfactory participation in the ~~active~~ Florida National Guard for any school term for which exemption benefits are received.

5. Upon enrollment in *the* ~~a~~ program ~~specified in subsection (8) or subsection (9)~~, complete a memorandum of agreement to comply with the rules of the program and serve in the ~~active~~ Florida National Guard for *the period specified in the member's enlistment or reenlistment contract* ~~3~~

~~years after completion of the studies for which an exemption is granted or tuition and fees are paid~~.

(b) The *program* ~~programs~~ shall define those members of the ~~active~~ Florida National Guard who are ineligible to participate in the program and those courses of study which are not authorized for the program.

1. *Ineligible* ~~Such~~ members include, but are not limited to*,* ~~:~~

~~a.~~ any member, commissioned officer, warrant officer, or enlisted person who has *obtained a master's degree using the program* ~~a baccalaureate degree~~.

~~b. Any member who has 15 years or more of total military service creditable toward retirement.~~

~~c. Any member who has not completed basic military training.~~

2. Courses not authorized include noncredit courses, courses that do not meet degree requirements, ~~or~~ courses that do not meet requirements for completion of career training*, or other courses as determined by program definitions*.

3. College-preparatory courses are authorized for the program.

(c) The Adjutant General~~, together with the Board of Governors of the State University System and the State Board of Education,~~ shall adopt rules for the overall policy, guidance, administration, implementation, and proper *use* ~~utilization~~ of the program. Such rules must include, but not be limited to, guidelines for certification by the Adjutant General of a guard member's eligibility, procedures for notification to an institution of a guard member's termination of eligibility, and procedures for restitution when a guard member fails to comply with the penalties described in this section.

~~(8) The Department of Military Affairs may administer a tuition exemption program, known as the State Tuition Exemption Program (STEP), for members of the Florida National Guard who qualify pursuant to subsection (7).~~

~~(a) Members of the Florida National Guard are exempt from payment of one half of tuition and fees, subject to the following limitations:~~

~~1. A member may not participate in the STEP Program for more than 10 years following the date of enrollment in the tuition assistance program.~~

~~2. Florida National Guard members shall be admitted on a space-available basis.~~

~~(b) Notwithstanding paragraph (a) and subject to appropriations, the Department of Military Affairs may pay one half the cost of tuition and fees for required courses for members of the Florida National Guard if a member is unable to obtain admittance on a space-available basis and, at least on one previous occasion, the member was denied admission to the required course.~~

~~(c) Courses not authorized include noncredit courses, courses that do not meet degree requirements, or courses that do not meet requirements for completing career training.~~

~~(d) Penalties for noncompliance with program requirements include, but are not limited to:~~

~~1. If a member of the active Florida National Guard receives an exemption from tuition and fees for any academic term and fails to maintain satisfactory participation in the Florida National Guard during that academic term, the member forfeits his or her exemption and shall pay the institution granting the exemption all tuition charges and student fees for the academic term for which the exemption was granted.~~

~~2. If a member of the active Florida National Guard leaves the Florida National Guard during the 3-year period the member has agreed to serve after completing the courses for which an exemption was granted, the member shall reimburse the institution granting the exemption for all tuition charges and student fees for which the member received an exemption, unless the Adjutant General finds that there are justifiable extenuating circumstances.~~

~~3. If the service of a member of the active Florida National Guard is terminated or the member is placed on scholastic probation while receiving an exemption, the exemption shall be immediately forfeited and the member shall pay the institution granting the exemption all tuition charges and student fees for the academic term for which the exemption was granted.~~

~~4. If a member defaults on any repayment made under this paragraph, the institution may charge the member the maximum interest rate authorized by law.~~

(8) ~~(9)~~ Subject to appropriations, the Department of Military Affairs may pay the full cost of tuition and fees for required courses for *current* members of the Florida National Guard ~~who enlist after June 30, 1997~~. *Members are eligible to use the program upon enlistment in the Florida National Guard. If a member is enrolled in a nonpublic postsecondary education institution or a nonpublic vocational-technical program, the Department of Military Affairs shall pay an amount equal to the amount that would be required to pay for the average tuition and fees at a public postsecondary education institution or public vocational-technical program.* ~~This program shall be known as the Educational Dollars for Duty program (EDD) and is the primary program for these members~~.

(a) *A member may participate in the program if he or she maintains satisfactory participation in, and is an active drilling member of, the Florida National Guard. Inactive members of the Florida National Guard and members of the Individual Ready Reserve (IRR) are not eligible to participate in the program.* ~~A member may not participate in the EDD program for more than 5 years following the date of eligibility for the program.~~

~~(b) Courses not authorized include noncredit courses, courses that do not meet the degree requirements, or courses that do not meet requirements for completing career training.~~

~~(c) College preparatory classes are authorized courses.~~

(b) ~~(d)~~ Penalties for noncompliance with program requirements include, but are not limited to*, the following*:

1. If a member of the ~~active~~ Florida National Guard receives payment of tuition and fees for any academic term and fails to maintain satisfactory participation in the Florida National Guard during that academic term, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for the academic term for which the member received payment.

2. If a member of the ~~active~~ Florida National Guard leaves the Florida National Guard during the ~~3-year~~ period *specified in the member's enlistment or reenlistment contract* ~~the member has agreed to serve after completing the courses for which payments were made~~, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for which the member received payments, *regardless of whether the obligation to reimburse the department was incurred before, on, or after July 1, 2009,* unless the Adjutant General finds that there are justifiable extenuating circumstances.

3. If the service of a member of the ~~active~~ Florida National Guard is terminated or the member is placed on scholastic probation while receiving payments, the member shall reimburse the Department of Military Affairs all tuition charges and student fees for the academic term for which the member received payment.

4. If a member defaults on any reimbursement made under this paragraph, the department may charge the member the maximum interest rate authorized by law.

Section 2. Paragraph (a) of subsection (10) of section 1009.21, Florida Statutes, is amended to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(a) Active duty members of the Armed Services of the United States residing or stationed in this state, their spouses, and dependent chil-

dren, and active *drilling* members of the Florida National Guard ~~who qualify under s. 250.10(7) and (8) for the tuition assistance program~~.

Section 3. Subsection (8) of section 1009.26, Florida Statutes, is amended, and subsections (9) and (10) of that section are renumbered as subsections (8) and (9), respectively, to read:

1009.26 Fee waivers.—

~~(8) Fees shall be waived for certain members of the active Florida National Guard pursuant to s. 250.10(8).~~

Section 4. This act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Educational Dollars for Duty program; amending s. 250.10, F.S.; revising provisions relating to the duties of the Adjutant General; removing the duties of the Board of Governors of the State University System and the State Board of Education with respect to the Educational Dollars for Duty program; providing for education assistance for members of the Florida National Guard who enroll in an authorized course of study at a specified public or nonpublic institution of higher learning; revising the application requirements for the program to include active drilling members; requiring that a member serve in the guard for the period specified in the member's enlistment or reenlistment contract; providing that a member who has obtained a master's degree is ineligible to participate in the program; revising courses not authorized for the program; providing that college preparatory courses are authorized for the program; deleting provisions relating to the State Tuition Exemption Program; authorizing the Department of Military Affairs to pay tuition and fees for current members; providing that members are eligible to use the program upon enlistment; requiring that the department pay the tuition and fees for a member enrolled in a nonpublic postsecondary institution or a nonpublic vocational-technical program which are equal to the amount required to pay for tuition and fees at a public postsecondary education institution or public vocational-technical program; prohibiting participation by certain members; providing for applicability of a requirement to reimburse the department for tuition charges and student fees under specified circumstances; amending s. 1009.21, F.S.; revising a provision relating to the classification of members of the Florida National Guard as residents for tuition purposes; amending s. 1009.26, F.S.; eliminating a reference to educational fee waivers for certain members of the Florida National Guard; providing an effective date.

Senator Lynn moved the following amendment to **Amendment 4** which failed:

Amendment 4A (218900)—Delete line 115 and insert:

(8) ~~(9)~~ Subject to appropriations *and in accordance with subsection (7)*, the Department of

Senator Lynn moved the following amendment to **Amendment 4**:

Amendment 4B (701532)—Delete line 179 and insert: National Guard who qualify *and are funded* under s. 250.10 (7) and (8), ~~for the~~

POINT OF ORDER

Senator Lynn raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Policy and Steering Committee on Ways and Means.

The President referred the point of order and the amendments to Senator Villalobos, Chair of the Committee on Rules.

Further consideration of **SB 442** with pending **Amendment 3 (280430)**, substitute **Amendment 4 (638720)**, **Amendment 4B (701532)** and pending point of order was deferred.

On motion by Senator King, the Senate resumed consideration of—

CS for CS for SB 682—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; creating the Division of Service Operations of the department; amending s. 455.217, F.S.; conforming provisions and transferring to the Division of Service Operations from the Division of Technology certain responsibilities related to examinations; revising certain requirements for the department concerning the use of outside vendors for the development, preparation, and evaluation of examinations; repealing s. 509.233(1) and (7), F.S., relating to a 3-year pilot program for local governments to allow patrons' dogs within certain designated outdoor portions of public food service establishments; abrogating the repeal of the program; requiring that the Office of Program Policy Analysis and Government Accountability perform a study and make certain recommendations to the Legislature by a specified date regarding the enactment of laws to provide for protection and remedies from certain online poker activities; providing an effective date.

—which was previously considered and amended this day with pending **Amendment 4 (907778)** by Senator Pruitt and pending point of order by Senator Dockery.

RECONSIDERATION OF AMENDMENT

On motion by Senator King, the Senate reconsidered the vote by which **Amendment 2 (254980)** by Senator Justice was adopted. **Amendment 2** failed.

On motion by Senator King, further consideration of **CS for CS for SB 682** with pending **Amendment 4 (907778)** and pending point of order was deferred.

On motion by Senator Gaetz, the Senate resumed consideration of—

CS for SB 1122—A bill to be entitled An act relating to health insurance; amending s. 627.638, F.S.; requiring that an insurer make payment to the designated provider of services whenever an insured, using any health insurance claim form, specifically authorizes payment of benefits directly to any recognized hospital, licensed ambulance provider, physician, dentist, or other person who provided the services in accordance with the provisions of the policy; deleting an exception; providing that the insurance contract may not prohibit payment of benefits directly to such providers; requiring that claims forms provide an option for such payment; providing an effective date.

—which was previously considered and amended April 29 with pending point of order by Senator Lawson.

RULING ON POINT OF ORDER

On recommendation of Senator Villalobos, Chair of the Committee on Rules, the President ruled the point not well taken.

Pursuant to Rule 4.19, **CS for SB 1122** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

SB 442—A bill to be entitled An act relating to the Education Dollars for Duty program; amending s. 250.10, F.S.; revising provisions relating to the duties of the Adjutant General; removing the duties of the Board of Governors and the State Board of Education for the Education Dollars for Duty program; providing for education assistance for members of the Florida National Guard who enroll in a private institution; revising the application requirements for the program to include active drilling members; requiring that a member serve in the guard for the period specified in the member's enlistment or reenlistment contract; providing that a member who has obtained a master's degree is ineligible to participate in the program; providing that college preparatory courses are authorized for the program; deleting provisions relating to the State Tuition Exemption Program; authorizing the Department of Military Affairs to pay tuition and fees for current members; providing that members are eligible to use the program upon enlistment; requiring that the department pay the tuition and fees for a member enrolled in a nonpublic postsecondary institution which are equal to the amount required to pay for tuition and fees at a public postsecondary education institution; amending s. 1009.21, F.S.; revising a provision relating to the classification of members of the Florida National Guard as residents

for tuition purposes to conform to changes made by the act; amending s. 1009.26, F.S.; conforming a cross-reference; providing an effective date.

—which was previously considered and amended this day with pending **Amendment 3 (280430)** by the Committee on Transportation and Economic Development Appropriations, substitute **Amendment 4 (638720)** by Senator Fasano, **Amendment 4B (701532)** by Senator Lynn and pending point of order by Senator Lynn.

RULING ON POINT OF ORDER

On recommendation of Senator Villalobos, Chair of the Committee on Rules, the President ruled the point not well taken.

Amendment 4B (701532) failed. The question recurred on substitute **Amendment 4 (638720)** which was adopted.

Pending further consideration of **SB 442** as amended, on motion by Senator Fasano, by two-thirds vote **CS for CS for HB 685** was withdrawn from the Committees on Military Affairs and Domestic Security; Higher Education; and Transportation and Economic Development Appropriations; and the Policy and Steering Committee on Ways and Means.

On motion by Senator Fasano, the rules were waived and—

CS for CS for HB 685—A bill to be entitled An act relating to the Educational Dollars for Duty program; amending s. 250.10, F.S.; revising provisions relating to the duties of the Adjutant General; removing the duties of the Board of Governors of the State University System and the State Board of Education with respect to the Educational Dollars for Duty program; providing for education assistance for members of the

Florida National Guard who enroll in an authorized course of study at a specified public or nonpublic institution of higher learning; revising the application requirements for the program to include active drilling members; requiring that a member serve in the guard for the period specified in the member's enlistment or reenlistment contract; providing that a member who has obtained a master's degree is ineligible to participate in the program; revising courses not authorized for the program; providing that college preparatory courses are authorized for the program; deleting provisions relating to the State Tuition Exemption Program; authorizing the Department of Military Affairs to pay tuition and fees for current members; providing that members are eligible to use the program upon enlistment; requiring that the department pay the tuition and fees for a member enrolled in a nonpublic postsecondary institution or a nonpublic vocational-technical program which are equal to the amount required to pay for tuition and fees at a public postsecondary education institution or public vocational-technical program; prohibiting participation by certain members; providing for applicability of a requirement to reimburse the department for tuition charges and student fees under specified circumstances; amending s. 1009.21, F.S.; revising a provision relating to the classification of members of the Florida National Guard as residents for tuition purposes; amending s. 1009.26, F.S.; eliminating a reference to educational fee waivers for certain members of the Florida National Guard; providing an effective date.

—a companion measure, was substituted for **SB 442** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for CS for HB 685** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 2036** was deferred.

On motion by Senator Baker—

CS for CS for SB 2658—A bill to be entitled An act relating to the licensure of home health agencies, home medical equipment providers, and health care clinics; designating Miami-Dade County as a health care fraud area of special concern for certain purposes; creating s. 408.8065, F.S.; providing requirements for licensure of home health agencies, home medical equipment providers, and health care clinics; requiring the posting of a surety bond in a specified minimum amount under certain circumstances; requiring demonstration of financial viability; providing limitations on licensing of home health agencies in certain counties; providing an exception for existing applicants accredited or pending accreditation by an organization recognized by the Agency for Health Care Administration; providing penalties; providing an effective date.

—was read the second time by title.

Senator Baker moved the following amendment which was adopted:

Amendment 1 (599308) (with title amendment)—Delete lines 21-27 and insert:

Section 1. *The Legislature designates Miami-Dade County as a health care fraud crisis area for purposes of implementing increased scrutiny of home health agencies, home medical equipment providers, health care clinics, and other health care providers in Miami-Dade County in order to assist the state's efforts to prevent Medicaid fraud, waste, and abuse in the county and throughout the state.*

And the title is amended as follows:

Delete line 5 and insert: health care fraud area of concern for certain

Senator Baker moved the following amendment:

Amendment 2 (123280) (with title amendment)—Delete line 28 and insert:

Section 2. Subsection (3) of section 68.086, Florida Statutes, is amended to read:

68.086 Expenses; attorney's fees and costs.—

(3) If the department does not proceed with an action under this act and the *person bringing the action conducts the action as provided in s. 68.083(6)(b)* ~~defendant is the prevailing party~~, the court *may* ~~shall~~ award *to* the defendant *his or her* reasonable attorney's fees and *expenses if the defendant prevails in* ~~costs against the person bringing~~ the action *and the court finds that the claim of the person bringing the action is clearly frivolous or vexatious or was brought primarily for purposes of harassment*.

Section 3. *Section 2 of this act shall take effect upon becoming law and shall apply to any pending or future action brought under the Florida False Claims Act or any action pending on appeal on or after July 1, 2009.*

Section 4. Section 408.8065, Florida Statutes, is created

And the title is amended as follows:

Delete lines 2-6 and insert: An act relating to fraud and abuse in state-funded programs; designating Miami-Dade County as a health care fraud area of special concern for certain purposes; amending s. 68.086, F.S.; authorizing rather than requiring a court to award attorney's fees and expenses to a prevailing defendant in an action brought under the Florida False Claims Act under certain circumstances; providing applicability; creating s. 408.8065, F.S.; providing

Senator Baker moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A (874038)—Delete lines 12-17 and insert: ~~defendant is the prevailing party~~, the court *may* ~~shall~~ award *to* the defendant *its* reasonable attorney's fees and costs *if the defendant prevails in the action and the court finds that the claim of* ~~against~~ the person bringing the action *was clearly frivolous, clearly vexatious, or brought primarily for*

Amendment 2 as amended was adopted.

MOTION

On motion by Senator Baker, the rules were waived to allow the following amendment to be considered:

Senator Baker moved the following amendment which was adopted:

Amendment 3 (928070) (with title amendment)—Delete lines 30-95 and insert:

408.8065 Additional licensure requirements for home health agencies, home medical equipment providers, and health care clinics.—

(1) An applicant for initial licensure, or initial licensure due to a change of ownership, as a home health agency, home medical equipment provider, or health care clinic shall:

(a) Demonstrate financial ability to operate, as required under s. 408.810(8) and this section. If the applicant's assets, credit, and projected revenues meet or exceed projected liabilities and expenses and the applicant provides independent evidence that the funds necessary for startup costs, working capital, and contingency financing exist and will be available as needed, the applicant has demonstrated the financial ability to operate.

(b) Submit pro forma financial statements, including a balance sheet, income and expense statement, and a statement of cash flows for the first 2 years of operation which provide evidence that the applicant has sufficient assets, credit, and projected revenues to cover liabilities and expenses.

(c) Submit a statement of the applicant's estimated startup costs and sources of funds through the break-even point in operations demonstrating that the applicant has the ability to fund all startup costs, working capital costs, and contingency financing requirements. The statement must show that the applicant has at a minimum 3 months of average projected expenses to cover startup costs, working capital costs, and contingency financing requirements. The minimum amount for contingency funding may not be less than 1 month of average projected expenses.

All documents required under this subsection must be prepared in accordance with generally accepted accounting principles and may be in a compilation form. The financial statements must be signed by a certified public accountant.

(2) For initial, renewal, or change of ownership licenses for a home health agency, a home medical equipment provider, or a health care clinic, applicants and controlling interests who are nonimmigrant aliens, as described in 8 U.S.C. s. 1101, must file a surety bond of at least $500,000, payable to the agency, which guarantees that the home health agency, home medical equipment provider, or health care clinic will act in full conformity with all legal requirements for operation.

(3) In addition to the requirements of s. 408.812, any person who offers services that require licensure under part VII or part X of chapter 400, or who offers skilled services that require licensure under part III of chapter 400, without obtaining a valid license; any person who knowingly files a false or misleading license or license renewal application or who submits false or misleading information related to such application, and any person who violates or conspires to violate this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Subsection (10) is added to section 400.471, Florida Statutes, to read:

400.471 Application for license; fee.—

(10)(a) The agency may not issue an initial license to a home health agency under part II of chapter 408 or this part for the purpose of opening a new home health agency until July 1, 2010, in any county that has at least one actively licensed home health agency and a population of persons 65 years of age or older, as indicated in the most recent population estimates published by the Executive Office of the Governor, of fewer than 1,200 per home health agency. In such counties, for any application received by the agency prior to July 1, 2009, which has been deemed by the agency to be complete except for proof of accreditation, the agency may issue an initial ownership license only if the applicant has applied for accreditation before May 1, 2009, from an accrediting organization that is recognized by the agency.

(b) Effective October 1, 2009, the agency may not issue a change of ownership license to a home health agency under part II of chapter 408 or this part until July 1, 2010, in any county that has at least one actively licensed home health agency and a population of persons 65 years of age or older, as indicated in the most recent population estimates published by the Executive Office of the Governor, of fewer than 1,200 per home health agency. In such counties, for any application received by the agency prior to October 1, 2009, which has been deemed by the agency to be complete except for proof of accreditation, the agency may issue a change of ownership license only if the applicant has applied for accreditation before August 1, 2009, from an accrediting organization that is recognized by the agency.

And the title is amended as follows:

Delete lines 7-17 and insert: additional licensure requirements for home health agencies, home medical equipment providers, and health care clinics; requiring the posting of a surety bond in a specified minimum amount under certain circumstances; imposing criminal penalties against a person who knowingly submits misleading information to the Agency for Health Care Administration in connection with applications for certain licenses; amending s. 400.471, F.S.; providing limitations on the licensure of home health agencies in certain counties; providing an exception; providing an effective date.

Pursuant to Rule 4.19, **CS for CS for SB 2658** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine, by two-thirds vote **CS for HB 1405** was withdrawn from the Committees on Health Regulation; Children, Families, and Elder Affairs; and Health and Human Services Appropriations.

On motion by Senator Constantine—

CS for HB 1405—A bill to be entitled An act relating to the influenza vaccine; amending ss. 402.305, 402.313, and 402.3131, F.S.; requiring child care facilities, family day care homes, and large family child care homes to provide parents with certain information regarding the causes, symptoms, and transmission of the influenza virus; providing an effective date.

—a companion measure, was substituted for **CS for SB 2296** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 1405** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 2326**, **CS for CS for SB 2286**, **CS for CS for HB 55**, **CS for CS for SB 2482**, **CS for CS for SB 362** and **CS for SB 2198** was deferred.

On motion by Senator Gelber, by two-thirds vote **HB 387** was withdrawn from the Committees on Health Regulation; Higher Education; and Higher Education Appropriations.

On motion by Senator Gelber—

HB 387—A bill to be entitled An act relating to medical faculty certificates; amending s. 458.3145, F.S.; increasing the maximum number of medical faculty certificates issued to faculty at certain institutions; providing an effective date.

—a companion measure, was substituted for **SB 1136** and read the second time by title.

Pursuant to Rule 4.19, **HB 387** was placed on the calendar of Bills on Third Reading.

On motion by Senator Wilson—

CS for SB 910—A bill to be entitled An act relating to criminal justice; providing legislative intent; requiring state agencies and regulatory boards to prepare reports that identify and evaluate restrictions on licensing and employment; amending s. 112.011, F.S.; prohibiting state agencies from denying an application for a license, permit, certificate, or employment based on a person's lack of civil rights; providing an exception; amending s. 768.096, F.S.; requiring an employer to review the results of a criminal background investigation; requiring an employer not to place an employee who has a criminal record in a position where conduct similar to the employee's past criminal conduct would be

facilitated; requiring an employer to determine that the criminal background investigation does not demonstrate that the employee is unsuitable for the particular work to be performed or the context of the employment in general; amending s. 943.0585, F.S.; clarifying under what circumstances a person may legally deny the existence of an expunged criminal history record; authorizing the disclosure of the contents of an expunged record upon receipt of a written, notarized request from the record subject; requiring clerks of the court to post information relating to procedures to seal or expunge criminal history records on the clerk's website; amending s. 943.059, F.S.; clarifying under what circumstances a person may legally deny the existence of a sealed criminal history record; authorizing a court to seal a criminal history record of a person who had a prior criminal history record sealed or expunged; providing an effective date.

—was read the second time by title.

Senator Wilson moved the following amendment which was adopted:

Amendment 1 (968398) (with title amendment)—Between lines 36 and 37 insert:

Section 1. *This act may be cited as the "Keep Florida Working Act."*

And the title is amended as follows:

Delete line 2 and insert: An act relating to criminal justice; providing a short title; providing

Pursuant to Rule 4.19, **CS for SB 910** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for CS for CS for SB 2630—A bill to be entitled An act relating to motor vehicle dealerships; amending s. 320.64, F.S.; revising provisions prohibiting certain acts by a motor vehicle manufacturer, factory branch, distributor, or importer licensed under specified provisions; revising conditions and procedures for certain audits; making rebuttable a presumption that a dealer had no actual knowledge and should not have known that a customer intended to export or resell a motor vehicle; clarifying a dealer's eligibility requirements for licensee-offered program bonuses, incentives, and other benefits; requiring certain payments if a termination, cancellation, or nonrenewal of a dealer's franchise is the result of cessation of manufacture or distribution of a line-make or a bankruptcy or reorganization; amending s. 320.642, F.S.; revising provisions for establishing an additional motor vehicle dealership in or relocating an existing dealer to a location within a community or territory where the same line-make vehicle is presently represented by a franchised motor vehicle dealer or dealers; revising requirements for protests; revising provisions for denial of an application for a motor vehicle dealer license in any community or territory; revising provisions for evidence to be considered by the Department of Highway Safety and Motor Vehicles when evaluating the application; revising provisions under which a dealer has standing to protest a proposed additional or relocated motor vehicle dealer; amending s. 320.643, F.S.; revising provisions for a transfer, assignment, or sale of franchise agreements; prohibiting rejection of proposed transfer of interest in a motor vehicle dealer entity to a trust or other entity, or a beneficiary thereof, which is established for estate-planning purposes; prohibiting placing certain conditions on such transfer; revising provisions for a hearing by the department or a court relating to a proposed transfer; amending s. 320.696, F.S.; revising warranty responsibility provisions; providing for severability; providing an effective date.

—was read the second time by title.

Senator Haridopolos moved the following amendments which were adopted:

Amendment 1 (695278)—Delete line 425 and insert: *plot therein. The previous sentence, however, shall not be applicable in any protest of a proposal to establish an additional, or to relocate an existing, same line-make motor vehicle dealer by a distributor that is not a manufacturer, a division of a manufacturer, an entity that is controlled by a manufacturer, or a common entity of a manufacturer, and that is not owned, in whole or in part, directly or indirectly, by a manufacturer.* The burden of proof in establishing inadequate

Amendment 2 (220510) (with title amendment)—Between lines 648 and 649 insert:

Section 6. Subsection (10) of section 320.771, Florida Statutes, is amended to read:

320.771 License required of recreational vehicle dealers.—

(10) EVIDENCE OF TITLE REQUIRED.—

(a) The licensee shall also have in his or her possession for each new recreational vehicle a manufacturer's invoice or statement of origin~~, and for each used recreational vehicle a properly assigned certificate of title or registration certificate if the used recreational vehicle was previously registered in a nontitle state, from the time the recreational vehicle is delivered to the licensee until it has been disposed of by the licensee~~.

(b) For each used recreational vehicle in the possession of a licensee and offered for sale by him or her, the licensee either shall have in his or her possession or control a duly assigned certificate of title from the owner in accordance with the provisions of chapter 319,or a registration certificate if the used recreational vehicle was previously registered in a nontitle state, from the time when the vehicle is delivered to the licensee and offered for sale by him or her until it has been disposed of by the licensee, or shall have reasonable indicia of ownership or right of possession, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of chapter 319. A dealer may not sell or offer for sale a vehicle in his or her possession unless the dealer satisfies the requirements of this subsection. Reasonable indicia of ownership shall include a duly assigned certificate of title; in the case of a new vehicle, a manufacturer's certificate of origin issued to or reassigned to the dealer; a consignment contract between the owner and the dealer along with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for a duplicate certificate of title and assign the title on behalf of the owner; a court order awarding title to the vehicle to the dealer; a salvage certificate of title; a photocopy of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer ("floor plan"); a copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer; a vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; or a duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. No. 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No. 100-561) and by 49 C.F.R. part 580 bearing the signatures of the titled owners of a traded-in vehicle.

And the title is amended as follows:

Delete line 41 and insert: severability; amending s. 320.771, F.S.; conforming provisions relating to certificate of title requirements for recreational vehicle dealers; providing an effective date.

On motion by Senator Haridopolos, by two-thirds vote **CS for CS for CS for SB 2630** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

MOMENT OF SILENCE

The President recognized Senator Lawson who asked the Senate to observe a moment of silence in memory of former House Speaker and Senate President Mallory Horne, who passed away this day.

RECESS

On motion by Senator Villalobos, the Senate recessed at 11:50 a.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by President Atwater at 1:48 p.m. A quorum present—40:

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

REPORTS OF COMMITTEE RELATING TO EXECUTIVE BUSINESS

The Honorable Jeff Atwater April 30, 2009
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7(1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Board of Acupuncture		
Appointees:	Gunter, Gregory W.	10/31/2010
	Schwartz, Barbara Brandon	10/31/2010
	Thurman, Barbara	10/31/2011
Jacksonville Aviation Authority		
Appointee:	Pass, Deborah S.	09/30/2011
Board of Athletic Training		
Appointees:	Caldwell, George L., Jr.	10/31/2011
	Sehgal, Angela K.	10/31/2010
	VanOpdorp, Heather L.	10/31/2010
Barbers' Board		
Appointees:	Rivera, Julie	10/31/2012
	Stewart, Edwin A., Jr.	10/31/2009
	Vaughn, Tommy E.	10/31/2010
	White, Herman	10/31/2012
Florida Building Commission		
Appointees:	Boyer, Robert G.	07/26/2011
	Gregory, Kenneth L.	11/05/2012
	Grippa, Anthony "Tony" M.	11/21/2011
	Gross, Jeffery	11/21/2011
	Hamrick, Jonathon D.	11/21/2011
	Mollan, Scott	02/03/2011
	Palacios, Rafael R.	12/08/2009
	Schock, James R.	01/12/2011
	Smith, Drew M.	11/05/2012
	Stone, Jeffrey B.	07/27/2011
	Tolbert, John T.	01/15/2011
	Turner, Mark C.	01/30/2011
	Vann, Randall J.	01/31/2011
Board of Chiropractic Medicine		
Appointees:	Hoffman, Debra L.	10/31/2012
	Mathesie, Michael W.	10/31/2012
	Perman, Eileen Bronstein	10/31/2011
Florida Citrus Commission		
Appointees:	Albritton, Ben W., Jr.	05/31/2011
	Pena, Virginia S.	05/31/2011
	Smith, Steven M.	05/31/2011
	Streetman, George H.	05/31/2011
Board of Clinical Laboratory Personnel		
Appointee:	Madan, Nilia	10/31/2011
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling		
Appointees:	Douglas, Helen	10/31/2010
	Macomber, Mary F.	10/31/2011
	Roberts, Franklin A.	10/31/2010
Florida Commission on Community Service		
Appointees:	Andrew, Michael W., Jr.	09/14/2010
	Carswell, Debora M.	09/14/2009
	Diaz-Vidaillet, Angela	09/14/2009
	Enwright, John "Brody" Broderick	09/14/2010
	Gonzalez, Marcia C.	09/14/2010
	Granger, Theodore G.	09/14/2010
	Hobson, Joyce A.	09/14/2009
	Hougland, Beverly	09/14/2009
	Londono, Yolanda	09/14/2009
	Miller, Patricia Penny	09/14/2010
	Pruitt, Aileen M.	09/14/2009
	Towler, Susan	09/14/2010
	Traviesa, Andreina "Nina"	09/14/2009
Board of Trustees of Brevard Community College		
Appointee:	Charpentier, Stephen G.	05/31/2011
Board of Trustees of St. Petersburg College		
Appointee:	Brett, Terrence E.	05/31/2009
Construction Industry Licensing Board		
Appointees:	Batton, Elbert R.	10/31/2011
	Bonuso, Frank N.	10/31/2010
	Engelmeier, Carl	10/31/2010
	Evetts, James C.	10/31/2011
	Hussey, J. Durward, Jr.	10/31/2011
	Lenois, Roy	10/31/2011
	Moody, Robert W., Jr.	10/31/2011
	Pietanza, Mark	10/31/2011
	Sheehan, William S.	10/31/2010
	Weller, Edward M.	10/31/2010
Education Practices Commission		
Appointees:	Bondurant, Pamela M.	09/30/2012
	Dancy, Linda C.	09/30/2010
	Davies, Joi B.	09/30/2012
	Gilbert, Dane	09/30/2010
	Griffin, Dennis J.	09/30/2009
	Grymes, Cheryl	09/30/2011
	Lee, David C.	08/18/2012
	Presha, Bernard Jerome	08/18/2012
	Simmons, Larry	09/30/2010
	Thompson, David R.	08/18/2012
Florida Elections Commission		
Appointees:	Hollimon, William H.	12/31/2011

Office and Appointment		*For Term Ending*
	Kane, Julie Braman	12/31/2011
	Rodriguez, Jose Luis	12/31/2011
Electrical Contractors' Licensing Board		
Appointee:	Bramlett, Robert M.	10/31/2012
Board of Professional Engineers		
Appointee:	Garcia de Quevedo, Nola A.	10/31/2010
Commission on Ethics		
Appointee:	Forchilli, Cheryl E.	06/30/2010
Florida Housing Finance Corporation		
Appointee:	Maygarden, Jerry L.	11/13/2010
Juvenile Welfare Board of Pinellas County		
Appointees:	Edmonds, Maria N.	08/11/2012
	Milford, John A.	08/07/2012
	Minkoff, Elise B.	07/18/2012
Board of Medicine		
Appointee:	Rosenberg, Jason J.	10/31/2012
Board of Nursing		
Appointees:	Cuetara, Dulce M.	10/31/2011
	Kirkpatrick, Lavigne Ann	10/31/2010
	Munoz, Rita J.	10/31/2011
Board of Nursing Home Administrators		
Appointee:	Moore, Carolyn	10/31/2010
Board of Optometry		
Appointees:	Presnell, C. Rod	10/31/2010
	Underhill, Timothy E.	10/31/2011
Board of Osteopathic Medicine		
Appointee:	St. Louis, James S.	10/31/2012
Central Florida Regional Planning Council, Region 7		
Appointees:	Goodman, Marshall	10/01/2010
	Keene, William S., Sr.	10/01/2010
	Rada-Pilkington, Erlinda "Linda"	10/01/2009
	Tuck, Andy	10/01/2009
	Tucker, Jacqueline W.	10/01/2010
Unemployment Appeals Commission		
Appointee:	Epsky, Thomas D.	06/30/2012
Board of Veterinary Medicine		
Appointees:	Helm, JoAnn K.	10/31/2011
	Lewis, Cynthia N.	10/31/2012
	Maxwell, Guy Ray	10/31/2012
	Simmons, George W.	10/31/2011
Peace River Basin Board of the Southwest Florida Water Management District		
Appointee:	Harrison, James Kenneth "Ken"	03/01/2010
Withlacoochee River Basin Board of the Southwest Florida Water Management District		
Appointee:	Bachschmidt, William J.	03/01/2011

The following executive appointments were referred to the Senate Committee on Children, Families, and Elder Affairs and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Secretary of Children and Family Services		
Appointee:	Sheldon, George H.	Pleasure of Governor
Director, Agency for Persons with Disabilities		
Appointee:	DeBeaugrine, James "Jim"	Pleasure of Governor

The following executive appointments were referred to the Senate Committee on Commerce and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Board of Directors, Enterprise Florida, Inc.		
Appointees:	de las Cuevas-Diaz, Vivian	07/01/2011
	Leonhardt, Frederick W.	07/01/2012
	Waller, Philip Leon, Jr.	07/01/2012

The following executive appointment was referred to the Senate Committee on Communications, Energy, and Public Utilities and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Florida Public Service Commission		
Appointee:	Edgar, Lisa B.	01/01/2013

The following executive appointments were referred to the Senate Committee on Criminal Justice and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Parole Commission		
Appointee:	Dunphy, Frederick B.	06/30/2014
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.		
Appointee:	Kravitz, Richard	09/30/2012

The following executive appointments were referred to the Senate Committee on Environmental Preservation and Conservation and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Environmental Regulation Commission		
Appointee:	Joyce, Joseph C.	07/01/2011
Fish and Wildlife Conservation Commission		
Appointee:	Yablonski, Brian S.	01/05/2014
Governing Board of the Southwest Florida Water Management District		
Appointees:	Beswick, Bryan K.	03/01/2012
	Gramling, Hugh M.	03/01/2012
	Senft, H. Paul, Jr.	03/01/2011
	Tharp, Douglas B.	03/01/2011
	Whitehead, Judith C.	03/01/2012
Executive Director of Southwest Florida Water Management District		
Appointee:	Moore, David L.	Pleasure of The Board
Governing Board of the Suwannee River Water Management District		
Appointees:	Davis, Heath	03/01/2012
	Quincey, Donald "Don"	03/01/2012

The following executive appointment was referred to the Senate Committee on Higher Education and the Senate Committee on Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Board of Governors of the State University System		
Appointee:	Tripp, Norman D.	01/06/2013

The following executive appointment was referred to the Senate Committee on Regulated Industries and the Senate Committee on

Ethics and Elections for action pursuant to Rule 12.7 (1) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Secretary of Business and Professional Regulation		
Appointee:	Drago, Charles W.	Pleasure of Governor

As required by Rule 12.7(1), the committees held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of the appointees.

After due consideration of the findings of such inquiry and the evidence presented at the public hearing, the Committee on Ethics and Elections and other referenced committees respectfully advise and recommend pursuant to the authority granted in Article IV, Section 6 (a), Florida Constitution, and in accordance with Section 114.05(1), Florida Statutes:

(1) the executive appointments of the above-named appointees, to the office and for the term indicated, be confirmed by the Senate;

(2) Senate action on said appointments be taken prior to the adjournment of the 2009 Regular Session; and

(3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully Submitted,
JD Alexander, Chair

On motion by Senator Alexander, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee, to the offices and for the terms indicated in accordance with the recommendation of the committee.

The vote was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

VOTES RECORDED

Senator Fasano was recorded as voting "nay" on Item #34, the appointment of Lisa B. Edgar to the Florida Public Service Commission.

VOTES DISCLOSURE

On April 30, 2009, the Senate confirmed the appointment of Aileen M. Pruitt to the board of the Florida Commission on Community Service.

Ms. Pruitt is my wife.

Therefore, I believe that, in an abundance of caution, I should disclose the above facts pursuant to Senate Rule 1.39.

Sincerely,
Ken Pruitt, District 28

Senator Pruitt was recorded as abstaining from voting on the appointment of Aileen M. Pruitt within Item #10.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Villalobos, by two-thirds vote **CS for HB 775**, **HB 777**, **CS for HB 1095**, **CS for HB 1113**, **CS for HB 1169**, **CS for HB 1369**, and **CS for CS for HB 1375** were withdrawn from the Committee on Rules.

LOCAL BILL CALENDAR

On motion by Senator Ring—

CS for HB 775—A bill to be entitled An act relating to the City of Tamarac, Broward County; extending and enlarging the corporate limits of the City of Tamarac to include specified unincorporated lands within such corporate limits; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for governance of an annexed area; prohibiting land use designation or zoning changes and other annexations prior to subject annexation or defeat of annexation; providing applicability to candidacies for municipal office; providing for preservation of existing contracts; providing for transfer of public roads and rights-of-way; providing an effective date.

—was read the second time by title. On motion by Senator Ring, by two-thirds vote **CS for HB 775** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Siplin
Bennett	Haridopolos	Smith
Bullard	Jones	Sobel
Constantine	Joyner	Storms
Crist	Justice	Villalobos
Dean	King	Wilson
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Ring—

HB 777—A bill to be entitled An act relating to the City of West Park, Broward County; extending and enlarging the corporate limits of the City of West Park to include specified Town of Pembroke Park lands within the corporate limits of the City of West Park; providing an effective date of annexation; providing construction; providing an effective date.

—was read the second time by title. On motion by Senator Ring, by two-thirds vote **HB 777** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Bullard	Dockery
Alexander	Constantine	Fasano
Altman	Crist	Gaetz
Aronberg	Dean	Garcia
Baker	Detert	Gardiner
Bennett	Diaz de la Portilla	Gelber

Haridopolos	Oelrich	Sobel
Jones	Peaden	Storms
Joyner	Pruitt	Villalobos
Justice	Rich	Wilson
King	Richter	Wise
Lawson	Siplin	
Lynn	Smith	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Ring—

CS for HB 1095—A bill to be entitled An act relating to the Broward County Tourist Development Council; providing legislative findings; providing for appointment of additional members to the membership of the Broward County Tourist Development Council; specifying requirements for the council members; providing for duties, responsibilities, and procedures of the council; providing for superseding certain provisions of general law; providing construction; providing an effective date.

—was read the second time by title. On motion by Senator Ring, by two-thirds vote **CS for HB 1095** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Siplin
Bennett	Haridopolos	Smith
Bullard	Jones	Sobel
Constantine	Joyner	Storms
Crist	Justice	Villalobos
Dean	King	Wilson
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Bullard—

CS for HB 1113—A bill to be entitled An act relating to the East County Water Control District, Lee and Hendry Counties; amending chapter 2000-423, Laws of Florida, as amended; amending district boundaries; providing for a board of commissioners in lieu of a board of supervisors; revising beginning of terms; revising method for filling vacancies; revising meeting attendance requirements; providing penalties for unexcused absences from meetings; providing for a salary; providing an effective date.

—was read the second time by title. On motion by Senator Bullard, by two-thirds vote **CS for HB 1113** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Bullard	Dockery
Alexander	Constantine	Fasano
Altman	Crist	Gaetz
Aronberg	Dean	Garcia
Baker	Detert	Gardiner
Bennett	Diaz de la Portilla	Gelber
Haridopolos	Oelrich	Sobel
Jones	Peaden	Storms
Joyner	Pruitt	Villalobos
Justice	Rich	Wilson
King	Richter	Wise
Lawson	Siplin	
Lynn	Smith	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Baker—

CS for HB 1169—A bill to be entitled An act relating to the City of Leesburg, Lake County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue up to a specified number of temporary permits to nonprofit civic organizations to sell alcoholic beverages for consumption on the premises at outdoor events on public rights-of-way and public parks in the downtown area of Leesburg; providing that such events require a special event permit from the city; providing that the permits authorized by the act are in addition to certain other authorized temporary permits; requiring the nonprofit civic organization to comply with certain statutory requirements in obtaining the permits authorized by the act; requiring the division to adopt rules; providing an effective date.

—was read the second time by title. On motion by Senator Baker, by two-thirds vote **CS for HB 1169** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Siplin
Bennett	Haridopolos	Smith
Bullard	Jones	Sobel
Constantine	Joyner	Storms
Crist	Justice	Villalobos
Dean	King	Wilson
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Lawson—

CS for HB 1369—A bill to be entitled An act relating to Gulf County; authorizing the Department of Environmental Protection, notwithstanding s. 161.053, F.S., to issue a permit for a single-family dwelling on a parcel if the parcel is located in Gulf County and the applicant demonstrates the parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds prior to January 1, 2009, the owner of the parcel for which the single-family dwelling is proposed does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed, the proposed single-family dwelling is located landward of the frontal dune structure, and the proposed single-family dwelling will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune; providing an effective date.

—was read the second time by title. On motion by Senator Lawson, by two-thirds vote **CS for HB 1369** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Siplin
Bennett	Haridopolos	Smith
Bullard	Jones	Sobel
Constantine	Joyner	Storms
Crist	Justice	Villalobos
Dean	King	Wilson
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

On motion by Senator Jones—

CS for CS for HB 1375—A bill to be entitled An act relating to the Tierra Verde Community, Pinellas County; providing requirements for the municipal annexation of the community; requiring a referendum of the electors within the community prior to such annexation; describing the community boundaries; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for CS for HB 1375** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Siplin
Bennett	Haridopolos	Smith
Bullard	Jones	Sobel
Constantine	Joyner	Storms
Crist	Justice	Villalobos
Dean	King	Wilson
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Vote after roll call:

Yea—Deutch, Hill

SPECIAL ORDER CALENDAR, continued

On motion by Senator Siplin—

CS for SB 254—A bill to be entitled An act relating to school food service programs; amending s. 1006.06, F.S.; creating the Florida Farm Fresh Schools Program within the Department of Education; providing legislative intent; requiring the department to work with the Department of Agriculture and Consumer Services to recommend policies and rules to the State Board of Education relating to school food services which encourage schools and school districts in this state to buy fresh and local food; requiring the Department of Education, in collaboration with the Department of Agriculture and Consumer Services, to provide outreach services regarding the benefits of fresh food products from this state; requiring the program to maintain compliance with the rules and regulations of the National School Lunch Program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 254** was placed on the calendar of Bills on Third Reading.

On motion by Senator Justice, by two-thirds vote **CS for HB 635** was withdrawn from the Committees on Military Affairs and Domestic Security; Judiciary; Commerce; and Governmental Oversight and Accountability; and the Policy and Steering Committee on Ways and Means.

On motion by Senator Justice—

CS for HB 635—A bill to be entitled An act relating to military affairs; amending s. 250.35, F.S.; clarifying and updating references with respect to courts-martial; amending s. 250.482, F.S.; revising applicability of provisions with respect to immunity from penalization for National Guard members ordered into state active duty by employers; requiring National Guard members to notify employers of intent to return to work; providing exceptions under which employers are not required to allow such members to return to work; providing for entitlement to seniority and other rights and benefits for National Guard members returning to work following state active duty; providing that such members may not be discharged from employment except for cause; providing rights and requirements with respect to use of vacation and leave by such members; removing a limitation with respect to the right of an employee ordered into state active duty to bring a civil action for a specified violation by an employer; amending s. 250.82, F.S.; clarifying provisions; creating s. 250.905, F.S.; providing for the imposition of a civil penalty for specified noncompliance with specified provisions of ch. 250, F.S., or with other specified provisions of federal law; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 206** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 635** was placed on the calendar of Bills on Third Reading.

On motion by Senator Ring—

SB 166—A bill to be entitled An act relating to public records; defining the term "publicly owned building or facility"; creating an exemption from public-records requirements for information that identifies a donor or prospective donor of a donation made for the benefit of a publicly owned building or facility if the donor desires to remain anonymous; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 166** was placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano, by two-thirds vote **CS for CS for HB 521** was withdrawn from the Committees on Community Affairs; Judiciary; and Finance and Tax; and the Policy and Steering Committee on Ways and Means.

On motion by Senator Fasano, the rules were waived and—

CS for CS for HB 521—A bill to be entitled An act relating to ad valorem tax assessment challenges; amending s. 194.301, F.S.; revising burden of proof requirements in taxpayer challenges of ad valorem tax assessments of value; requiring property appraisers to prove compliance with certain laws and appraisal practices; providing a presumption of correctness under certain circumstances; providing taxpayer burden of proof requirements; deleting provisions relating to a presumption of correctness of an assessment by a property appraiser; authorizing value adjustment boards or courts to establish assessments under certain circumstances; specifying that a property appraiser's denial of exemption or assessment classification does not have a presumption of correctness in administrative or judicial actions; requiring a taxpayer to prove entitlement to an ad valorem tax exemption or classification by a

preponderance of the evidence; providing legislative intent relating to taxpayer burden of proof; rejecting certain case law precedent; providing construction; providing for retroactive application; providing an effective date.

—a companion measure, was substituted for **CS for SB 1006** and read the second time by title.

MOTION

On motion by Senator Fasano, the rules were waived to allow the following amendment to be considered:

Senator Fasano moved the following amendment:

Amendment 1 (963610) (with title amendment)—Delete lines 27-81 and insert:

(Substantial rewording of section. Sees. 194.301, F.S., for present text.)

194.301 Challenge to ad valorem tax assessment.—

(1) In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. However, a taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. The value of property must be determined by an appraisal methodology that complies with the criteria of s. 193.011 and professionally accepted appraisal practices. The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.

(2) In an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge.

(a) If the challenge is to the assessed value of the property, the party initiating the challenge has the burden of proving by a preponderance of the evidence that the assessed value:

1. Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property;

2. Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or

3. Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

(b) If the party challenging the assessment satisfies the requirements of paragraph (a), the presumption provided in subsection (1) is overcome and the value adjustment board or the court shall establish the assessment if there is competent, substantial evidence of value in the record which cumulatively meets the criteria of s. 193.011 and professionally accepted appraisal practices. If the record lacks such evidence, the matter must be remanded to the property appraiser with appropriate directions from the value adjustment board or the court, and the property appraiser must comply with those directions.

(c) If the revised assessment following remand is challenged, the procedures described in this section apply.

(d) A party is not required to exclude every reasonable hypothesis of a legal assessment.

(e) If the challenge is to the classification or exemption status of the property, there is no presumption of correctness and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

And the title is amended as follows:

Delete lines 2-18 and insert: An act relating to ad valorem assessments; amending s. 194.301, F.S.; revising the bases for providing a presumption of correctness to an assessment of property value; providing that the taxpayer is entitled to an evaluation of the appraisal methodology; providing that the act preempts prior case law; revising the criteria for overcoming the presumption of correctness; providing for challenges to the classification or exemption status of property; providing for application; providing legislative intent relating to

MOTION

On motion by Senator Fasano, the rules were waived to allow the following amendment to be considered:

Senator Fasano moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (124980)—Delete lines 54-56 and insert:

(d) If the challenge is to the classification or exemption

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for HB 521** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SJR 532** and **SJR 1828** was deferred.

On motion by Senator Siplin—

CS for SB 784—A bill to be entitled An act relating to job opportunities for youth; providing legislative intent to support statewide vocational training and placement provided to at-risk youth through the Jobs for Florida's Graduates program; requiring that a proposal for funding a statewide summer program for youth employment be submitted to the Florida Endowment Foundation for Florida's Graduates; providing criteria concerning the proposal; requiring a report to the Legislature; providing for the Florida Endowment Foundation for Florida's Graduates to be the fiscal agent for the Jobs for Florida's Graduates program; amending s. 561.121, F.S.; revising the percentage of monthly collections of the excise taxes on alcoholic beverages to be deposited into the Alcoholic Beverage and Tobacco Trust Fund; requiring a certain percentage of net collections to be deposited into the Grants and Donations Trust Fund within the Florida Endowment Foundation for Florida's Graduates to operate the statewide summer program for youth employment; amending s. 563.05, F.S.; clarifying a unit of measurement; providing an effective date.

—was read the second time by title.

SENATOR FASANO PRESIDING

MOTION

On motion by Senator Siplin, the rules were waived to allow the following amendments to be considered:

Senator Siplin moved the following amendments which were adopted:

Amendment 1 (165984) (with title amendment)—Delete lines 55-87.

And the title is amended as follows:

Delete lines 13-23 and insert: Jobs for Florida's Graduates program; providing an effective date.

Amendment 2 (456092)—Delete line 29 and insert:

(1) Contingent upon appropriate funding made available through the American Recovery and Reinvestment Act, it is the intent of the Legislature that these funds be used, in part, to provide support

Pursuant to Rule 4.19, **CS for SB 784** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Gardiner, by two-thirds vote **CS for HJR 833** was withdrawn from the Committees on Community Affairs; Military Affairs and Domestic Security; and Finance and Tax; and the Policy and Steering Committee on Ways and Means.

On motion by Senator Gardiner—

CS for HJR 833—A joint resolution proposing an amendment to Section 3 of Article VII and the creation of Section 31 of Article XII of the State Constitution to provide an additional homestead property tax exemption for members of the military who receive a homestead exemption and were deployed on active duty outside the United States during the preceding year and provide an effective date.

—a companion measure, was substituted for **CS for CS for SJR 1302** and read the second time in full.

Pursuant to Rule 4.19, **CS for HJR 833** was placed on the calendar of Bills on Third Reading.

On motion by Senator Oelrich—

CS for CS for SB 2276—A bill to be entitled An act relating to a DNA database; providing a short title; amending s. 943.325, F.S.; providing legislative intent; providing definitions; providing a phase-in schedule whereby persons arrested for specified felony offenses will be required to provide DNA samples to the Department of Law Enforcement; requiring reports; providing for a statewide automated personal identification system capable of classifying, matching, and storing analyses of DNA and other data; providing for access; specifying duties of the department; providing that the database may contain DNA for certain types of samples; specifying offenders from whom DNA is to be collected; authorizing the use of reasonable force to collect samples; providing an exemption from liability for use of such force; providing for collection of samples from specified offenders from out of state; requiring the department to provide sample containers; providing requirements for information to be submitted with each sample; providing for court orders for samples; authorizing prosecutors to seek court orders in certain circumstances; requiring that a convicted person pay the actual costs of collecting the approved DNA samples unless declared indigent; providing that certain failures to strictly comply with statute or protocol are not grounds for challenging the validity of the collection or the use of a DNA sample in court, and evidence based upon or derived from the collected DNA sample may not be excluded by a court; providing that the detention, arrest, or conviction of a person based upon a database match or database information may not be invalidated if it is later determined that the sample was obtained or placed in the database by mistake; providing for retention of samples; providing for analysis of samples; requiring that DNA analysis and the comparison of analytic results be released only to criminal justice agencies; continuing a public-records exemption for such information; prohibiting the willful refusal to provide a DNA sample; providing penalties; prohibiting specified offenses relating to disclosing DNA records, using records without authorization, or tampering with DNA samples or analysis results; providing penalties; providing circumstances that require removal of the DNA analysis and DNA sample from the statewide DNA database of a person whose DNA analysis and sample was included in the database as a result of a conviction for a qualifying offense; providing circumstances that require removal of the DNA analysis and DNA sample from the statewide DNA database of a person whose DNA analysis and sample was included in the database as a result of an arrest; authorizing the Department of Law Enforcement to adopt rules related to the implementation of the removal of DNA analyses and samples from the statewide DNA database; amending ss. 760.40 and 948.014, F.S.; conforming provisions to changes made by the act; providing an effective date.

—was read the second time by title.

Senator Oelrich moved the following amendment which was adopted:

Amendment 1 (128030)—Delete lines 370-371 and insert: *commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

Pursuant to Rule 4.19, **CS for CS for SB 2276** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator King—

CS for SB 1380—A bill to be entitled An act relating to solar energy; amending s. 377.705, F.S.; requiring the Solar Energy Center to charge testing fees; deleting a provision that requires solar energy systems in this state to meet a certain standard; providing that a person who manufactures and sells solar products and systems does not need a contractor license if certain requirements are met; providing an effective date.

—was read the second time by title.

Senator Gaetz moved the following amendments which were adopted:

Amendment 1 (594358) (with title amendment)—Delete lines 48-89 and insert:

~~(a) The center shall develop and promulgate standards for solar energy systems manufactured or sold in this state based on the best currently available information and shall consult with scientists, engineers, or persons in research centers who are engaged in the construction of, experimentation with, and research of solar energy systems to properly identify the most reliable designs and types of solar energy systems.~~

~~(b)~~ The center shall *select nationally-recognized standards for solar energy systems and* establish criteria for testing *the* performance of solar energy systems and shall maintain the necessary capability for testing or evaluating *the* performance of solar energy systems. ~~The center may accept results of tests on solar energy systems made by other organizations, companies, or persons when such tests are conducted according to the criteria established by the center and when the testing entity has no vested interest in the manufacture, distribution or sale of solar energy systems.~~

(5) ~~(c)~~ *FEES.*-The center shall *charge* ~~be entitled to receive~~ a testing fee sufficient to cover the costs of such testing. All testing fees shall be transmitted by the center to the Chief Financial Officer to be deposited in the Solar Energy Center Testing Trust Fund, which is ~~hereby~~ created in the State Treasury, and disbursed for the payment of expenses incurred in testing solar energy systems.

(6) ~~(d)~~ All solar energy systems manufactured or sold in the state must meet the *nationally-recognized* standards *selected* ~~established~~ by the center and shall display accepted results of approved performance tests in a manner prescribed by the center.

Section 2. *The Florida Building Commission is directed to make all changes to the building and energy codes necessary to conform those rules to this bill.*

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

And the title is amended as follows:

Delete lines 2-8 and insert: An act relating to energy; amending s. 377.705, F.S.; requiring the Solar Energy Center to charge testing fees; directing the Florida Building Commission to make all changes to the building and energy codes necessary to conform to this act;

Amendment 2 (120042) (with title amendment)—Delete line 89 and insert:

Section 2. *The term of any person sitting as a member of the Florida Energy and Climate Commission on March 3, 2009, whose appointment is not confirmed by the Senate during the 2009 Regular Session or the 2010 Regular Session, shall be extended until completion of the 2010 Regular Session, except for any member who, during that time, the Senate expressly refuses to confirm.*

Section 3. *The Florida Energy and Climate Commission must obtain the approval of the joint Legislative Budget Commission before spending or disbursing any funds received from the federal government as part of a federal stimulus package.*

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

And the title is amended as follows:

Before line 9 insert: providing that if a specified commissioner of the Florida Energy and Climate Commission is not confirmed during the 2009 Regular Session or the 2010 Regular Session, the commissioner's appointment shall be extended until May 1, 2010, except for any member who, during that time, the Senate expressly refuses to confirm; requiring the Florida Energy and Climate Commission to obtain the approval of the joint Legislative Budget Commission before spending or disbursing any funds received from the federal government as part of a federal stimulus package;

Pursuant to Rule 4.19, **CS for SB 1380** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

By the direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

CS for SB 2282—A bill to be entitled An act relating to first-responder services; creating ss. 125.01045 and 166.0446, F.S.; prohibiting counties and municipalities from imposing a fee or seeking reimbursement for costs relating to certain first-responder services; providing exceptions; defining the term "first responder"; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Bennett moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (954620)—Delete lines 19-42 and insert: *a motor vehicle accident, except for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by ambulance services licensed pursuant to ss. 401.23(4) and 401.23(5).*

(2) As used in this section, the term "first responder" means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.30, or an emergency medical technician or paramedic as defined in s. 401.23 who is employed by the state or a local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

Section 2. Section 166.0446, Florida Statutes, is created to read:

166.0446 Prohibition of fees for first-responder services.—

(1) A municipality may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, except for costs to contain or clean up hazardous materials in

On motion by Senator Bennett, **CS for SB 2282** as amended was passed by the required constitutional two-thirds vote of the membership, ordered engrossed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Dockery	Lawson
Altman	Fasano	Lynn
Aronberg	Gaetz	Oelrich
Baker	Garcia	Peaden
Bennett	Gardiner	Pruitt
Bullard	Gelber	Rich
Constantine	Haridopolos	Richter
Crist	Hill	Ring
Dean	Jones	Siplin
Detert	Joyner	Smith
Deutch	Justice	Sobel
Diaz de la Portilla	King	Storms
Villalobos	Wilson	Wise

Nays—None

Consideration of **SB 2656**, **CS for SB 642**, **CS for CS for SB 1894**, and **CS for CS for HB 1423** was deferred.

CS for CS for SB 2614—A bill to be entitled An act relating to health care; amending s. 154.503, F.S.; conforming a cross-reference; repealing s. 381.0053, F.S., relating to a comprehensive nutrition program; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion; repealing ss. 381.732, 381.733, and 381.734, F.S., relating to the Healthy Communities, Healthy People Act; amending s. 381.006, F.S.; requiring the Department of Health, when conducting an environmental health program inspection of a certified domestic violence center and certain residential child-caring agencies to limit the inspection of the domestic violence center or residential child-caring agency to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; requiring the Department of Health to include in its environmental health program the testing of the air in enclosed ice rinks; authorizing the department to adopt rules relating to air quality standards, monitoring, testing, record keeping, the maintenance and operation of equipment that affects air quality, and assessment of fees; authorizing the department to enter and inspect an enclosed ice skating rink at reasonable hours to determine compliance with applicable air quality statutes or rules; authorizing the department to assess a fee for a specified purpose; requiring the air quality standards be consistent with federal risk values or exposure guidelines; amending s. 381.0061, F.S.; providing that the department may impose a fine, which may not exceed a specified amount for a violation of the ice rink air quality standards; amending s. 381.0072, F.S.; requiring the Department of Health, when conducting a food service inspection of a certified domestic violence center to limit the inspection of the domestic violence center to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; requiring the department to establish and maintain certain pharmacy services program; transferring, renumbering, and amending s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising definitions; revising program components; requiring program components to include efforts to educate youth and their parents about tobacco use; requiring a youth-directed focus in each program component; requiring the Tobacco Education and Use Prevention Advisory Council to adhere to state ethics laws; providing that meetings of the council are subject to public-records and public-meetings requirements; revising the duties of the council; deleting a provision that prohibits a member of the council from participating in a discussion or decision with respect to a research proposal by a firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement; revising the submission date of an annual report; deleting an expired provision relating to rulemaking authority of the department; transferring and renumbering s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program; transferring, renumbering, and amending s. 381.911, F.S., relating to the Prostate Cancer Awareness Program; revising the criteria for members of the prostate cancer advisory committee; repealing s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force; transferring and renumbering s. 381.92, F.S., relating to the Florida Cancer Council; transferring and renumbering s. 381.921, F.S., relating to the mission and duties of the Florida Cancer Council; amending s. 381.922, F.S.; conforming cross-references; transferring and renumbering s. 381.93, F.S., relating to a breast and cervical cancer early detection program; transferring and renumbering s. 381.931, F.S., relating to an annual report on Medicaid expenditures; renaming ch. 385, F.S., as the "Healthy and Fit Florida Act"; amending s. 385.101, F.S.; renaming the "Chronic Diseases Act" as the "Healthy and Fit Florida Act"; amending s. 385.102, F.S.; revising legislative intent; creating s. 385.1021, F.S.; providing definitions; creating s. 385.1022, F.S.; requiring the Department of Health to support public health programs to reduce the incidence of mortality and morbidity from chronic diseases; creating s. 385.1023, F.S.; requiring the department to create state-level programs that address the risk factors of certain chronic diseases; providing required activities of the state-level

programs; amending s. 385.103, F.S.; providing for community-level programs for the prevention of chronic diseases; revising definitions; requiring the department to develop and implement a community-based chronic disease prevention and health promotion program; providing the purpose of the program; providing requirements for the program; creating s. 385.105, F.S.; requiring the department to develop programs to increase physical fitness, to work with school districts, to develop partnerships that allow the public to access recreational facilities and public land areas suitable for physical activity, to work with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, and to collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools; requiring the Department of Health to promote healthy lifestyles to reduce obesity; requiring the department to promote optimal nutritional status in all stages of people's lives, personal responsibility to prevent chronic disease or slow its progression, and regular health visits during a person's life span; authorizing state agencies to conduct employee wellness programs; requiring the department to serve as a model to develop and implement employee wellness programs; requiring the department to assist state agencies to develop the employee wellness programs; providing equal access to the programs by agency employees; requiring the department to coordinate efforts with the Department of Management Services and other state agencies; authorizing each state agency to establish an employee wellness work group to design the wellness program; requiring the department to provide requirements for participation fees, collaborations with businesses, and procurement of equipment and incentives; amending s. 385.202, F.S.; requiring facilities, laboratories, and practitioners to report information; authorizing the department to adopt rules regarding reporting requirements for the cancer registry; providing immunity from liability for facilities and practitioners reporting certain information; requiring the department to adopt rules regarding the establishment and operation of a statewide cancer registry program; requiring the department or contractual designee operating the statewide cancer registry program to use or publish material only for the purpose of public health surveillance and advancing medical research or medical education in the interest of reducing morbidity or mortality; authorizing the department to exchange personal data with any agency or contractual designee for the purpose of public health surveillance and medical or scientific research under certain circumstances; clarifying that the department may adopt rules regarding the classifications of facilities related to reports made to the cancer registry; requiring each facility and practitioner that reports cancer cases to the department to make their records available for onsite review; amending s. 385.203, F.S.; increasing the size of the Diabetes Advisory Council to include one representative of the Florida Academy of Family Physicians; amending s. 385.206, F.S.; renaming the "hematology-oncology care center program" as the "Pediatric Hematology-Oncology Center Program"; revising definitions; authorizing the department to designate centers and provide funding to maintain programs for the care of patients with hematologic and oncologic disorders; clarifying provisions related to grant-funding agreements and grant disbursements; revising the department's requirement to evaluate services rendered by the centers; requiring data from the centers and other sources relating to pediatric cancer to be available to the department for program planning and quality assurance initiatives; amending s. 385.207, F.S.; clarifying provisions that require the department to collect information regarding the number of clients served, the outcomes reached, the expense incurred, and fees collected by providers of epilepsy services; deleting the provision that requires the department to limit administrative expenses from the Epilepsy Services Trust Fund to a certain percentage of annual receipts; amending s. 385.210, F.S.; revising legislative findings regarding the economic costs of treating arthritis and its complications; authorizing the State Surgeon General to seek any federal waivers that may be necessary to maximize funds from the Federal Government to implement the Arthritis Prevention and Education Program; creating s. 385.301, F.S.; authorizing the department to adopt rules to administer the act; amending s. 409.904, F.S.; conforming a cross-reference; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 430.80, F.S.; redefining the term "teaching nursing home" as it relates to the implementation of a teaching nursing home pilot project; revising the requirements to be designated as a teaching nursing home; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; providing an effective date.

—as amended April 28 was read the third time by title.

Amendments were considered and adopted to conform **CS for CS for SB 2614** to **CS for HB 1471**.

Pending further consideration of **CS for CS for SB 2614** as amended, on motion by Senator Gaetz, by two-thirds vote **CS for HB 1471** was withdrawn from the Committees on Health Regulation; and Health and Human Services Appropriations.

On motion by Senator Gaetz, by two-thirds vote—

CS for HB 1471—A bill to be entitled An act relating to health care; amending s. 154.503, F.S.; conforming a cross-reference; repealing s. 381.0053, F.S., relating to a comprehensive nutrition program; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion; repealing ss. 381.732, 381.733, and 381.734, F.S., relating to the Healthy Communities, Healthy People Act; amending s. 381.006, F.S.; requiring the Department of Health, when conducting an environmental health program inspection of a certified domestic violence center and certain residential child-caring agencies to limit the inspection of the domestic violence center or residential child-caring agency to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; requiring a report to the Governor and Legislature prior to proceeding with nitrogen reduction activities; ; amending s. 381.0072, F.S.; requiring the Department of Health, when conducting a food service inspection of a certified domestic violence center to limit the inspection of the domestic violence center to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; requiring the department to establish and maintain certain pharmacy services program; transferring, renumbering, and amending s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising definitions; revising program components; requiring program components to include efforts to educate youth and their parents about tobacco use; requiring a youth-directed focus in each program component; deleting an obsolete provision relating to the AHEC smoking-cessation initiative; requiring the Tobacco Education and Use Prevention Advisory Council to adhere to state ethics laws; providing that meetings of the council are subject to public-records and public-meetings requirements; revising the duties of the council; deleting a provision that prohibits a member of the council from participating in a discussion or decision with respect to a research proposal by a firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement; revising the submission date of an annual report; deleting an expired provision relating to rulemaking authority of the department; transferring and renumbering s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program; transferring, renumbering, and amending s. 381.911, F.S., relating to the Prostate Cancer Awareness Program; revising the criteria for members of the prostate cancer advisory committee; repealing s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force; transferring and renumbering s. 381.92, F.S., relating to the Florida Cancer Council; transferring and renumbering s. 381.921, F.S., relating to the mission and duties of the Florida Cancer Council; amending s. 381.922, F.S.; conforming cross-references; transferring and renumbering s. 381.93, F.S., relating to a breast and cervical cancer early detection program; transferring and renumbering s. 381.931, F.S., relating to an annual report on Medicaid expenditures; renaming ch. 385, F.S., as the "Healthy and Fit Florida Act"; amending s. 385.101, F.S.; renaming the "Chronic Diseases Act" as the "Healthy and Fit Florida Act"; amending s. 385.102, F.S.; revising legislative intent; creating s. 385.1021, F.S.; providing definitions; creating s. 385.1022, F.S.; requiring the Department of Health to support public health programs to reduce the incidence of mortality and morbidity from chronic diseases; creating s. 385.1023, F.S.; requiring the department to create state-level programs that address the risk factors of certain chronic diseases; providing required activities of the state-level programs; amending s. 385.103, F.S.; providing for community-level programs for the prevention of chronic diseases; revising definitions; requiring the department to develop and implement a community-based

chronic disease prevention and health promotion program; providing the purpose of the program; providing requirements for the program; creating s. 385.105, F.S.; requiring the department to develop programs to increase physical fitness, to work with school districts, to develop partnerships that allow the public to access recreational facilities and public land areas suitable for physical activity, to work with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, and to collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools; requiring the Department of Health to promote healthy lifestyles to reduce obesity; requiring the department to promote optimal nutritional status in all stages of people's lives, personal responsibility to prevent chronic disease or slow its progression, and regular health visits during a person's life span; authorizing state agencies to conduct employee wellness programs; requiring the department to serve as a model to develop and implement employee wellness programs; requiring the department to assist state agencies to develop the employee wellness programs; providing equal access to the programs by agency employees; requiring the department to coordinate efforts with the Department of Management Services and other state agencies; authorizing each state agency to establish an employee wellness work group to design the wellness program; requiring the department to provide requirements for participation fees, collaborations with businesses, and procurement of equipment and incentives; amending s. 385.202, F.S.; requiring facilities, laboratories, and practitioners to report information; authorizing the department to adopt rules regarding reporting requirements for the cancer registry; providing immunity from liability for facilities and practitioners reporting certain information; requiring the department to adopt rules regarding the establishment and operation of a statewide cancer registry program; requiring the department or contractual designee operating the statewide cancer registry program to use or publish material only for the purpose of public health surveillance and advancing medical research or medical education in the interest of reducing morbidity or mortality; authorizing the department to exchange personal data with any agency or contractual designee for the purpose of public health surveillance and medical or scientific research under certain circumstances; clarifying that the department may adopt rules regarding the classifications of facilities related to reports made to the cancer registry; requiring each facility and practitioner that reports cancer cases to the department to make their records available for onsite review; amending s. 385.203, F.S.; increasing the size of the Diabetes Advisory Council to include one representative of the Florida Academy of Family Physicians; amending s. 385.206, F.S.; renaming the "hematology-oncology care center program" as the "Pediatric Hematology-Oncology Center Program"; revising definitions; authorizing the department to designate centers and provide funding to maintain programs for the care of patients with hematologic and oncologic disorders; clarifying provisions related to grant-funding agreements and grant disbursements; revising the department's requirement to evaluate services rendered by the centers; requiring data from the centers and other sources relating to pediatric cancer to be available to the department for program planning and quality assurance initiatives; amending s. 385.207, F.S.; clarifying provisions that require the department to collect information regarding the number of clients served, the outcomes reached, the expense incurred, and fees collected by providers of epilepsy services; deleting the provision that requires the department to limit administrative expenses from the Epilepsy Services Trust Fund to a certain percentage of annual receipts; amending s. 385.210, F.S.; revising legislative findings regarding the economic costs of treating arthritis and its complications; authorizing the State Surgeon General to seek any federal waivers that may be necessary to maximize funds from the Federal Government to implement the Arthritis Prevention and Education Program; creating s. 385.301, F.S.; authorizing the department to adopt rules to administer the act; amending s. 409.904, F.S.; conforming a cross-reference; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2614** as amended and read the second time by title.

Senator Constantine moved the following amendment which was adopted:

Amendment 1 (525670) (with title amendment)—Delete lines 238-244.

And the title is amended as follows:

Delete lines 16-17.

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senator Lawson moved the following amendment:

Amendment 2 (140970) (with title amendment)—Delete lines 296-322 and insert:

Section 5. *Purchasing and repackaging of pharmaceuticals; studies and reports.—*

(1) The Office of Program Policy Analysis and Government Accountability shall evaluate and submit a report to the Legislature by October 31, 2009, containing recommendations for the statewide consolidation of pharmaceutical repackaging services, including an evaluation of the value to the state of all potential credits, rebates, and cost avoidances that may be realized through repackaging for the Department of Corrections, the Department of Juvenile Justice, the Agency for Persons with Disabilities, the Department of Children and Family Services, and the Department of Health. The Office of Program Policy Analysis and Government Accountability shall also include in its report an analysis of verifiable annual utilization rates for the dispensing of pharmaceuticals for fiscal years 2004-2005 through 2008-2009 by each of the five agencies that would participate in a consolidated repackaging services program and the approximate daily output capabilities that would be required to meet the projected average daily utilization rate, as adjusted for future growth projections over the next 3 years for the five agencies. The report shall include an assessment of the projected capitalized cost of leases and equipment and the fully burdened labor rate, projected FTE requirements, and associated operating costs needed by the Department of Health to meet the projected daily utilization requirements for statewide consolidated repackaging services and, if applicable, any cost avoidances or credits that would apply or not apply, as well as any federal regulatory requirements, including any inspection and certification requirements by the United States Food and Drug Administration.

(2) The Office of Program Policy Analysis and Government Accountability shall evaluate and submit a report to the Legislature by October 31, 2009, containing recommendations concerning options for implementing a statewide consolidated program for purchasing pharmaceuticals under an adopted formulary to be used by the Department of Corrections, the Department of Juvenile Justice, the Agency for Persons with Disabilities, the Department of Children and Family Services, and the Department of Health and the feasibility of the state obtaining discounts below both wholesale acquisition cost and the Minnesota Multistate Contracting Alliance for Pharmacy prices for the pharmaceuticals listed on the adopted formulary, including the availability and regulatory prerequisites for obtaining 340b pricing under the federal Medicare program.

(3) The Department of Health shall study the feasibility of consolidating drug repackaging services through the Department of Health's central pharmacy and compare that with the costs and benefits of contracting out for such services to a private pharmaceutical repackager licensed by the United States Food and Drug Administration, with preference given to vendors with Florida-based manufacturing operations that will promote the creation and maintenance of jobs in the state. The department shall be prohibited from contracting with any other agency to provide pharmaceutical repackaging services until the results of the Office of Program Policy Analysis and Government Accountability study are reported to the Legislature and the department has submitted a plan for consolidating pharmaceutical repackaging services for the Department of Corrections, the Department of Juvenile Justice, the Agency for Persons with Disabilities, the Department of Children and Family Services, and the Department of Health, consistent with the recommendations of the Office of Program Policy Analysis and Government Accountability and

the Pharmacy and Therapeutic Advisory Council. The plan shall be submitted to the Legislature by January 31, 2010.

And the title is amended as follows:

Delete lines 24-29 and insert: requiring the Office of Program Policy Analysis and Government Accountability to evaluate and submit reports to the Legislature regarding consolidation of pharmaceutical repackaging services and implementation of a statewide consolidated pharmaceutical purchasing program; requiring the Department of Health to conduct a study; prohibiting the department from entering into certain contracts until the results of the Office of Program Policy Analysis and Government Accountability report are submitted to the Legislature and the department has submitted a plan to the Legislature for consolidation of pharmaceutical repackaging services; transferring, renumbering, and amending s.

On motion by Senator Gaetz, further consideration of **CS for HB 1471** as amended with pending **Amendment 2 (140970)** by Senator Lawson was deferred.

Consideration of **CS for CS for SB 2072** was deferred.

CS for CS for SB 274—A bill to be entitled An act relating to water resources; creating part IV of ch. 369, F.S.; providing a short title; providing legislative findings and intent with respect to the need to protect and restore springs and groundwater; providing definitions; requiring the Department of Environmental Protection to delineate the springsheds of specified springs; requiring the department to adopt spring protection zones by secretarial order; requiring the department to adopt total maximum daily loads and basin management action plans for spring systems; providing effluent requirements for domestic wastewater treatment facilities; providing requirements for onsite sewage treatment and disposal systems; providing requirements for agricultural operations; authorizing the Department of Environmental Protection, the Department of Health, and the Department of Agriculture and Consumer Services to adopt rules; amending s. 403.1835, F.S.; including certain areas of critical state concern and the spring protection zones established by the act among projects that are eligible for certain financial assistance; requiring the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and water management districts to assess nitrogen loading and begin implementing management plans within the spring protection zones by a specified date; creating s. 403.093, F.S.; providing legislative intent to consider creation of a statewide onsite sewage treatment and disposal system inspection program; requiring a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; requiring the Department of Environmental Protection to provide procedures for implementing an inspection program; requiring minimum standards; directing disposition of revenues to fund the costs of the program; directing remaining revenues be used to fund the grant program; amending s. 259.105, F.S.; providing priority under the Florida Forever Act for projects within a springs protection zone; creating s. 403.9335, F.S.; providing legislative findings; providing for model ordinances for the protection of urban and residential environments and water; requiring the Department of Environmental Protection to adopt a model ordinance by a specified date; requiring municipalities and counties having impaired water bodies or segments to adopt the ordinance; creating s. 403.9337, F.S.; providing definitions; prohibiting use of certain fertilizers after a specified date; providing for exemptions; transferring by a type II transfer the Bureau of Onsite Sewage from the Department of Health to the Department of Environmental Protection; amending s. 369.317, F.S.; clarifying mitigation offsets in the Wekiva Study Area; establishing a task force to develop recommendations relating to stormwater management system design; specifying study criteria; providing for task force membership, meetings, and expiration; requiring the task force to submit findings and legislative recommendations to the Legislature by a specified date; providing effective dates.

—as amended April 28 was read the third time by title.

THE PRESIDENT PRESIDING

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senator Lawson moved the following amendment:

Amendment 1 (589956) (with title amendment)—Delete lines 211-685 and insert:

(2) Agricultural operations must implement applicable best-management practices, including nutrient management, adopted by the Department of Agriculture and Consumer Services to reduce nitrogen impacts to groundwater. By December 31, 2009, the Department of Agriculture and Consumer Services, in cooperation with the other cooperating entities and stakeholders, must develop and propose for adoption by rule equine, and cow and calf best-management practices pursuant to this subsection. Implementation must be in accordance with s. 403.067(7)(b).

(3) Stormwater systems must comply with the requirements of this section. The department is directed to adopt rules to implement the requirements of this subsection by July 1, 2010.

(a) Local governments, in cooperation with the water management districts, must develop and implement a remediation plan for all existing drainage wells containing strategies to reduce nitrogen loading to groundwater to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation. All new drainage wells must comply with the department's underground injection control rules.

(b) Local governments must develop and implement a remediation plan for all stormwater management systems constructed before 1982 which have not been modified to provide stormwater treatment containing strategies to reduce nitrogen loading to groundwater to the maximum extent practicable.

(c) Local governments, in cooperation with the water management districts, must develop and implement a remediation plan to reduce nitrogen loading to groundwater, including reducing existing direct discharges of stormwater into groundwater through karst features, to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation.

(d) The Department of Transportation must identify any untreated stormwater discharges into groundwater through natural subterranean drainages such as sinkholes and develop and implement a remediation plan to reduce nitrogen loading to groundwater, including reducing existing groundwater discharges to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation.

(4) This section does not limit the department's authority to require additional treatment or other actions pursuant to chapter 403, as necessary, to meet surface and groundwater quality standards.

369.406 Additional requirements for all spring protection zones.—

(1) All newly constructed or expanded domestic wastewater facilities operational after July 1, 2012, must meet the advanced wastewater treatment requirements of s. 403.086(4).

(2) For all development not permitted as of July 1, 2009, which has septic system densities equal to or greater than 640 systems per square mile, connection to a central wastewater treatment facility or other centralized collection and treatment system is required. For the purposes of this subsection, density must be calculated using the largest number of systems possible within a square mile.

(3) All new septic systems installed on or after January 1, 2010, that are located on properties abutting a water body or water segment that is listed as impaired pursuant to s. 403.067, or properties within a designated spring protection zone pursuant to s. 369.404, must be designed to meet a target annual average groundwater concentration of no more than 3 milligrams per liter total nitrogen at the owner's property line. Compliance with these requirements does not require groundwater monitor-

ing. The department must initiate and develop by rule design standards for achieving the target annual average groundwater concentration. At a minimum, the standard must take into consideration the relationship between the treatment level achieved by the septic system and the area of usable property available for rainwater dilution. Such design standards adopted by the department must provide multiple options that may be used to meet the standards established in s. 369.406(3).

(4) Prior to adoption of the design standards by the department, compliance with the requirements in subsection (3) is presumed if one of the following conditions is met:

(a) The lot associated with the establishment or single-family home is served by a septic system meeting the baseline system standards set forth in rules of the Department of Health, and the ratio of estimated sewage flow in gallons per day to acres of usable property is 100 to 1 or less.

(b) The lot associated with the establishment or single-family home is served by a septic system meeting at least the advanced secondary treatment standards for nitrogen as set forth in rules of the Department of Health.

(c) The lot associated with the establishment or single-family home is scheduled to connect to a central wastewater treatment facility within 6 months after the application for the permit.

(5) Subsection (4) does not supersede the jurisdictional flow limits established in s. 381.0065(3)(b).

(6) Land application of septage is prohibited and subject to a $250 fine for a first offense and $500 fine for a second or subsequent offense pursuant to the authority granted to the Department of Health in s. 381.0065(3)(h).

(7) Any septic system, when requiring repair, modification, or reapproval, must meet a 24-inch separation from the wet season water table and the surface water setback requirements in s. 381.0065(4). All treatment receptacles must be within one size of the requirements in rules of the Department of Health and must be tested for watertightness by a state-licensed septic tank contractor or plumber.

(8) Each owner of a publicly owned or investor-owned sewerage system must notify all owners of septic systems, excluding approved graywater systems, of the availability of central sewerage facilities for purposes of connection pursuant to s. 381.00655(1) within 60 days after receipt of notification from the Department of Health that collection facilities for the central sewerage system have been cleared for use.

(a) Notwithstanding s. 381.00655(2)(b), a publicly owned or investor-owned sewerage system may not waive the requirement for mandatory onsite sewage disposal connection to an available publicly owned or investor-owned sewerage system, except as provided in paragraph (b).

(b) With the approval of the Department of Health, a publicly owned or investor-owned sewerage system may waive the requirement for mandatory onsite sewage disposal connection for a sewage treatment system that meets or exceeds standards established for septic systems if it determines that such connection is not required in the public interest due to water quality or public health considerations.

(9) In hardship cases the Department of Health may grant variances to the provisions of this section and any rules adopted under this section in accordance with s. 381.0065(4)(h).

(10) After July 1, 2010, land application of Class A, Class B, or Class AA wastewater residuals, as defined by department rule, is prohibited. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.

(11) Animal feeding operations must implement the requirements of rules adopted by the department to reduce nitrogen impacts to groundwater. By December 31, 2009, the department, in cooperation with the other cooperating entities and stakeholders, must develop and propose for adoption, revised rules for animal feeding operations which address requirements for lined wastewater storage ponds and the development and implementation of nutrient management plans, including the land spreading of animal waste not treated and packaged as fertilizer.

(12) All county and municipal governments must, at a minimum, adopt the department's model ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes located in the Florida-Friendly Landscape Guidance Models for Ordinances, Covenants and Restrictions (2009) by December 31, 2010.

(13) The department and the water management districts shall adopt design criteria for stormwater treatment systems located within spring protection zones to minimize the movement of nitrogen into the groundwater and to prevent the formation of sinkholes within stormwater systems.

(14) This subsection does not limit the department's authority to require additional treatment or other actions pursuant to chapter 403, as necessary, to meet surface and groundwater quality standards.

369.407 Florida Springs Onsite Sewage Treatment and Disposal System Compliance Grant Program.—

(1) The Florida Springs Onsite Sewage Treatment and Disposal System Compliance Grant Program is established in the department and shall be administered by it. The purpose of the program is to provide grants to low-income property owners in spring protection zones using septic systems to assist the property owners in complying with rules for these systems developed by the department or the water management districts, or to connect to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 381.00655(1). The grant program is effective upon final adoption of department rules and may be applied to costs incurred on or after such date.

(2) Any property owner in a spring protection zone having an income less than or equal to 200 percent of the federal poverty level who is required by rule of the department or the water management districts to alter, repair, or modify any existing septic system to a nitrate-reducing system pursuant to s. 369.406(3), or to assist property owners with connecting to available publicly owned or investor-owned sewerage system pursuant to s. 381.00655(1), may apply to the department for a grant to assist the owner with the costs of compliance or connection.

(3) The amount of the grant is limited to the cost differential between the replacement of a comparable existing septic system and that of an upgraded nitrate-reducing treatment system pursuant to s. 369.406(3), or to the actual costs incurred from connection to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 385.00655(1), but may not exceed $5,000 per property.

(4) The grant must be in the form of a rebate to the property owner for costs incurred in complying with the requirements for septic systems under s. 369.406(3), or incurred from connection to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 381.00655(1). The property owner must provide documentation of those costs in the grant application to the department.

(5) The department shall adopt rules providing forms, procedures, and requirements for applying for and disbursing grants, including bid requirements, and for documenting compliance or connection costs incurred.

(6) The department, in coordination with the water management districts, shall continue to evaluate, by any means it deems appropriate, the level of nitrate deposited in state springs by septic systems.

369.408 Rules.—

(1) The department, the Department of Health, and the Department of Agriculture and Consumer Services may adopt rules to administer the provisions of this part, as applicable.

(2) The Department of Agriculture and Consumer Services shall be the lead agency coordinating the reduction of agricultural nonpoint sources of pollution for springs protection.

(a) The Department of Agriculture and Consumer Services and the department, pursuant to s. 403.067(7)(c)4., shall study and if necessary, in cooperation with the other cooperating entities, applicable county and municipal governments, and stakeholders, initiate rulemaking to implement new or revised best-management practices for improving and protecting springs. As needed to implement the new or revised practices, the Department of Agriculture and Consumer Services, shall revise its best-

management practices rules to require implementation of the modified practice within a reasonable time period as specified in the rule.

(b) The Department of Agriculture and Consumer Services, the department, and the University of Florida's Institute of Food and Agricultural Sciences shall cooperate in the conduct of necessary research and demonstration projects to develop improved or additional nutrient management tools, including the use of controlled release fertilizer, which can be used by agricultural producers as part of an agricultural best-management practices program. The development of such tools shall reflect a balance between water quality improvements and agricultural productivity and, where applicable, shall be incorporated into revised best-management practices adopted by rule of the Department of Agriculture and Consumer Services.

(3) The department shall as a part of the rules developed for this part include provisions that allow for the variance of the compliance deadlines provided for in paragraph (b) of s. 369.404(2). Such variance must, at a minimum, be based on the financial ability of the responsible county or municipality to meet the requirements of this part.

(4) The department must initiate and develop rules to implement subsections (3), (4), and (5) of s.369.406, in conjunction with the Department of Health.

Section 2. Subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or *groundwater* ~~ground water~~ quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9) regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads *and basin management action plans* adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate *environmental damage caused by* failing onsite sewage treatment and disposal systems*, with priority given to systems located within an area designated as an area of critical state concern under s. 380.05 or located in a spring protection zone designated pursuant to s. 369.404* ~~or those that are causing environmental damage~~; or

(h) Reduce pollutants to and otherwise promote the restoration of *state* ~~Florida's~~ surface *waters* and *groundwaters* ~~ground waters~~.

Section 3. *All state agencies and water management districts shall asses nitrogen loading from all publically owned buildings and facilities owned or managed by each respective agency or district located within a spring protection zone using a consistent methodology, evaluate existing management activities, and develop and begin implementing management plans to reduce adverse impacts to the springs by December 31, 2011.*

Section 4. Section 403.093, Florida Statutes, is created to read:

403.093 Onsite sewage treatment and disposal systems; inspection.—

(1) In order to increase protection of state water bodies and provide for potential cost savings to the people of this state, it is the intent of the Legislature to consider creation of a statewide onsite sewage treatment and disposal system inspection program.

(2) The department shall produce a report that details the process to be used and resources needed. The report shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2011. The report must, at a minimum:

a. Provide a method to ensure that each onsite sewage treatment and disposal system be inspected at least once every 5 years.

b. Recommend exemptions from the inspection requirement for onsite sewage treatment and disposal systems. In identifying systems for potential exemption, the department shall consider the risk a system or a certain density of systems poses to water bodies. Such evaluation shall also account for the proximity of the system or systems to a water body or water segment that is listed as impaired pursuant to s. 403.067 or is within a spring protection zone designated pursuant to s. 369.404.

c. Identify the appropriate mechanism for tracking inspections and providing notification to the owner of an onsite sewage treatment and disposal system that requires repairs or modifications.

d. A projection of the revenues that may be generated and expenses that may be needed to administer an inspection program. These projections are to be based on an inspection fee that covers the full costs of the proposed program.

(3) It is the intent of the Legislature that revenues derived from an inspection program be used to fund the administrative costs of the program and the remaining revenues be used to fund the grant program created pursuant to s. 369.407.

Section 5. Paragraph (m) is added to subsection (9) of section 259.105, Florida Statutes, to read:

259.105 The Florida Forever Act.—

(9) The Acquisition and Restoration Council shall recommend rules for adoption by the board of trustees to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(b) and for additions to the Conservation and Recreation Lands list pursuant to ss. 259.032 and 259.101(4). In developing these proposed rules, the Acquisition and Restoration Council shall give weight to the following criteria:

(m) Any part of the project area falls within a springs protection zone as defined by ss. 369.401-369.407.

Section 6. Section 403.9335, Florida Statutes, is created to read:

403.9335 Protection of urban and residential environments and water.—

(1) The Legislature finds that the implementation of the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes located in the Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions (2009) manual, which was developed consistent with the recommendations of the Florida Consumer Fertilizer Task Force, in concert with the provisions of the Labeling Requirements for Urban Turf Fertilizers found in chapter 5E-1 Florida Administrative Code, will assist in protecting the quality of Florida's surface water and groundwater resources. The Legislature further finds that local circumstances, including the varying types and conditions of water bodies, site-specific soils and geology, and urban or rural densities and characteristics, necessitates that additional or more stringent fertilizer-management practices may be needed at the local government level.

(2) All county and municipal governments are encouraged to adopt and enforce the provisions in the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes as a mechanism for better protecting local surface water and groundwater quality.

(3) Each county and municipal government located within the watershed of a water body or water segment that is listed by the department as impaired by nutrients pursuant to s. 403.067, or designated as a spring protection zone pursuant to 369.404, shall adopt, at a minimum, the

provisions of the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. A county or municipal government may adopt additional or more stringent provisions than the model ordinance if the following criteria are met:

(a) The county or municipal government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, economically and technically feasible, that additional or more stringent provisions to the model ordinance are necessary to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.

(b) The county or municipal government documents consideration of all relevant scientific information including input from the department, the Department of Agriculture and Consumer Services and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation shall be made part of the public record prior to adoption of the additional or more stringent criteria.

(4) Any county or municipal government that has adopted its own fertilizer use ordinance before January 1, 2009, is exempt from the provisions of this section. Ordinances adopted or amended after January 1, 2009, must adopt the provisions in the most recent version of the model fertilizer ordinance and are subject to the criteria described in subsections (1) and (2) above.

(5) Nothing herein shall be construed to regulate the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.

Section 7. Section 403.9337, Florida Statutes, is created to read:

403.9337 Urban turf fertilizers.—

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

(a) "No-phosphate fertilizer" or "no-phosphorus fertilizer" means fertilizer that contains less than 0.5 percent phosphate by weight.

(b) "Urban turf" means noncropland planted, mowed, and managed grasses, including, but not limited to, residential lawns; turf on commercial property; filter strips; and turf on property owned by federal, state, or local governments and other public lands, including roadways, roadsides, parks, campsites, recreation areas, school grounds, and other public grounds. The term does not include pastures, hay production and grazing land, turf grown on sod farms, or any other form of agricultural production; golf courses or sports turf fields; or garden fruits, flowers, or vegetables.

(c) "Soil test" means a test performed on soil planted or sodded, or that will be planted or sodded, by a laboratory approved by the Department of Agriculture and Consumer Services and performed within the last 2 years to indicate if the level of available phosphorus in the soil is sufficient to support healthy turf growth.

(d) "Tissue test" means a test performed on plant tissue growing in the soil planted or sodded, or that will be planted or sodded, by a laboratory approved by the Department of Agriculture and Consumer Services and performed within the last 2 years to indicate if the level of available phosphorus in the soil is sufficient to support healthy turf.

(2) Other than no-phosphate and no-phosphorus fertilizers, fertilizer containing phosphorus may not be applied to urban turf anywhere in this state on or after July 1, 2011, unless a soil or tissue test that is conducted pursuant to a method approved by the Department of Agriculture and Consumer Services indicates:

(a) For turf that is being initially established by seed or sod, the level of available phosphorus is insufficient to establish new turf growth and a root system. However, during the first year, a one-time application only of up to 1 pound of phosphate per 1,000 square feet of area may be applied.

(b) For established turf, the level of available phosphorus is insufficient to support healthy turf growth. However, no more than 0.25 pound of phosphate per 1,000 square feet of area per each application may be applied, not to exceed 0.5 pound of phosphate per 1,000 square feet of area per year.

And the title is amended as follows:

Delete lines 51-53 and insert: exemptions;

On motion by Senator Constantine, further consideration of **CS for CS for SB 274** with pending **Amendment 1 (589956)** by Senator Lawson was deferred.

CS for CS for SB 2088—A bill to be entitled An act relating to the Florida Financial Management Information System; amending s. 215.90, F.S.; conforming a cross-reference; amending s. 215.91, F.S.; providing that the Financial Management Information Board is responsible for the system; deleting provisions relating to the Florida Financial Management Information System Coordinating Council; deleting references to functional owner subsystems; amending s. 215.92, F.S.; redefining terms and adding and deleting definitions; creating s. 215.922, F.S.; establishing the Agency for Enterprise Business Services within the Department of Financial Services; providing that the office is a separate budget entity not subject to the department; providing that the agency is headed by the Governor and Cabinet acting as the Financial Management Information Board; providing for an executive director; providing the duties of the agency; creating s. 215.923, F.S.; establishing the Enterprise Financial Business Operations Council to act in an advisory capacity to the agency; providing the members of the council; providing council duties; creating s. 215.924, F.S.; providing for an Enterprise Financial Business Strategic Plan; requiring the plan to be annually reviewed, updated and submitted to the Legislature; providing for the contents of the plan; amending s. 215.93, F.S.; revising provisions relating to the Florida Financial Management Information System; renaming the Florida Accounting Information Resource Subsystem the Financial Management Subsystem; adding the Revenue and Tax Collection, Processing, and Distribution Subsystem; deleting references to functional owner subsystems and providing for enterprise business owners; revising the duties of the owners; deleting references to the design and coordination staff; providing for the ownership and functions of the Revenue and Tax Collection, Processing, and Distribution Subsystem by the Department of Revenue; amending s. 215.94, F.S.; deleting references to functional owner subsystems and providing for enterprise business owners; amending s. 215.95, F.S.; providing additional duties for the Financial Management Information Board; repealing s. 215.96, F.S., relating to the coordinating council and design and coordination staff; creating s. 215.961, F.S.; providing state agency requirements relating to the Florida Financial Management Information System and the use of functional information and enterprise agency business subsystems; repealing s. 570.07(41), F.S., relating to the Department of Agriculture and Consumer Services' exemption from using the state online procurement system; amending ss. 17.11, 216.102, 216.141, and 216.237, F.S.; conforming terms; providing for funding; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Alexander, **CS for CS for SB 2088** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dockery	Lynn
Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Aronberg	Garcia	Rich
Baker	Gardiner	Richter
Bennett	Gelber	Ring
Bullard	Haridopolos	Siplin
Constantine	Hill	Smith
Crist	Jones	Sobel
Dean	Joyner	Storms
Detert	Justice	Villalobos
Deutch	King	Wilson
Diaz de la Portilla	Lawson	Wise

Nays—None

Vote after roll call:

Yea—Oelrich

Consideration of **CS for HB 631**, **SB 2080**, and **CS for CS for CS for SB 2104** was deferred.

CS for SB 2158—A bill to be entitled An act relating to public records; creating s. 631.582, F.S.; providing an exemption from public-records requirements for specified claims files, medical records that are part of a claims file, information relating to the medical condition or medical status of a claimant, and records pertaining to matters reasonably encompassed in privileged attorney-client communications of the Florida Insurance Guaranty Association; providing for limited duration of the exemption for claims files; providing for release of records under specified conditions; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Haridopolos, **CS for SB 2158** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dockery	Oelrich
Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Aronberg	Gardiner	Rich
Baker	Gelber	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Constantine	Jones	Smith
Crist	Joyner	Sobel
Dean	Justice	Storms
Detert	King	Villalobos
Deutch	Lawson	Wilson
Diaz de la Portilla	Lynn	Wise

Nays—None

Vote after roll call:

Yea—Garcia

CS for HB 631—A bill to be entitled An act relating to public records; amending s. 733.604, F.S.; providing exemptions from public records requirements for certain estate inventories and accountings; requiring custodians to disclose certain inventories or accountings to certain persons or by court order; providing retroactive application; providing for review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Aronberg, **CS for HB 631** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Deutch	Joyner
Alexander	Diaz de la Portilla	Justice
Altman	Dockery	King
Aronberg	Fasano	Lawson
Baker	Gaetz	Lynn
Bennett	Garcia	Oelrich
Bullard	Gardiner	Peaden
Constantine	Gelber	Pruitt
Crist	Haridopolos	Rich
Dean	Hill	Richter
Detert	Jones	Ring
Siplin	Storms	Wise
Smith	Villalobos	
Sobel	Wilson	

Nays—None

HB 7157—A bill to be entitled An act relating to real property used for conservation purposes; creating s. 196.26, F.S.; providing definitions; providing for a full or partial exemption for land dedicated in perpetuity for conservation purposes; exempting certain real property encumbered by a conservation easement purchased by the federal or state government or by a local government; providing circumstances under which land consisting of less than 40 acres qualifies for such exemption; providing for the assessment of buildings and structures on exempted lands; requiring best management practices to be used for certain agricultural lands; providing for third-party conservation easement enforcement rights to water management districts; creating the Board of Conservation for certain purposes; providing for appointment of members; amending s. 193.501, F.S.; revising a cross-reference; amending s. 704.06, F.S.; requiring owners of property encumbered by a conservation easement to comply with marketable record title requirements to preserve the easement in perpetuity; amending s. 195.073, F.S.; specifying an additional real property assessment classification; amending s. 196.011, F.S.; providing requirements and procedures for renewal applications for exemptions for real property dedicated in perpetuity for conservation purposes; requiring owners of such property to notify the property appraiser when use of the property no longer qualifies for the exemption; providing penalties for failure to notify; providing for application of certain lien provisions; amending s. 192.0105, F.S.; conforming a cross-reference; creating s. 218.125, F.S.; requiring the Legislature to appropriate moneys to replace the reductions in ad valorem tax revenue experienced by fiscally constrained counties with a population not exceeding 25,000; requiring each fiscally constrained county to apply to the Department of Revenue to participate in the distribution of the appropriation; specifying the documentation that must be provided to the department; providing a formula for calculating the reduction in ad valorem tax revenue; authorizing the department to adopt emergency rules effective for a specified period; providing for renewal of such rules; providing applicability; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Altman, **HB 7157** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Altman	Garcia	Pruitt
Aronberg	Gardiner	Rich
Baker	Gelber	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

Vote after roll call:

Yea—Constantine

Consideration of **CS for CS for HB 7031** was deferred.

CS for HB 1213—A bill to be entitled An act relating to the Jacksonville Transportation Authority; amending s. 349.02, F.S.; revising definitions; defining the term "transportation facilities"; amending s. 349.03, F.S.; revising a requirement for membership on the governing body of the authority to provide that an appointed member must be a resident and elector of Duval County; amending s. 349.04, F.S.; revising

scope of the authority to include certain services throughout Duval County; revising authority, powers, rights, and responsibilities of the authority to provide for planning, coordinating, developing, financing, refinancing, constructing, owning, leasing, purchasing, operating, maintaining, relocating, equipping, repairing, and managing described transportation projects intended to address needs or concerns in the Jacksonville, Duval County, metropolitan area; revising bonding provisions; providing for the authority to fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for any transportation facilities of the authority; revising eminent domain provisions to include specified procedural powers; authorizing use of local option taxes or county gasoline tax funds to secure the payment of bonds; authorizing the authority to establish and fund reserve accounts, adopt an annual budget, use purchasing schedules and master purchasing contracts, retain legal counsel and other consultants, construct and own and maintain transportation facilities outside the jurisdictional boundaries of Duval County, form public benefit corporations, require bid bonds and protest bonds, prequalify bidders or proposers, suspend or debar consultants and contractors, and create and operate an employees' benefit fund; providing for the authority to expand its service area and enter into a partnership with a contiguous county; providing that the powers and obligations of the authority shall not be subject to supervision, approval, or consent of any municipality or county except as agreed upon in an interlocal agreement; providing for certain contractual limitations and recovery of liquidated damages; providing for relocation of utility facilities interfering with transportation projects; authorizing the authority to enter lands, waters, and premises of another in the performance of its duties; amending s. 349.041, F.S.; revising provisions for funds appropriated by the City of Jacksonville to the authority; repealing s. 349.042, F.S., relating to the Jacksonville area planning board review of construction and operation of the expressway and transit functions of the authority; creating s. 349.043, F.S.; requiring a public hearing prior to designation or relocation of transportation facilities or substantive changes thereto; providing procedures; requiring compliance with federal and state requirements related to new or altered transportation facilities or services; amending s. 349.05, F.S.; authorizing bonds to be issued on behalf of the authority; revising provisions for issuance and sale of bonds; authorizing certain refunding bonds; revising provisions for resolutions authorizing bonds; revising provisions for fiscal agents; providing that bonds are not obligations of the state; repealing s. 349.06, F.S., relating to remedies of the bondholders; creating s. 349.061, F.S.; providing approval for bond financing by the authority; amending s. 349.07, F.S.; revising provisions authorizing the Department of Transportation to expend certain funds and use its resources for certain items related to the Jacksonville Expressway System; amending s. 349.10, F.S.; revising provisions for the authority to acquire lands and rights therein; limiting liability of the authority with respect to certain contamination of lands acquired; authorizing the authority and the Department of Environmental Protection to enter into agreements for the performance and funding of investigative and remedial acts; amending s. 349.12, F.S.; revising covenant of the state related to bonds of the authority; amending s. 349.13, F.S.; specifying conditions under which property leased by the authority is exempt from ad valorem taxes; amending s. 349.15, F.S.; revising provisions for enforcement of rights by bondholders; amending s. 349.17, F.S.; revising provisions for application of and exemption from other laws relating to issuance of bonds; amending s. 349.21, F.S.; revising provisions for use of charter county transit system surtax funds to secure payment of bonds of the authority; restricting use of surtax moneys collected within Duval County; creating s. 349.22, F.S.; providing conditions for the authority to receive or solicit proposals and enter into agreements with private entities for the building, operation, ownership, or financing of highways, bridges, multimodal transportation systems, transit-oriented development nodes, transit stations, or related transportation facilities; requiring certain costs to be paid by the private entity; authorizing the department to use state funds for projects on or that increase mobility on the State Highway System; requiring notice of proposals and providing procedures; providing for agreements to authorize the imposition of tolls; requiring public-private transportation facilities to comply with laws, comprehensive plans, and the authority's rules, policies, procedures, standards, and conditions; authorizing the authority to exercise its powers to facilitate public-private projects; providing for application; amending s. 20.23, F.S.; revising the functions of the Florida Transportation Commission; adding the authority to the transportation agencies monitored by the commission; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator King, **CS for HB 1213** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

Consideration of **CS for HB 7043**, **CS for CS for HB 821**, and **CS for HB 7051** was deferred.

SENATOR PRUITT PRESIDING

CS for CS for HB 821—A bill to be entitled An act relating to community development districts; amending s. 190.003, F.S.; defining the term "compact, urban, mixed-use district"; amending s. 190.006, F.S.; providing for application of certain board of supervisors election time periods to compact, urban, mixed-use districts; providing for retroactive application; amending ss. 190.005, 190.011, 190.016, 190.021, and 348.968, F.S.; conforming cross-references; amending s. 190.012, F.S.; revising deed restriction enforcement rulemaking authority of boards of directors of community development districts; authorizing certain property owners to elect a district board advisor; providing advisor responsibilities; providing requirements for district board advisor review and recommendations relating to enforcement of the district rules outside the boundaries of the district; requiring creation of a district board advisor seat after an interlocal agreement is entered into; providing for election of the advisor and the term of office; providing election procedures and requirements; amending s. 190.046, F.S.; revising procedures and requirements to amend the boundaries of a community development district; revising procedures and requirements to merge community development districts; providing limitations; providing for petition filing fees; preserving rights of creditors, liens upon property, and claims and pending actions or proceedings; providing an effective date.

—was read the third time by title.

On motion by Senator Baker, **CS for CS for HB 821** was passed and certified to the House. The vote on passage was:

Yeas—36

Alexander	Fasano	Lynn
Altman	Gaetz	Oelrich
Aronberg	Garcia	Peaden
Baker	Gardiner	Pruitt
Bennett	Gelber	Rich
Constantine	Haridopolos	Ring
Crist	Hill	Siplin
Dean	Jones	Smith
Detert	Joyner	Sobel
Deutch	Justice	Villalobos
Diaz de la Portilla	King	Wilson
Dockery	Lawson	Wise

Nays—2

Bullard	Storms

CS for HB 7051—A bill to be entitled An act relating to a review under the Open Government Sunset Review Act for social security numbers; amending s. 119.071, F.S.; providing that social security

numbers of current and former agency employees held by the employing agency are confidential and exempt from public records requirements; providing for future review and repeal of the exemption; requiring that an agency identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers and ensure compliance therewith; requiring notice as to whether collection of a social security number is authorized or mandatory under federal or state law; clarifying that the public records exemption for social security numbers held by an agency does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemptions for social security numbers; delineating conditions under which social security numbers held by an agency may be disclosed; redefining the term "commercial activity" for purposes of provisions authorizing the disclosure of a social security number under limited circumstances; eliminating agency reports of requests for social security numbers by commercial entities; reenacting ss. 119.0714(1)(i), (2)(e), and (3)(b) and 1007.35(8)(b), F.S., relating to social security numbers contained in records that are made part of a court file, a future requirement of court clerks to keep social security numbers confidential and exempt without a request for redaction and specified nonapplicability to court clerks with respect to court records, the availability of social security numbers as part of official records, a future requirement of county recorders to keep social security numbers confidential and exempt without a request for redaction and specified nonapplicability to county recorders with respect to official records, and access to specified information under the Florida Partnership for Minority and Underrepresented Student Achievement, respectively, for the purpose of incorporating the amendment to s. 119.071, F.S., in references thereto,; providing a statement of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Baker, **CS for HB 7051** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—38

Alexander	Gaetz	Peaden
Altman	Garcia	Pruitt
Aronberg	Gardiner	Rich
Baker	Gelber	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Constantine	Jones	Smith
Crist	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise
Fasano	Oelrich	

Nays—None

CS for CS for SB 1372—A bill to be entitled An act relating to insurance; providing a short title; amending s. 624.310, F.S.; expanding the definition of "affiliated party" to include certain third-party marketers; amending s. 626.025, F.S.; including family members of insurance agents in a prohibition related to the transaction of life insurance; amending s. 626.621, F.S.; expanding grounds for discretionary refusal, suspension, or revocation of certain licenses; amending s. 626.641, F.S.; prohibiting the Department of Financial Services from issuing certain licenses in certain circumstances; amending s. 626.798, F.S.; prohibiting a family member of a life insurance agent from being a beneficiary of certain policies; amending s. 626.9521, F.S.; providing that the failure to ascertain a customer's age at the time of an insurance application does not constitute a defense to certain violations of state law; authorizing the use of video depositions in certain circumstances; amending s. 626.99, F.S.; extending the unconditional refund period for fixed annuity contracts and variable or market value annuity contracts for customers 65 years of age or older; requiring that the unconditional refund amount for a variable or market value annuity contract be equal to the cash surrender value provided in the contract, plus any fees or charges deducted from the premiums or imposed under the contract; providing for applicability of certain provisions; requiring that an insurer provide a prospective purchaser of an annuity policy with a buyer's guide to annuities; requiring that such buyer's guide contain certain information; requiring that an insurer attach a cover page to an annuity policy informing the purchaser of the unconditional refund period; requiring that the cover page provide other specified information; amending s. 627.4554, F.S.; defining the term "accredited investor"; authorizing the Department of Financial Services to order an insurance agent to pay monetary restitution to a senior consumer under certain circumstances; limiting the amount of such restitution; prohibiting an annuity contract issued to a senior consumer from containing a surrender or deferred sales charge for withdrawal of funds from an annuity in excess of a specified maximum amount; providing for the periodic reduction of such charge; creating s. 817.2351, F.S.; providing that it is unlawful for a natural person to perform certain acts in connection with the rendering of any advice or the offer, sale, or purchase of any financial services product to a person who is 65 years of age or older; providing that performance of such a prohibited act constitutes a felony of the third degree; providing for applicability; providing that criminal prosecution for certain offenses is subject to specified time limitations as prescribed by state law; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Gelber, the rules were waived to allow the following amendment to be considered:

Senator Gelber moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (421064)—Delete line 295 and insert: harmed by a violation of this section by the insurance

On motion by Senator Bennett, **CS for CS for SB 1372** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

The Senate resumed consideration of—

CS for HB 1471—A bill to be entitled An act relating to health care; amending s. 154.503, F.S.; conforming a cross-reference; repealing s. 381.0053, F.S., relating to a comprehensive nutrition program; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion; repealing ss. 381.732, 381.733, and 381.734, F.S., relating to the Healthy Communities, Healthy People Act; amending s. 381.006, F.S.; requiring the Department of Health, when conducting an environmental health program inspection of a certified domestic violence center and certain residential child-caring agencies to limit the inspection of the domestic violence center or residential child-caring agency to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; requiring a report to the Governor and Legislature prior to proceeding with nitrogen reduction activities; ; amending s. 381.0072, F.S.; requiring the Department of Health, when conducting a food service inspection of a certified domestic violence center to limit the inspection of the domestic violence center to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; requiring the department to establish and maintain certain pharmacy services program; transferring, renumbering, and amending s. 381.84, F.S., relating to the Com-

prehensive Statewide Tobacco Education and Use Prevention Program; revising definitions; revising program components; requiring program components to include efforts to educate youth and their parents about tobacco use; requiring a youth- directed focus in each program component; deleting an obsolete provision relating to the AHEC smoking-cessation initiative; requiring the Tobacco Education and Use Prevention Advisory Council to adhere to state ethics laws; providing that meetings of the council are subject to public-records and public-meetings requirements; revising the duties of the council; deleting a provision that prohibits a member of the council from participating in a discussion or decision with respect to a research proposal by a firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement; revising the submission date of an annual report; deleting an expired provision relating to rulemaking authority of the department; transferring and renumbering s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program; transferring, renumbering, and amending s. 381.911, F.S., relating to the Prostate Cancer Awareness Program; revising the criteria for members of the prostate cancer advisory committee; repealing s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force; transferring and renumbering s. 381.92, F.S., relating to the Florida Cancer Council; transferring and renumbering s. 381.921, F.S., relating to the mission and duties of the Florida Cancer Council; amending s. 381.922, F.S.; conforming cross-references; transferring and renumbering s. 381.93, F.S., relating to a breast and cervical cancer early detection program; transferring and renumbering s. 381.931, F.S., relating to an annual report on Medicaid expenditures; renaming ch. 385, F.S., as the "Healthy and Fit Florida Act"; amending s. 385.101, F.S.; renaming the "Chronic Diseases Act" as the "Healthy and Fit Florida Act"; amending s. 385.102, F.S.; revising legislative intent; creating s. 385.1021, F.S.; providing definitions; creating s. 385.1022, F.S.; requiring the Department of Health to support public health programs to reduce the incidence of mortality and morbidity from chronic diseases; creating s. 385.1023, F.S.; requiring the department to create state-level programs that address the risk factors of certain chronic diseases; providing required activities of the state-level programs; amending s. 385.103, F.S.; providing for community-level programs for the prevention of chronic diseases; revising definitions; requiring the department to develop and implement a community-based chronic disease prevention and health promotion program; providing the purpose of the program; providing requirements for the program; creating s. 385.105, F.S.; requiring the department to develop programs to increase physical fitness, to work with school districts, to develop partnerships that allow the public to access recreational facilities and public land areas suitable for physical activity, to work with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, and to collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools; requiring the Department of Health to promote healthy lifestyles to reduce obesity; requiring the department to promote optimal nutritional status in all stages of people's lives, personal responsibility to prevent chronic disease or slow its progression, and regular health visits during a person's life span; authorizing state agencies to conduct employee wellness programs; requiring the department to serve as a model to develop and implement employee wellness programs; requiring the department to assist state agencies to develop the employee wellness programs; providing equal access to the programs by agency employees; requiring the department to coordinate efforts with the Department of Management Services and other state agencies; authorizing each state agency to establish an employee wellness work group to design the wellness program; requiring the department to provide requirements for participation fees, collaborations with businesses, and procurement of equipment and incentives; amending s. 385.202, F.S.; requiring facilities, laboratories, and practitioners to report information; authorizing the department to adopt rules regarding reporting requirements for the cancer registry; providing immunity from liability for facilities and practitioners reporting certain information; requiring the department to adopt rules regarding the establishment and operation of a statewide cancer registry program; requiring the department or contractual designee operating the statewide cancer registry program to use or publish material only for the purpose of public health surveillance and advancing medical research or medical education in the interest of reducing morbidity or mortality; authorizing the department to exchange personal data with any agency or contractual designee for the purpose of public health surveillance and medical or scientific research under certain circumstances; clarifying that the department may adopt rules regarding the classifications of facilities related to reports made to the cancer registry; requiring each facility and practitioner that reports cancer cases to the department to make their records available for onsite review; amending s. 385.203, F.S.; increasing the size of the Diabetes Advisory Council to include one representative of the Florida Academy of Family Physicians; amending s. 385.206, F.S.; renaming the "hematology-oncology care center program" as the "Pediatric Hematology-Oncology Center Program"; revising definitions; authorizing the department to designate centers and provide funding to maintain programs for the care of patients with hematologic and oncologic disorders; clarifying provisions related to grant-funding agreements and grant disbursements; revising the department's requirement to evaluate services rendered by the centers; requiring data from the centers and other sources relating to pediatric cancer to be available to the department for program planning and quality assurance initiatives; amending s. 385.207, F.S.; clarifying provisions that require the department to collect information regarding the number of clients served, the outcomes reached, the expense incurred, and fees collected by providers of epilepsy services; deleting the provision that requires the department to limit administrative expenses from the Epilepsy Services Trust Fund to a certain percentage of annual receipts; amending s. 385.210, F.S.; revising legislative findings regarding the economic costs of treating arthritis and its complications; authorizing the State Surgeon General to seek any federal waivers that may be necessary to maximize funds from the Federal Government to implement the Arthritis Prevention and Education Program; creating s. 385.301, F.S.; authorizing the department to adopt rules to administer the act; amending s. 409.904, F.S.; conforming a cross-reference; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; providing an effective date.

—which was previously considered and amended this day with pending **Amendment 2 (140970)** by Senator Lawson.

RECONSIDERATION OF AMENDMENT

On motion by Senator Villalobos, the Senate reconsidered the vote by which **Amendment 1 (525670)** was adopted.

On motion by Senator Gaetz, further consideration of **CS for HB 1471** with pending **Amendment 1 (525670)** and pending **Amendment 2 (140970)** was deferred.

SB 2080—A bill to be entitled An act relating to the West-Central Florida Water Restoration Action Plan; creating s. 373.0363, F.S.; providing definitions; providing legislative findings and intent; providing criteria for the Southwest Florida Water Management District to meet in implementing the West-Central Florida Water Restoration Action Plan; requiring that the district coordinate with regional water supply authorities and governmental entities to maximize opportunities concerning the efficient expenditure of public funds; specifying the plan's purpose; specifying the initiatives that are included in the plan; providing criteria for implementing the Central West Coast Surface Water Enhancement Initiative, the Facilitating Agricultural Resource Management Systems Initiative, the Ridge Lakes Restoration Initiative, the Upper Peace River Watershed Restoration Initiative, and the Central Florida Water Resource Development Initiative and certain components or projects included in such initiatives; providing for the Southwest Florida Water Management District to include specified criteria concerning implementation of the plan, regional conditions, and the use of funds in specified annual reports; requiring that the Southwest Florida Water Management District develop and submit a plan to the Legislature; providing for approval of the plan; repealing s. 23, ch. 2008-150, Laws of Florida, relating to a provision prohibiting the Department of Environmental Protection from issuing a permit for certain Class I landfills; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Alexander moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (256072) (with title amendment)—Between lines 211 and 212 insert:

Section 3. *Section 373.069, Florida Statutes, is reenacted.*

Section 4. Subsections (3), (6), and (7) and paragraph (a) of subsection (8) of section 373.0693, Florida Statutes, are amended to read:

373.0693 Basins; basin boards.—

(3) Each member of the various basin boards shall serve for a period of 3 years or until a successor is appointed, *but not more than 180 days after the end of the term,* except that the board membership of each new basin shall be divided into three groups as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively. Each basin board shall choose a vice chair and a secretary to serve for a period of 1 year. The term of office of a basin board member shall be construed to commence on March 2 preceding the date of appointment and to terminate March 1 of the year of the end of a term *or may continue until a successor is appointed, but not more than 180 days after the end of the expired term*.

(6)(a) Notwithstanding the provisions of any other general or special law to the contrary, a member of the governing board of the district residing in the basin or, if no member resides in the basin, a member of the governing board designated by the chair of the governing board shall be the ~~ex officio~~ chair of the basin board. The ~~ex officio~~ chair shall preside at all meetings of the basin board, except that the vice chair may preside in his or her absence. The ~~ex officio~~ chair shall ~~have no official vote, except in case of a tie vote being cast by the members, but~~ shall be the liaison officer of the district in all affairs in the basin and shall be kept informed of all such affairs.

(b) Basin boards within the Southwest Florida Water Management District shall meet regularly as determined by a majority vote of the basin board members. Subject to notice requirements of chapter 120, special meetings, both emergency and nonemergency, may be called either by the ~~ex officio~~ chair or the elected vice chair of the basin board or upon request of two basin board members. The district staff shall include on the agenda of any basin board meeting any item for discussion or action requested by a member of that basin board. The district staff shall notify any basin board, as well as their respective counties, of any vacancies occurring in the district governing board or their respective basin boards.

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of *two* ~~three~~ members from Manatee County and *two* ~~three~~ members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ~~ex officio~~ chair designated by the governing board to vote in case of a tie vote.

(8)(a) At 11:59 p.m. on June 30, 1988, the area transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall cease to be a subdistrict or basin of the St. Johns River Water Management District known as the Oklawaha River Basin and said Oklawaha River Basin shall cease to exist. However, any recognition of an Oklawaha River Basin or an Oklawaha River Hydrologic Basin for regulatory purposes shall be unaffected. The area formerly known as the Oklawaha River Basin shall continue to be part of the St. Johns River Water Management District. ~~There shall be established by the governing board of the St. Johns River Water Management District the Oklawaha River Basin Advisory Council to receive public input and advise the St. Johns River Water Management District's governing board on water management issues affecting the Oklawaha River Basin. The Oklawaha River Basin Advisory Council shall be appointed by action of the St. Johns River Water Management District's governing board and shall include one representative from each county which is wholly or partly included in the Oklawaha River Basin. The St. Johns River Water Management District's governing board member currently serving pursuant to s. 373.073(2)(c)3. shall serve as chair of the Oklawaha River Basin Advisory Council. Members of the Oklawaha River Basin Advisory Council shall receive no compensation for their services but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

Section 5. Paragraph (b) of subsection (1) of section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(1)

(b) Commencing January 1, *2011* ~~1999~~, the Governor shall appoint the following number of governing board members in each year of the Governor's 4-year term of office:

1. In the first year of the Governor's term of office, the Governor shall *appoint four members to the governing board of the Southwest Florida Water Management District and* appoint three members to the governing board of each *other* district.

2. In the second year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.

3. In the third year of the Governor's term of office, the Governor shall appoint three members to the governing board of the Southwest Florida Water Management District and two members to the governing board of each other district.

4. In the fourth year of the Governor's term of office, the Governor shall appoint *three members to the governing board of the Southwest Florida Water Management District and* two members to the governing board of each *other* district.

For any governing board vacancy that occurs before the date scheduled for the office to be filled under this paragraph, the Governor shall appoint a person meeting residency requirements of subsection (2) for a term that will expire on the date scheduled for the term of that office to terminate under this subsection. In addition to the residency requirements for the governing boards as provided by subsection (2), the Governor shall consider appointing governing board members to represent an equitable cross-section of regional interests and technical expertise.

Section 6. Subsections (4) and (7) of section 373.079, Florida Statutes, are amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)(a) The governing board of the district is authorized to employ an executive director, ombudsman, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be initially confirmed by the Florida Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. *However, the governing board shall delegate to the executive director all of its authority to take final action on permit applications under part II or part IV or petitions for variances or waivers of permitting requirements under part II or part IV, except for denials of such actions as provided in s. 373.083(5).The executive director may execute such delegated authority through designated staff members. Such delegations shall not be subject to the rulemaking requirements of chapter 120.* The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election.

(b)1. The governing board of each water management district shall employ an inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

2. An inspector general must have the qualifications prescribed and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

(7) The governing board shall meet at least once a month and upon call of the chair. *The governing board, a basin board, a committee, or an advisory board may conduct meetings by means of communications media technology in accordance with rules adopted pursuant to s. 120.54.*

Section 7. Subsection (5) of section 373.083, Florida Statutes, is amended to read:

373.083 General powers and duties of the governing board.—In addition to other powers and duties allowed it by law, the governing board is authorized to:

(5) Execute any of the powers, duties, and functions vested in the governing board through a member or members thereof, the executive director, or other district staff as designated by the governing board. The governing board may establish the scope and terms of any delegation. *The* ~~However, if the~~ governing board *shall delegate to the executive director all of its* ~~delegates the~~ authority to take final action on permit applications under part II or part IV~~,~~ or petitions for variances or waivers of permitting requirements under part II or part IV*, and the executive director may execute such delegated authority through designated staff. Such delegations shall not be subject to the rulemaking requirements of chapter 120. However*, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take final action. *Such process shall expressly prohibit any member of a governing board from intervening in any manner during the review of an application prior to such application being referred to the governing board for final action.* The authority in this subsection is supplemental to any other provision of this chapter granting authority to the governing board to delegate specific powers, duties, or functions.

Section 8. Present subsection (4) of section 373.118, Florida Statutes, is amended, and subsection (5) of that section is renumbered as subsection (4), to read:

373.118 General permits; delegation.—

~~(4) To provide for greater efficiency, the governing board may delegate by rule its powers and duties pertaining to general permits to the executive director. The executive director may execute such delegated authority through designated staff. However, when delegating the authority to take final action on permit applications under part II or part IV or petitions for variances or waivers of permitting requirements under part II or part IV, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take such final action.~~

Section 9. Subsection (3) of section 373.323, Florida Statutes, is amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets the following requirements shall be entitled to take the *water well contractor* licensure examination ~~to practice water well contracting~~:

(a) Is at least 18 years of age.

(b) Has at least 2 years of experience in constructing, repairing, or abandoning *water* wells. *Satisfactory proof of such experience shall be demonstrated by providing:*

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from three of the following persons:

a. A water well contractor.

b. A water well driller.

c. A water well parts and equipment vendor.

d. A water well inspectors employed by a governmental agency.

2. A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list shall also include:

a. The name and address of the owner or owners of each well.

b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.

c. The approximate date the construction, repair, or abandonment of each well was completed.

(c) Has completed the application form and remitted a nonrefundable application fee.

Section 10. Subsections (6) and (7) are added to section 373.236, Florida Statutes, to read:

373.236 Duration of permits; compliance reports.—

(6)(a) The Legislature finds that the need for alternative water supply development projects to meet anticipated public water supply demands of the state is so important that it is essential to encourage participation in and contribution to these projects by private-rural-land owners who characteristically have relatively modest near-term water demands but substantially increasing demands after the 20-year planning period in s. 373.0361. Therefore, where such landowners make extraordinary contributions of lands or construction funding to enable the expeditious implementation of such projects, water management districts and the department may grant permits for such projects for a period of up to 50 years to municipalities, counties, special districts, regional water supply authorities, multijurisdictional water supply entities, and publicly or privately owned utilities, with the exception of any publicly or privately owned utilities created for or by a private landowner after April 1, 2008, which have entered into an agreement with the private landowner for the purpose of more efficiently pursuing alternative public water supply development projects identified in a district's regional water supply plan and meeting water demands of both the applicant and the landowner.

(b) A permit under paragraph (a) may be granted only for that period for which there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met. Such a permit shall require a compliance report by the permittee every 5 years during the term of the permit. The report shall contain sufficient data to maintain reasonable assurance that the conditions for permit issuance applicable at the time of district review of the compliance report are met. After review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. This subsection does not limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

(7) A permit approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production renewable energy, as defined in s. 366.91(2)(d), shall be granted for a term of at least 25 years at the applicant's request based on the anticipated life of the facility if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit; otherwise, a permit may be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided. Such a permit is subject to compliance reports under subsection (4).

Section 11. Subsection (4) of section 373.243, Florida Statutes, is amended to read:

373.243 Revocation of permits.—The governing board or the department may revoke a permit as follows:

(4) For nonuse of the water supply allowed by the permit for a period of 2 years or more, the governing board or the department may revoke the permit permanently and in whole unless the user can prove that his or her nonuse was due to extreme hardship caused by factors beyond the user's control. *For a permit issued pursuant to s. 373.236(7), the governing board or the department may revoke the permit only if the nonuse of the water supply allowed by the permit is for a period of 4 years or more.*

Section 12. Paragraph (e) of subsection (5) of section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—

(e) By September 5 of the year in which the budget is submitted, the House and Senate appropriations *and appropriate substantive committee* chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

Section 13. Subsection (5) is added to section 373.584, Florida Statutes, to read:

373.584 Revenue bonds.—

(5)(a) The total annual debt service for bonds issued pursuant to this section and s. 373.563 may not exceed 20 percent of the annual ad valorem tax revenues of the water management district, unless approved by the Joint Legislative Budget Commission.

(b) The Joint Legislative Budget Commission is authorized to review the financial soundness of a water management district and determine whether bonds may be issued by a water management district in excess of the limitation provided in paragraph (a).

(c) A water management district may not take any action regarding the issuance of bonds in excess of the limitation of paragraph (a) without prior approval of the Joint Legislative Budget Commission pursuant to joint rules of the House of Representative and the Senate.

(d) Bonds issued and outstanding before January 1, 2009, are exempt from this subsection and shall not be included in the calculation of the limitation of paragraph (a).

(e) This subsection does not affect the validity or enforceability of outstanding revenue bonds.

Section 14. Subsection (10) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(10)(a) Beginning July 1, 1999, not more than one-fourth of the funds provided for in subsections (1) and (8) in any year shall be reserved annually by a governing board, during the development of its annual operating budget, for payments in lieu of taxes for all actual *ad valorem* tax losses incurred as a result of *all* governing board acquisitions for water management *district purposes* ~~districts pursuant to ss. 259.101, 259.105, 373.470, and this section during any year~~. Reserved funds not used for payments in lieu of taxes in any year shall revert to the Water Management Lands Trust Fund to be used in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. To all counties that have a population of 150,000 or fewer. Population levels shall be determined pursuant to s. *186.901* ~~11.031~~. *The population estimates published April 1 and used in the revenue-sharing formula pursuant to s. 186.901 shall be used to determine eligibility under this subsection and shall apply to payments made for the subsequent fiscal year.*

2. To all local governments located in eligible counties and whose lands are bought and taken off the tax rolls.

For properties acquired after January 1, 2000, in the event that such properties otherwise eligible for payment in lieu of taxes under this subsection are leased or reserved and remain subject to ad valorem taxes, payments in lieu of taxes shall commence or recommence upon the expiration or termination of the lease or reservation~~, but in no event shall there be more than a total of 10 annual payments in lieu of taxes for each tax loss~~. If the lease is terminated for only a portion of the lands at any time, the ~~10~~ annual payments shall be made for that portion only commencing the year after such termination, without limiting the requirement that ~~10~~ annual payments shall be made on the remaining portion or portions of the land as the lease on each expires. For the purposes of this subsection, "local government" includes municipalities *and* ~~,~~ the county school board~~, mosquito control districts, and any other local government entity which levies ad valorem taxes~~.

(c) If sufficient funds are unavailable in any year to make full payments to all qualifying counties and local governments, such counties and local governments shall receive a pro rata share of the moneys available.

(d) The payment amount shall be based on the average amount of actual *ad valorem* taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than *May* ~~January~~ 31 of the year *for which payment is sought* ~~following acquisition.~~ No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition.

(e) If property that was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of *ad valorem* taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The water management districts shall certify to the Department of Revenue those properties that may be eligible under this provision. Once eligibility has been established, that governmental entity shall receive annual payments for each tax loss until the qualifying governmental entity exceeds the population threshold pursuant to *paragraph (b)* ~~s. 259.032(12)(b)~~.

(f) Payment in lieu of taxes pursuant to this subsection shall be made annually to qualifying counties and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual *ad valorem* taxes paid on the eligible property, and after the water management districts have provided supporting documents to the Chief Financial Officer and have requested that payment be made in accordance with the requirements of this section. With the assistance of the local government requesting payment in lieu of taxes, the water management district that acquired the land is responsible for preparing and submitting application requests for payment to the Department of Revenue for certification.

(g) If a water management district conveys to a county or local government title to any land owned by the district, any payments in lieu of taxes on the land made to the county or local government shall be discontinued as of the date of the conveyance.

Section 15. Section 373.5905, Florida Statutes, is amended to read:

373.5905 *Reinstatement* ~~Reinstitution~~ of payments in lieu of taxes; duration.—If a water management district has made a payment in lieu of taxes to a governmental entity and subsequently suspended such payment, *beginning July 1, 2009,* the water management district shall *reinstate* ~~reinstitute~~ appropriate payments and continue the payments *for as long as the county population remains below the population threshold pursuant to s. 373.59(10)(b). This section does not authorize or provide for payments in arrears* ~~in consecutive years until the governmental entity has received a total of 10 payments for each tax loss~~.

Section 16. *Sections 373.465 and 373.466, Florida Statutes, are repealed.*

And the title is amended as follows:

Delete lines 2-31 and insert: An act relating to water resources; creating s. 373.0363, F.S.; providing definitions; providing legislative findings and intent; providing criteria for the Southwest Florida Water Management District to meet in implementing the West-Central Florida Water Restoration Action Plan; requiring that the district coordinate with regional water supply authorities and governmental entities to maximize opportunities concerning the efficient expenditure of public funds; specifying the plan's purpose; specifying the initiatives that are included in the plan; providing criteria for implementing the Central West Coast Surface Water Enhancement Initiative, the Facilitating Agricultural Resource Management Systems Initiative, the Ridge Lakes

Restoration Initiative, the Upper Peace River Watershed Restoration Initiative, and the Central Florida Water Resource Development Initiative and certain components or projects included in such initiatives; providing for the Southwest Florida Water Management District to include specified criteria concerning implementation of the plan, regional conditions, and the use of funds in specified annual reports; requiring that the Southwest Florida Water Management District develop and submit a plan to the Legislature; providing for approval of the plan; repealing s. 23, ch. 2008-150, Laws of Florida, relating to a provision prohibiting the Department of Environmental Protection from issuing a permit for certain Class I landfills; reenacting s. 373.069, F.S., relating to the creation of the water management districts, pursuant to the provisions of the Florida Government Accountability Act; amending s. 373.0693, F.S.; limiting the period of time a basin board member may serve after the end of a term; reducing the number of members on the Manasota Basin Board; eliminating the Oklawaha River Basin Advisory Council; removing ex officio designation of basin board chairs; removing a restriction on the voting authority of the chair; amending s. 373.073, F.S.; revising the membership of water management district governing boards; providing for appointment of members commencing on a specified date; amending s. 373.079, F.S.; requiring a water management district's governing board to delegate to the executive director its authority to approve certain permits or grant variances or waivers of permitting requirements; authorizing the executive director to execute such delegated authority through designated staff members; providing that such delegations are exempt from specified rulemaking requirements; authorizing water management district governing boards, basin boards, committees, and advisory boards to conduct meetings by means of communications media technology; amending s. 373.083, F.S.; requiring water management district governing boards to delegate to the water management district's executive director authority to approve certain permits or grant variances or waivers of permitting requirements; authorizing the executive director to execute such delegated authority through designated staff members; providing that such delegations are exempt from specified rulemaking requirements; amending s. 373.118, F.S.; removing provisions authorizing water management district governing boards to delegate authority to issue general permits to the executive director; amending s. 373.323, F.S.; revising application requirements for water well contractor licensure; requiring applicants to provide specified documentation; amending s. 373.236, F.S.; authorizing water management districts to issue 50-year consumptive use permits to specified entities for certain alternative water supply development projects; providing for compliance reporting and review, modification, and revocation relating to such permits; authorizing 25-year consumptive use permits for renewable energy generating facilities and specified lands used in the production of renewable energy under certain conditions; providing that such permits are subject to compliance reports; amending s. 373.243, F.S.; providing for the revocation of certain consumptive use permits for renewable energy generating facilities and specified lands used in the production of renewable energy; amending s. 373.536, F.S.; authorizing substantive legislative committee chairs to provide input on proposed water management district budgets; amending s. 373.584, F.S.; providing a limitation on certain bonding for water management districts; authorizing the Joint Legislative Budget Commission to approve bonding exceeding such limitation; exempting certain outstanding bonds from such limitation and its calculation; amending s. 373.59, F.S.; expanding water management district lands eligible to receive payment in lieu of taxes; revising the method used to determine eligibility for such payment; amending s. 373.5905, F.S.; providing conditions for reinstatement of payments in lieu of taxes and their duration; repealing s. 373.465, F.S., to eliminate the Lake Panasoffkee Restoration Council; repealing s. 373.466, F.S., to eliminate the Lake Panasoffkee restoration program; providing an effective

MOTION

On motion by Senator Baker, the rules were waived to allow the following amendment to be considered:

Senator Baker moved the following amendment:

Amendment 2 (536382) (with title amendment)—Between lines 211-212 insert:

Section 3. Section 373.185, Florida Statutes, is amended to read:

373.185 Local *Florida-friendly landscaping* ~~Xeriscape~~ ordinances.—

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

(a) "Local government" means any county or municipality of the state.

(b) ~~"Xeriscape" or~~ "Florida-friendly *landscaping* ~~landscape~~" means quality landscapes that conserve water*,* ~~and~~ protect the environment*,* ~~and~~ are adaptable to local conditions*,* and ~~which~~ are drought tolerant. The principles of *such landscaping* ~~Xeriscape~~ include *planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape* planning and design, ~~appropriate choice of plants,~~ soil analysis*,* ~~which may include~~ the *appropriate* use of solid waste compost, *minimizing the use of* ~~efficient~~ irrigation, ~~practical use of turf, appropriate use of mulches,~~ and proper maintenance.

(2) Each water management district shall design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require *Florida-friendly* ~~Xeriscape~~ landscaping for development permitted after the effective date of the new ordinance or amendment. ~~Each district shall adopt rules governing the implementation of its incentive program and governing the review and approval of local government Xeriscape ordinances or amendments which are intended to qualify a local government for the incentive program.~~ Each district shall assist the local governments within its jurisdiction by providing a model *Florida-friendly landscaping ordinance* ~~Xeriscape code~~ and other technical assistance. *Each district may develop its own model or use a model contained in the "Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions" manual developed by the department. To qualify for a district's incentive program,* a local government ~~Xeriscape~~ ordinance or amendment~~, in order to qualify the local government for a district's incentive program,~~ must include, at a minimum:

(a) Landscape design, installation, and maintenance standards that result in water conservation *and water quality protection or restoration*. Such standards *must* ~~shall~~ address the use of plant groupings, soil analysis including the promotion of the use of solid waste compost, efficient irrigation systems, and other water-conserving practices.

(b) Identification of prohibited invasive exotic plant species *consistent with s. 581.091.*

(c) Identification of controlled plant species, accompanied by the conditions under which such plants may be used.

(d) A provision specifying the maximum percentage of *irrigated* turf and ~~the maximum percentage of~~ impervious surfaces allowed in a *Florida-friendly landscaped* ~~xeriscaped~~ area and addressing the practical selection and installation of turf.

(e) Specific standards for land clearing and requirements for the preservation of existing native vegetation.

(f) A monitoring program for ordinance implementation and compliance.

(3) Each water management district shall also ~~The districts also shall~~ work with *the department,* local governments*, county extension agents or offices, nursery and landscape industry groups, and other interested stakeholders* to promote, through educational programs*,* ~~and~~ publications, *and other district activities authorized under this chapter,* the use of *Florida-friendly landscaping* ~~Xeriscape~~ practices, including the use of solid waste compost, in ~~existing~~ residential and commercial development. *In conducting these activities, each district shall use the materials developed by the department, the Institute of Food and Agricultural Sciences at the University of Florida, and the Center for Landscape Conservation and Ecology Florida-Friendly Landscaping program, including, but not limited to, the Florida Yards and Neighborhoods Program for homeowners, the Florida Yards and Neighborhoods Builder Developer Program for developers, and the Green Industries Best Management Practices Program for landscaping professionals. Each district may develop supplemental materials as appropriate to address the physical and natural characteristics of the district. The districts shall coordinate with the department and the Institute of Food and Agricultural Sciences at the University of Florida if revisions to the educational ma-*

terials are needed. ~~This section may not be construed to limit the authority of the districts to require Xeriscape ordinances or practices as a condition of any consumptive use permit.~~

(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to state's efforts in water conservation and water quality protection and restoration.

(b) ~~(3)~~ A deed restriction or covenant ~~entered after October 1, 2001, or local government ordinance~~ may not prohibit *or be enforced so as to prohibit* any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~ on his or her land *or create any requirement or limitation in conflict with any provision of part II of this chapter or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of this chapter.*

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

(4) This section does not limit the authority of the department or the water management districts to require Florida-friendly landscaping ordinances or practices as a condition of any permit issued under this chapter.

Section 4. Section 373.187, Florida Statutes, is created to read:

373.187 Water management district implementation of Florida-friendly landscaping.—Each water management district shall use Florida-friendly landscaping, as defined in s. 373.185, on public property associated with buildings and facilities owned by the district and constructed after June 30, 2009. Each district shall also develop a 5-year program for phasing in the use of Florida-friendly landscaping on public property associated with buildings or facilities owned by the district and constructed before July 1, 2009.

Section 5. Section 373.228, Florida Statutes, is amended to read:

373.228 Landscape irrigation design.—

(1) The Legislature finds that multiple areas throughout the state have been identified by water management districts as water resource caution areas, which indicates that in the near future water demand in those areas will exceed the current available water supply and that conservation is one of the mechanisms by which future water demand will be met.

(2) The Legislature finds that landscape irrigation comprises a significant portion of water use and that ~~the~~ current typical landscape irrigation *systems* ~~system~~ and *Florida-friendly landscaping* ~~xeriscape~~ designs offer significant potential water conservation benefits.

(3) It is the intent of the Legislature to improve landscape irrigation water use efficiency by ensuring that landscape irrigation systems meet or exceed minimum design criteria.

(4) The water management districts shall work with the Florida *Nursery,* ~~Nurserymen and~~ Growers *and Landscape* Association, *the Florida Native Plant Society,* the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Department of Agriculture and Consumer Services, the Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the Department of Transportation, the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Community Developers to develop landscape irrigation and *Florida-friendly landscaping* ~~xeriscape~~ design standards for new construction which incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping. The ~~landscape and irrigation design~~ standards shall be based on the irrigation code defined in the Florida Building Code, Plumbing Volume, Appendix F. Local governments shall use the standards and guidelines when developing landscape irrigation and *Florida-friendly landscaping* ~~xeriscape~~ ordinances. By January 1, 2011, the agencies and entities specified in this subsection shall review the standards and guidelines to determine whether new research findings require a change or modification of the standards and guidelines.

(5) In evaluating water use applications from public water suppliers, water management districts shall consider whether the applicable local government has adopted ordinances for landscaping and irrigation systems consistent with the Florida-friendly landscaping provisions of s. 373.185.

Section 6. Subsection (3) of section 373.323, Florida Statutes, is amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets the following requirements *is* ~~shall be~~ entitled to take the *water well contractor* licensure examination ~~to practice water well contracting~~:

(a) Is at least 18 years of age.

(b) Has at least 2 years of experience in constructing, repairing, or abandoning *water* wells. *Satisfactory proof of such experience is demonstrated by providing:*

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from three of the following persons:

a. A water well contractor.

b. A water well driller.

c. A water well parts and equipment vendor.

d. A water well inspector employed by a governmental agency.

2. A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list must also include:

a. The name and address of the owner or owners of each well.

b. The location, primary use, and approximate depth and diameter of each well.

c. The approximate date the construction, repair, or abandonment of each well was completed.

(c) Has completed the application form and remitted a nonrefundable application fee.

Section 7. Subsection (8) of section 373.333, Florida Statutes, is amended to read:

373.333 Disciplinary guidelines; adoption and enforcement; license suspension or revocation.—

(8) The water management district may impose through an order an administrative fine not to exceed $5,000 *per occurrence* against an unlicensed person *if* ~~when~~ it determines that the unlicensed person has engaged in the practice of water well contracting~~,~~ for which a license is required.

Section 8. Section 125.568, Florida Statutes, is amended to read:

125.568 Conservation of water; *Florida-friendly landscaping* ~~Xeriscape~~.—

(1)(a) The Legislature finds that *Florida-friendly landscaping* ~~Xeriscape~~ contributes to the conservation*, protection, and restoration* of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that *Florida-friendly landscaping* ~~Xeriscape~~ be an essential part of water conservation *and water quality protection and restoration* planning.

(b) *As used in this section,* ~~"Xeriscape" or~~ "Florida-friendly *landscaping" has the same meaning as in s. 373.185* ~~landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.~~

(2) The board of county commissioners of each county shall consider enacting ordinances*, consistent with s. 373.185,* requiring the use of *Florida-friendly landscaping* ~~Xeriscape~~ as a water conservation *or water quality protection or restoration* measure. If the board determines that *such landscaping* ~~Xeriscape~~ would be of significant benefit as a water conservation *or water quality protection or restoration* measure*, especially for waters designated as impaired pursuant to s. 403.067,* relative to the cost to implement *Florida-friendly* ~~Xeriscape~~ landscaping in its area of jurisdiction, the board shall enact a *Florida-friendly landscaping* ~~Xeriscape~~ ordinance. Further, the board of county commissioners shall consider promoting *Florida-friendly landscaping* ~~Xeriscape~~ as a water conservation *or water quality protection or restoration* measure by: using *such landscaping* ~~Xeriscape~~ in *any*~~, around, or near facilities, parks, and other common~~ areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on *Florida-friendly landscaping* ~~Xeriscape~~, its uses *in increasing* ~~as a~~ water conservation *and water quality protection or restoration* ~~tool~~, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement *Florida-friendly* ~~Xeriscape~~ landscaping.

(3)*(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.*

(b) A deed restriction or covenant ~~entered after October 1, 2001, or local government ordinance~~ may not prohibit *or be enforced so as to prohibit* any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~ on his or her land *or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.*

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

Section 9. Section 166.048, Florida Statutes, is amended to read:

166.048 Conservation of water; *Florida-friendly landscaping* ~~Xeriscape~~.—

(1)(a) The Legislature finds that *Florida-friendly landscaping* ~~Xeriscape~~ contributes to the conservation*, protection, and restoration* of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that *Florida-friendly landscaping* ~~Xeriscape~~ be an essential part of water conservation *and water quality protection and restoration* planning.

(b) *As used in this section,* ~~"Xeriscape" or~~"Florida-friendly *landscaping" has the same meaning as in s. 373.185* ~~landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.~~

(2) The governing body of each municipality shall consider enacting ordinances*, consistent with s. 373.185,* requiring the use of *Florida-friendly landscaping* ~~Xeriscape~~ as a water conservation *or water quality protection or restoration* measure. If the governing body determines that *such landscaping* ~~Xeriscape~~ would be of significant benefit as a water conservation *or water quality protection or restoration* measure*, especially for waters designated as impaired pursuant to s. 403.067,* relative to the cost to implement *Florida-friendly* ~~Xeriscape~~ landscaping in its area of jurisdiction in the municipality, the *governing body* ~~board~~ shall enact a *Florida-friendly landscaping* ~~Xeriscape~~ ordinance. Further, the governing body shall consider promoting *Florida-friendly landscaping* ~~Xeriscape~~ as a water conservation *or water quality protection or restoration* measure by: using *such landscaping* ~~Xeriscape~~ in *any*~~, around, or near facilities, parks, and other common~~ areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on *Florida-friendly landscaping* ~~Xeriscape~~, its uses *in increasing* ~~as a~~ water conservation *and water quality protection or restoration* ~~tool~~, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement *Florida-friendly* ~~Xeriscape~~ landscaping.

(3)*(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.*

(b) A deed restriction or covenant ~~entered after October 1, 2001, or local government ordinance~~ may not prohibit *or be enforced so as to prohibit* any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~ on his or her land *or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.*

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

Section 10. Section 255.259, Florida Statutes, is amended to read:

255.259 *Florida-friendly* ~~Xeriscape~~ landscaping on public property.—

(1) The Legislature finds that water conservation *and water quality protection and restoration are* ~~is~~ increasingly critical to the continuance of an adequate water supply *and healthy surface and ground waters* ~~for the citizens of this state~~. The Legislature further finds that "*Florida-friendly landscaping* ~~Xeriscape~~," as defined in s. 373.185, can contribute significantly to *water* ~~the~~ conservation *and* ~~of~~ water *quality protection and restoration*. Finally, the Legislature finds that state government has the responsibility to promote *Florida-friendly landscaping* ~~Xeriscape~~ as a water conservation *and water quality protection and restoration* measure by using *such landscaping* ~~Xeriscape~~ on public property associated with publicly owned buildings or facilities.

(2) As used in this section, "publicly owned buildings or facilities" means ~~those~~ construction projects under the purview of the Department of Management Services. *The term* ~~It~~ does not include environmentally endangered land or roads and highway construction under the purview of the Department of Transportation.

(3) The Department of Management Services, in consultation with the Department of Environmental Protection, shall adopt rules and guidelines for the required use of *Florida-friendly landscaping* ~~Xeriscape~~ on public property associated with publicly owned buildings or facilities constructed after June 30, *2009* ~~1992~~. The Department of Management Services ~~also~~ shall *also* develop a 5-year program for phasing in the use of *Florida-friendly landscaping* ~~Xeriscape~~ on public property associated with publicly owned buildings or facilities constructed before July 1, *2009* ~~1992~~. In accomplishing these tasks, the Department of Management Services shall take into account the *standards provided in* ~~guidelines set out in~~ s. 373.185~~(2)(a)-(f)~~. The Department of Transportation shall implement *Florida-friendly* ~~Xeriscape~~ landscaping pursuant to s. 335.167.

(4)*(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.*

(b) A deed restriction or covenant ~~entered after October 1, 2001, or local government ordinance~~ may not prohibit *or be enforced so as to*

prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~ on his or her land *or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.*

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

Section 11. Section 335.167, Florida Statutes, is amended to read:

335.167 State highway construction and maintenance; ~~Xeriscape or~~ Florida-friendly landscaping.—

(1) The department shall use and require the use of *Florida-friendly landscaping* ~~Xeriscape~~ practices, as defined in s. 373.185~~(1)~~, in the construction and maintenance of all new state highways, wayside parks, access roads, welcome stations, and other state highway rights-of-way constructed upon or acquired after June 30, *2009* ~~1992~~. The department shall develop a 5-year program for phasing in the use of *Florida-friendly landscaping* ~~Xeriscape~~, including the use of solid waste compost, in state highway rights-of-way constructed upon or acquired before July 1, *2009* ~~1992~~. In accomplishing these tasks, the department shall employ the *standards* ~~guidelines~~ set out in s. 373.185~~(2)(a) (f)~~.

(2)*(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.*

(b) A deed restriction or covenant ~~entered after October 1, 2001, or local government ordinance~~ may not prohibit *or be enforced so as to prohibit* any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~ on his or her land *or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.*

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

Section 12. Paragraph (a) of subsection (3) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements *if* ~~which is~~ applicable to the site of a qualified development:

1. *Donate or enter* ~~Have donated or entered~~ into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of *this* ~~the above~~ requirement, the developer may enter into a binding commitment *that* ~~which~~ runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for ~~the purpose of~~ passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state *which* ~~as~~ would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities *if* ~~to the extent that~~ such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created~~,~~ if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened ~~animal species~~ by the United States Fish and Wildlife Service or by the Fish and Wildlife Conservation Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered ~~plant species~~ by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency*,* ~~or by~~ the Department of Environmental Protection*,* or the Department of Agriculture and Consumer Services. This subparagraph *does* ~~is~~ not ~~intended to~~ apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as ~~activities in those waters are~~ permitted pursuant to s. 403.813(2)*,* and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, *Florida-friendly landscaping* ~~Xeriscape~~ as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts *that* ~~which~~ the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, *are* ~~will be~~ available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Section 13. Subsection (3) of section 388.291, Florida Statutes, is amended to read:

388.291 Source reduction measures; supervision by department.—

(3) Property owners in a developed residential area *shall* ~~are required to~~ maintain their property in ~~such~~ a manner *that does* ~~so as~~ not ~~to~~ create or maintain any standing freshwater condition capable of breeding mosquitoes or other arthropods in significant numbers so as to constitute a public health, welfare, or nuisance problem. ~~Nothing in~~ This subsection *does not authorize* ~~shall permit~~ the alteration of permitted stormwater management systems or prohibit maintained fish ponds, *Florida-friendly landscaping* ~~xeriscaping~~, or other maintained systems of landscaping or vegetation. If such a condition is found to exist, the local arthropod control agency shall serve notice on the property owner to treat, remove, or abate the condition. Such notice *is* ~~shall serve as~~ prima facie evidence of maintaining a nuisance, and upon failure of the property owner to treat, remove, or abate the condition, the local arthropod control agency or any affected citizen may proceed pursuant to s.

60.05 to enjoin the nuisance and may recover costs and attorney's fees if they prevail in the action.

Section 14. Subsection (6) of section 481.303, Florida Statutes, is amended to read:

481.303 Definitions.—As used in this chapter:

(6) "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of *Florida-friendly landscaping* ~~Xeriscape~~ as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

Section 15. Subsection (4) of section 720.3075, Florida Statutes, is amended to read:

720.3075 Prohibited clauses in association documents.—

(4)*(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.*

(b) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, ~~entered after October 1, 2001,~~ may not prohibit *or be enforced so as to prohibit* any property owner from implementing ~~Xeriscape or~~ Florida-friendly *landscaping* ~~landscape~~, as defined in s. 373.185~~(1)~~, on his or her land *or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.*

And the title is amended as follows:

Delete line 31 and insert: certain Class I landfills; amending s. 373.185, F.S.; revising the definition of Florida-friendly landscaping; deleting references to "xeriscape"; requiring water management districts to provide model Florida-friendly landscaping ordinances to local governments; revising eligibility criteria for certain incentive programs of the water management districts; requiring certain local government ordinances and amendments to include certain design standards and identify specified invasive exotic plant species; requiring water management districts to consult with additional entities for activities relating to Florida-friendly landscaping practices; specifying programs for the delivery of educational programs relating to such practices; providing legislative findings; providing that certain regulations prohibiting the implementation of Florida-friendly landscaping or conflicting with provisions governing the permitting of consumptive uses of water are prohibited; providing that the act does not limit the authority of the department or the water management districts to require Florida-friendly landscaping ordinances or practices as a condition of certain permit; creating s. 373.187, F.S.; requiring water management districts to implement Florida-friendly landscaping practices on specified properties; requiring districts to develop specified programs for implementing such practices on other specified properties; amending s. 373.228, F.S.; requiring water management districts to work with specified entities to develop certain standards; requiring water management districts to consider certain information in evaluating water use applications from public water suppliers; conforming provisions to changes made by the act; amending s. 373.323, F.S.; revising application requirements for water well contractor licensure; requiring applicants to provide specified documentation; amending s. 373.333, F.S.; authorizing an administrative fine to be imposed for each occurrence of unlicensed well water contracting; amending ss. 125.568, 166.048, 255.259, 335.167, 380.061, 388.291, 481.303, and 720.3075, F.S.; conforming provisions to changes made by the act; revising provisions requiring the use of Florida-friendly landscaping for specified public properties and highway construction and maintenance projects; providing an effective

MOTION

On motion by Senator Baker, the rules were waived to allow the following amendment to be considered:

Senator Baker moved the following amendment to **Amendment 2** which was adopted by two-thirds vote:

Amendment 2A (636638) (with title amendment)—Delete lines 168-200.

And the title is amended as follows:

Delete lines 611-613 and insert: to changes made by the act;

Amendment 2 as amended was adopted by two-thirds vote.

On motion by Senator Alexander, **SB 2080** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

CS for SB 746—A bill to be entitled An act relating to direct-support organizations; creating s. 430.82, F.S.; authorizing the Department of Elderly Affairs to create a direct-support organization; providing definitions; providing for appointment of members to the board of directors; providing requirements for membership to the board of directors; requiring the direct-support organization to operate under a contract; providing contract requirements; authorizing the department to use its property, facilities, and personal services for the direct-support organization; requiring the Secretary of Elderly Affairs to approve of any transaction or agreement between the department's direct-support organization and any other direct-support organization; requiring the direct-support organization to submit certain forms from the Internal Revenue Service to the department; requiring the direct-support organization to provide an annual financial audit; amending s. 272.135, F.S.; providing that the Capitol Curator may assist in raising funds and making expenditures for the Historic Capitol; creating s. 272.136, F.S.; authorizing the Legislative Research Center and Museum and the Capitol Curator to establish a direct-support organization; providing for the appointment of members of a board of directors; providing for board use of capitol property; requiring the organization to be not for profit; authorizing the center and curator to prescribe all conditions for the organization; providing for the reversion of the organization's funds; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Fasano, the rules were waived to allow the following amendment to be considered:

Senator Fasano moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (785448)—Delete line 48 and insert: *under chapter 617,*

MOTION

On motion by Senator Crist, the rules were waived to allow the following amendment to be considered:

Senator Crist moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (302358) (with title amendment)—Between lines 204 and 205 insert:

Section 4. Section 817.36, Florida Statutes, is amended to read:

817.36 Resale of tickets.—

(1) A person or entity that offers ~~Whoever shall offer~~ for resale or *resells* ~~resell~~ any ticket may ~~only~~ charge *only* $1 above the admission price charged therefor by the original ticket seller of *the* ~~said~~ ticket for the following transactions:

(a) ~~(1)~~ Passage or accommodations on any common carrier in this state. ~~;~~ However, ~~the provisions of~~ this *paragraph does* ~~subsection shall~~ not apply to travel agencies that have an established place of business in this state, ~~which place of business~~ is required to pay state, county, and city occupational license taxes.

(b) ~~(2)~~ Multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

(c) Event tickets originally issued by a charitable organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code for which no more than 3,000 tickets are issued per performance. The charitable organization must issue event tickets with the following statement conspicuously printed on the face or back of the ticket: "Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than $1 over the original admission price." This paragraph does not apply to tickets issued or sold by a third party contractor ticketing services provider on behalf of a charitable organization otherwise included in this paragraph unless the required disclosure is printed on the ticket.

(d) ~~(3)~~ Any tickets, other than the tickets in *paragraph (a), paragraph (b), or paragraph (c)* ~~subsections (1) and (2)~~, that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

1. ~~(a)~~ The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

a. ~~1.~~ The ticketed event is canceled;

b. ~~2.~~ The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;

c. ~~3.~~ The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

2. ~~(b)~~ The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

(2) ~~(4)~~ ~~Nothing in~~ This section *does not authorize* ~~authorizes~~ any individual or entity to sell or purchase tickets at any price on property where an event is being held without the prior express written consent of the owner of the property.

(3) ~~(5)~~ Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04.

(4) A person who knowingly resells a ticket or tickets in violation of this section is liable to the state for a civil penalty equal to treble the amount of the price for which the ticket or tickets were resold.

(5) A person who intentionally uses or sells software to circumvent on a ticket seller's Internet website a security measure, an access control system, or any other control or measure that is used to ensure an equitable ticket-buying process is liable to the state for a civil penalty equal to treble the amount for which the ticket or tickets were sold.

(6) As used in this section, the term "software" means computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

And the title is amended as follows:

Delete line 31 and insert: organization's funds; amending s. 817.36, F.S.; limiting the amount above the original price for which an event ticket issued by charitable organizations at certain venues may be sold; providing for notice to be included on the ticket; providing an exception; providing for a civil penalty equal to treble the amount for which tickets were sold in violation of the law; prohibiting the use of computer software to circumvent a ticket seller's website security measures, access control systems, or other controls or measures used to ensure an equitable ticket-buying process; providing penalties; defining the term "software"; providing an effective date.

On motion by Senator Fasano, **CS for SB 746** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Ring
Bullard	Haridopolos	Siplin
Constantine	Hill	Smith
Crist	Jones	Sobel
Dean	Joyner	Storms
Detert	Justice	Villalobos
Deutch	King	Wilson
Diaz de la Portilla	Lawson	Wise
Dockery	Lynn	

Nays—None

Vote after roll call:

Yea—Richter

CS for SB 538—A bill to be entitled An act relating to publicly funded retirement programs; amending s. 121.4501, F.S.; requiring the Trustees of the State Board of Administration to identify and offer at least one terror-free investment product to the Public Employee Optional Retirement Program by a certain date; amending s. 121.591, F.S.; conforming a cross-reference; amending s. 175.032, F.S.; redefining the terms "credible service" and "firefighter"; amending s. 175.061, F.S.; authorizing the terms of office for the board of trustees of the firefighters' pension trust fund to be revised under certain circumstances; authorizing the firefighters' pension trust fund plan administrator to withhold funds to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents; providing an exemption from liability under certain circumstances; amending s. 175.071, F.S.; requiring the board of trustees to perform its powers subject to certain

fiduciary standards and ethics provisions; increasing the percentage of assets of the firefighters' pension trust fund that the board of trustees may invest in foreign securities on a market-value basis; authorizing certain individuals to sign drafts issued providing that investment caps on foreign securities may only be amended, repealed, or increased by an act of the Legislature; authorizing certain individuals to sign drafts issued upon the firefighters' pension trust fund; requiring the board of trustees to identify and divest the fund of any scrutinized companies by a certain date; amending s. 175.101, F.S.; clarifying boundaries of a special fire control district for purposes of assessment and imposition of the excise tax on property insurance premiums; amending s. 175.171, F.S.; authorizing retired firefighters to change their designation of joint annuitant or beneficiary up to two times without the approval of the board of trustees or the prior joint annuitant or beneficiary; conforming provisions relating to joint pensioner or beneficiary to reflect joint annuitant or beneficiary; amending s. 175.361, F.S.; revising fund distribution procedures with respect to plan termination; providing that the Department of Management Services shall effect the termination of the fund; amending s. 185.02, F.S.; redefining the term "creditable service" for purposes of determining credit for prior service as a police officer; amending s. 185.05, F.S.; revising municipal police officers' retirement trust fund board of trustee selection procedures; authorizing the terms of office for the board of trustees of the municipal police officers' retirement trust fund to be revised under certain circumstances; authorizing the plan administrator to withhold funds to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents; providing an exemption from liability under certain circumstances; amending s. 185.06, F.S.; requiring the board of trustees to perform its powers subject to certain fiduciary standards and ethics provisions; increasing the percentage of assets of the municipal police officers' retirement trust fund that the board of trustees may invest in foreign securities on a market-value basis; providing that the investment cap on foreign securities may only be amended, repealed, or increased by an act of the Legislature; authorizing certain individuals to sign drafts issued upon the municipal police officers' retirement trust fund; requiring the board of trustees to identify and divest the fund of any scrutinized companies by a date certain; amending s. 185.161, F.S.; authorizing retired police officers to change their designation of joint annuitant or beneficiary up to two times without the approval of the board of trustees or the prior joint annuitant or beneficiary; conforming provisions relating to joint pensioner or beneficiary to reflect joint annuitant or beneficiary; amending s. 185.37, F.S.; revising fund distribution procedures with respect to plan termination; providing that the Department of Management Services shall effect the termination of the fund; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Baker, **CS for SB 538** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Sobel
Dean	Joyner	Storms
Detert	Justice	Villalobos
Deutch	King	Wilson
Diaz de la Portilla	Lawson	Wise
Dockery	Lynn	

Nays—None

Consideration of **CS for CS for CS for SB 1154** was deferred.

CS for CS for HB 7031—A bill to be entitled An act relating to economic development; amending s. 11.905, F.S.; revising the schedule for reviewing state agencies and advisory committees; adding the Office of Tourism, Trade, and Economic Development and certain partners and offices of such office to the list of agencies to be reviewed by July 1, 2010; revising the date by which the office must submit an agency report to the Legislature; amending ss. 166.231 and 220.15, F.S.; revising industry code designations; providing a definition; amending s. 212.05, F.S.; extending the time nonresident purchasers have to remove a boat from the state after purchase; providing for an extension decal to be issued by a dealer; imposing a decal cost; revising industry code designations; amending s. 212.097, F.S.; revising review and certification requirements for Urban High-Crime Area Job Tax Credit Program applications; amending s. 212.098, F.S.; revising the definition of the term "qualified area"; amending s. 220.191, F.S.; specifying a review and certification requirement for capital investment tax credit applications; creating s. 288.061, F.S.; providing requirements and procedures for an economic development incentive application process; providing time periods and requirements for certification for economic development incentive applications; providing duties and responsibilities of Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development; amending s. 288.063, F.S.; revising required criteria for review and certification of transportation projects by the Office of Tourism, Trade, and Economic Development; amending s. 288.065, F.S.; revising county population criteria for loans from the Rural Community Development Revolving Loan Fund; amending s. 288.0655, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to award grants for a certain percentage of total infrastructure project costs for certain catalyst site funding applications; expanding eligible facilities for authorized infrastructure projects; providing for waiver of the local matching requirement; specifying a review and certification requirement for the office for certain Rural Infrastructure Fund grant applications; amending s. 288.0656, F.S.; providing legislative intent; revising and providing definitions; providing additional review and action requirements for the Rural Economic Development Initiative relating to rural communities; revising representation on the initiative; deleting a limitation on characterization as a rural area of critical economic concern; authorizing the Governor to designate a portion of the state as an additional rural area of critical economic concern; authorizing rural areas of critical economic concern to designate certain catalyst projects for certain purposes; providing project requirements; requiring the initiative to assist local governments with certain comprehensive planning needs; providing procedures and requirements for such assistance; revising certain reporting requirements for the initiative; amending s. 288.06561, F.S., conforming cross-references; amending s. 288.0657, F.S.; revising the definition of the term "rural community"; amending s. 288.1045, F.S.; revising provisions relating to the application and refund process for the qualified defense contractor tax refund program; specifying a review and certification requirement for program refunds; revising the cap on refunds per applicant; deleting a report requirement; amending s. 288.106, F.S.; revising and providing definitions; including targeted industry zones under the tax refund program for qualified target industry businesses; revising industry code designation requirements for the program; revising program application and approval process provisions; specifying a review and certification requirement for program applications; revising tax refund agreement requirements; revising an economic-stimulus exemption request provision; extending a final date for exemption requests; extending a certification expiration provision; amending s. 288.107, F.S.; revising criteria for businesses eligible for brownfield redevelopment bonus refunds; providing an additional criterion for participation in brownfield redevelopment bonus refunds; specifying a review and certification requirement for brownfield redevelopment bonus refund applications; amending s. 288.108, F.S.; specifying a review and certification requirement for applications for high-impact business performance grants; deleting certain final order and report requirements; amending s. 288.1088, F.S.; specifying a review requirement for Quick Action Closing Fund project applications; providing a time period for the director to recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund; amending s. 288.1089, F.S.; including alternative and renewable energy projects under the Innovation Incentive Program; revising and providing definitions; revising applicant review and qualification criteria; authorizing reduction or waiver of certain matching requirements in certain areas; revising Enterprise Florida, Inc., proposal evaluation requirements; specifying additional evaluation criteria for alternative and renewable energy proposals; deleting an evaluation and recommendation requirement for the Florida Energy and Climate Commission for certain proposals; revising requirements and criteria for agreements to award and receive incentive funds; providing additional agreement requirements; revising award performance reporting requirements; requiring award recipients to

comply with certain business ethics standards; requiring the Office of Tourism, Trade, and Economic Development to submit annual reports to the Governor and Legislature on program grant recipients' activities; requiring the Office of Program Policy Analysis and Government Accountability to submit triennial reports evaluating the program; creating s. 288.10895, F.S.; providing requirements and procedures for and limitations on transfers of economic development incentives; providing definitions; providing for the amount of the incentive that may be transferred; providing conditions for use of transferred incentives; providing a limitation on the number of transfers; providing eligibility of transfers; providing for recovery of transfers under certain circumstances; providing certain agency rulemaking authority; amending s. 288.9622, F.S.; revising legislative intent for the Florida Capital Formation Act; amending s. 288.9624, F.S.; expanding the types of investments that may be made by the Florida Opportunity Fund; providing a limitation on the funds that may be used in making investments; establishing authority for certain actions to be taken to use public and private funds; revising a report requirement; amending s. 380.06, F.S.; exempting certain nonresidential developments and catalyst sites from development of regional impact requirements under certain circumstances; amending ss. 257.193, 288.019, and 627.6699, F.S.; conforming cross-references; providing an effective date.

—as amended April 29 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Garcia, the rules were waived and the Senate reconsidered the vote by which **Amendment 1 (837800)** was adopted April 29.

MOTION

On motion by Senator Garcia, the rules were waived to allow the following amendment to be considered:

Senator Garcia moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1A (787708)—Between lines 758 and 759 insert:

Section 6. Paragraph (b) of subsection (5) of section 220.15, Florida Statutes, is amended to read:

220.15 Apportionment of adjusted federal income.—

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier. However, for industries in *NAICS National* ~~SIC Industry~~ Number *311411* ~~2037~~, if the ultimate destination of the product is to a location outside this state, regardless of the method of shipment or f.o.b. point, the sale shall not be deemed to occur in this state. *As used in this paragraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.*

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Garcia, **CS for CS for HB 7031** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

CS for HB 7043—A bill to be entitled An act relating to a review under the Open Government Sunset Review Act regarding Scripps Florida Funding Corporation; amending s. 288.955, F.S.; clarifying the definition of "grantee"; amending s. 288.9551, F.S.; narrowing the public records exemption for specified information held by the Scripps Florida Funding Corporation and the public meetings exemption for portions of meetings of the board of directors of the corporation at which confidential and exempt information is discussed; removing the Office of Tourism, Trade, and Economic Development from the public records and public meetings exemptions; reorganizing and conforming provisions; making editorial changes; removing superfluous language; providing a penalty; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing an effective date.

—was read the third time by title.

On motion by Senator Garcia, **CS for HB 7043** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Aronberg	Garcia	Rich
Baker	Gardiner	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Constantine	Jones	Smith
Crist	Joyner	Sobel
Dean	Justice	Storms
Detert	King	Villalobos
Deutch	Lawson	Wilson
Diaz de la Portilla	Lynn	Wise
Dockery	Oelrich	

Nays—1

Gelber

The Senate resumed consideration of—

CS for HB 1471—A bill to be entitled An act relating to health care; amending s. 154.503, F.S.; conforming a cross-reference; repealing s. 381.0053, F.S., relating to a comprehensive nutrition program; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion; repealing ss. 381.732, 381.733, and 381.734, F.S., relating to the Healthy Communities, Healthy People Act; amending s. 381.006, F.S.; requiring the Department of Health, when conducting an environmental health program inspection of a certified domestic violence center and certain residential child-caring agencies to limit the inspection of the domestic violence center or residential child-caring agency to the requirements set

forth in the department's rules applicable to community-based residential facilities with five or fewer residents; requiring a report to the Governor and Legislature prior to proceeding with nitrogen reduction activities; ; amending s. 381.0072, F.S.; requiring the Department of Health, when conducting a food service inspection of a certified domestic violence center to limit the inspection of the domestic violence center to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; requiring the department to establish and maintain certain pharmacy services program; transferring, renumbering, and amending s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising definitions; revising program components; requiring program components to include efforts to educate youth and their parents about tobacco use; requiring a youth- directed focus in each program component; deleting an obsolete provision relating to the AHEC smoking-cessation initiative; requiring the Tobacco Education and Use Prevention Advisory Council to adhere to state ethics laws; providing that meetings of the council are subject to public-records and public-meetings requirements; revising the duties of the council; deleting a provision that prohibits a member of the council from participating in a discussion or decision with respect to a research proposal by a firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement; revising the submission date of an annual report; deleting an expired provision relating to rulemaking authority of the department; transferring and renumbering s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program; transferring, renumbering, and amending s. 381.911, F.S., relating to the Prostate Cancer Awareness Program; revising the criteria for members of the prostate cancer advisory committee; repealing s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force; transferring and renumbering s. 381.92, F.S., relating to the Florida Cancer Council; transferring and renumbering s. 381.921, F.S., relating to the mission and duties of the Florida Cancer Council; amending s. 381.922, F.S.; conforming cross-references; transferring and renumbering s. 381.93, F.S., relating to a breast and cervical cancer early detection program; transferring and renumbering s. 381.931, F.S., relating to an annual report on Medicaid expenditures; renaming ch. 385, F.S., as the "Healthy and Fit Florida Act"; amending s. 385.101, F.S.; renaming the "Chronic Diseases Act" as the "Healthy and Fit Florida Act"; amending s. 385.102, F.S.; revising legislative intent; creating s. 385.1021, F.S.; providing definitions; creating s. 385.1022, F.S.; requiring the Department of Health to support public health programs to reduce the incidence of mortality and morbidity from chronic diseases; creating s. 385.1023, F.S.; requiring the department to create state-level programs that address the risk factors of certain chronic diseases; providing required activities of the state-level programs; amending s. 385.103, F.S.; providing for community-level programs for the prevention of chronic diseases; revising definitions; requiring the department to develop and implement a community-based chronic disease prevention and health promotion program; providing the purpose of the program; providing requirements for the program; creating s. 385.105, F.S.; requiring the department to develop programs to increase physical fitness, to work with school districts, to develop partnerships that allow the public to access recreational facilities and public land areas suitable for physical activity, to work with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, and to collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools; requiring the Department of Health to promote healthy lifestyles to reduce obesity; requiring the department to promote optimal nutritional status in all stages of people's lives, personal responsibility to prevent chronic disease or slow its progression, and regular health visits during a person's life span; authorizing state agencies to conduct employee wellness programs; requiring the department to serve as a model to develop and implement employee wellness programs; requiring the department to assist state agencies to develop the employee wellness programs; providing equal access to the programs by agency employees; requiring the department to coordinate efforts with the Department of Management Services and other state agencies; authorizing each state agency to establish an employee wellness work group to design the wellness program; requiring the department to provide requirements for participation fees, collaborations with businesses, and procurement of equipment and incentives; amending s. 385.202, F.S.; requiring facilities, laboratories, and practitioners to report information; authorizing the department to adopt rules regarding reporting requirements for the cancer registry; providing immunity from liability for facilities and practitioners reporting certain information; requiring the department to adopt rules regarding the establishment and operation of a statewide cancer registry program; requiring the department or contractual designee operating the statewide cancer registry program to use or publish material only for the purpose of public health surveillance and advancing medical research or medical education in the interest of reducing morbidity or mortality; authorizing the department to exchange personal data with any agency or contractual designee for the purpose of public health surveillance and medical or scientific research under certain circumstances; clarifying that the department may adopt rules regarding the classifications of facilities related to reports made to the cancer registry; requiring each facility and practitioner that reports cancer cases to the department to make their records available for onsite review; amending s. 385.203, F.S.; increasing the size of the Diabetes Advisory Council to include one representative of the Florida Academy of Family Physicians; amending s. 385.206, F.S.; renaming the "hematology-oncology care center program" as the "Pediatric Hematology-Oncology Center Program"; revising definitions; authorizing the department to designate centers and provide funding to maintain programs for the care of patients with hematologic and oncologic disorders; clarifying provisions related to grant-funding agreements and grant disbursements; revising the department's requirement to evaluate services rendered by the centers; requiring data from the centers and other sources relating to pediatric cancer to be available to the department for program planning and quality assurance initiatives; amending s. 385.207, F.S.; clarifying provisions that require the department to collect information regarding the number of clients served, the outcomes reached, the expense incurred, and fees collected by providers of epilepsy services; deleting the provision that requires the department to limit administrative expenses from the Epilepsy Services Trust Fund to a certain percentage of annual receipts; amending s. 385.210, F.S.; revising legislative findings regarding the economic costs of treating arthritis and its complications; authorizing the State Surgeon General to seek any federal waivers that may be necessary to maximize funds from the Federal Government to implement the Arthritis Prevention and Education Program; creating s. 385.301, F.S.; authorizing the department to adopt rules to administer the act; amending s. 409.904, F.S.; conforming a cross-reference; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 1 (525670)** by Senator Constantine and **Amendment 2 (140970)** by Senator Lawson were withdrawn.

MOTION

On motion by Senator Gaetz, the rules were waived to allow the following amendment to be considered:

Senator Gaetz moved the following amendment:

Amendment 3 (947302) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (e) of subsection (2) of section 154.503, Florida Statutes, is amended to read:

154.503 Primary Care for Children and Families Challenge Grant Program; creation; administration.—

(2) The department shall:

(e) Coordinate with the primary care program developed pursuant to s. 154.011, the Florida Healthy Kids Corporation program created in s. 624.91, the school health services program created in ss. 381.0056 and 381.0057, ~~the Healthy Communities, Healthy People Program created in s. 381.734,~~ and the volunteer health care provider program developed pursuant to s. 766.1115.

Section 2. *Sections 381.0053, 381.0054, 381.732, 381.733, and 381.734, Florida Statutes, are repealed.*

Section 3. Subsection (16) of section 381.006, Florida Statutes, is amended, and subsection (18) is added to that section, to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(16) A group-care-facilities function, where a group care facility means any public or private school, housing, building or buildings, section of a building, or distinct part of a building or other place, whether operated for profit or not, which undertakes, through its ownership or management, to provide one or more personal services, care, protection, and supervision to persons who require such services and who are not related to the owner or administrator. The department may adopt rules necessary to protect the health and safety of residents, staff, and patrons of group care facilities, such as child care facilities, family day care homes, assisted living facilities, adult day care centers, adult family care homes, hospices, residential treatment facilities, crisis stabilization units, pediatric extended care centers, intermediate care facilities for the developmentally disabled, group care homes, and, jointly with the Department of Education, private and public schools. These rules may include definitions of terms; provisions relating to operation and maintenance of facilities, buildings, grounds, equipment, furnishings, and occupant-space requirements; lighting; heating, cooling, and ventilation; food service; water supply and plumbing; sewage; sanitary facilities; insect and rodent control; garbage; safety; personnel health, hygiene, and work practices; and other matters the department finds are appropriate or necessary to protect the safety and health of the residents, staff, or patrons. The department may not adopt rules that conflict with rules adopted by the licensing or certifying agency. The department may enter and inspect at reasonable hours to determine compliance with applicable statutes or rules. *An environmental health program inspection of a certified domestic violence center or residential child-caring agency licensed by the Department of Children and Family Services pursuant to chapter 409 shall be limited to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents.* In addition to any sanctions that the department may impose for violations of rules adopted under this section, the department shall also report such violations to any agency responsible for licensing or certifying the group care facility. The licensing or certifying agency may also impose any sanction based solely on the findings of the department.

The department may adopt rules to carry out the provisions of this section.

(18) A function related to air quality inside an enclosed ice rink to protect the health and safety of visitors and employees of an enclosed ice skating rink from dangers associated with oxides of nitrogen (NOX), hydrocarbons (CXHX), carbon monoxide (CO), carbon dioxide (CO2), and other harmful gasses, vapors, or particles as identified by the department which change the air quality due to the operation of the ice rink. The department may adopt rules, including definitions; air quality standards and requirements for monitoring, testing, and recordkeeping; maintenance and operation requirements for equipment that affects air quality; ventilation of the facility; operators' required response activities to the exceedance of an air quality standard; and assessment of fees. The department may enter and inspect an enclosed ice skating rink at reasonable hours to determine compliance with applicable statutes or rules. The department may assess a fee no greater than $300 to cover the actual costs of the annual inspection and review of the air quality of enclosed ice skating rinks. The air quality standards adopted by the department must be consistent with risk values or exposure guidelines recommended by the United States Environmental Protection Agency or the United States Centers for Disease Control and Prevention.

Section 4. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which shall not exceed $500 for each violation, for a violation of s. 381.006(16), *s. 381.006(18),* s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 5. Paragraph (a) of subsection (2) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(2) DUTIES.—

(a) The department shall adopt rules, including definitions of terms which are consistent with law prescribing minimum sanitation standards and manager certification requirements as prescribed in s. 509.039, and which shall be enforced in food service establishments as defined in this section. The sanitation standards must address the construction, operation, and maintenance of the establishment; lighting, ventilation, laundry rooms, lockers, use and storage of toxic materials and cleaning compounds, and first-aid supplies; plan review; design, construction, installation, location, maintenance, sanitation, and storage of food equipment and utensils; employee training, health, hygiene, and work practices; food supplies, preparation, storage, transportation, and service, including access to the areas where food is stored or prepared; and sanitary facilities and controls, including water supply and sewage disposal; plumbing and toilet facilities; garbage and refuse collection, storage, and disposal; and vermin control. Public and private schools, if the food service is operated by school employees; hospitals licensed under chapter 395; nursing homes licensed under part II of chapter 400; child care facilities as defined in s. 402.301; residential facilities colocated with a nursing home or hospital, if all food is prepared in a central kitchen that complies with nursing or hospital regulations; and bars and lounges, as defined by department rule, are exempt from the rules developed for manager certification. The department shall administer a comprehensive inspection, monitoring, and sampling program to ensure such standards are maintained. With respect to food service establishments permitted or licensed under chapter 500 or chapter 509, the department shall assist the Division of Hotels and Restaurants of the Department of Business and Professional Regulation and the Department of Agriculture and Consumer Services with rulemaking by providing technical information. *Food service inspections of a certified domestic violence center shall be limited to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents.*

Section 6. Subsection (1) and paragraph (a) of subsection (2) of section 381.0203, Florida Statutes, are amended to read:

381.0203 Pharmacy services.—

(1) The department *must* ~~may~~ contract on a statewide basis for the purchase of drugs, as defined in s. 499.003, to be used by state agencies and political subdivisions, and may adopt rules to administer this section. *Effective January 1, 2010, all state agencies, except the Agency for Health Care Administration, the Department of Veterans' Affairs, and the Department of Management Services, must purchase drugs through the statewide contract unless:*

(a) The Pharmacy and Therapeutic Advisory Council approves a more cost-effective purchasing plan; or

(b) The drugs required are not available through the statewide purchasing contract.

(2) The department *must* ~~may~~ establish and maintain a pharmacy services program *that includes*~~, including~~, but *is* not limited to:

(a) A central pharmacy to support pharmaceutical services provided by the county health departments, including pharmaceutical repackaging, dispensing, and the purchase and distribution of immunizations and other pharmaceuticals. *Such services shall be provided to other state*

agencies and political subdivisions of the state upon written agreement. State agencies purchasing pharmaceutical services shall purchase pharmaceutical services, including pharmaceutical repackaging and dispensing services in the most cost-effective manner consistent with the delivery of quality medical care. Nothing in this subsection prohibits state agencies from contracting with vendors to provide these pharmaceutical services. Cost savings realized by the state through utilization of the central pharmacy may be used by the department to offset additional costs.

Section 7. Section 381.84, Florida Statutes, is transferred, renumbered as section 385.106, Florida Statutes, and amended to read:

385.106 ~~381.84~~ Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(1) DEFINITIONS.—As used in this section and for purposes of the provisions of s. 27, Art. X of the State Constitution, the term:

(a) "AHEC network" means an area health education center network established under s. 381.0402.

(b) "Best practices" means the Best Practices for Comprehensive Tobacco Control Programs as established by the CDC, as amended.

(c) ~~(b)~~ "CDC" means the United States Centers for Disease Control and Prevention.

(d) ~~(c)~~ "Council" means the Tobacco Education and Use Prevention Advisory Council.

~~(d) "Department" means the Department of Health.~~

~~(e) "Tobacco" means, without limitation, tobacco itself and tobacco products that include tobacco and are intended or expected for human use or consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.~~

~~(f) "Youth" means minors and young adults.~~

(2) PURPOSE, FINDINGS, AND INTENT.—It is the purpose of this section to implement s. 27, Art. X of the State Constitution. The Legislature finds that s. 27, Art. X of the State Constitution requires the funding of a statewide tobacco education and use prevention program that focuses on tobacco use by youth. The Legislature further finds that the primary goals of the program are to reduce the prevalence of tobacco use among youth, adults, and pregnant women; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco smoke. Further, it is the intent of the Legislature to base increases in funding for individual components of the program on the results of assessments and evaluations. Recognizing that some components will need to grow faster than inflation, it is the intent of the Legislature to fund portions of the program on a nonrecurring basis in the early years so that those components that are most effective can be supported as the program matures.

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The program shall include the following components, each of which shall focus on educating people~~, particularly youth and their parents,~~ about the health hazards of tobacco and discouraging the use of tobacco*. All program components shall include efforts to educate youth and their parents about tobacco use, and a youth-directed focus shall exist in all components outlined in this subsection.* ~~:~~

(a) *State and community interventions.—These interventions shall include, but not be limited to, a statewide tobacco control program that combines and coordinates community-based interventions that focus on preventing initiation of tobacco use among youth and young adults; promoting quitting among adults, youth, and pregnant women; eliminating exposure to secondhand smoke; identifying and eliminating tobacco-related disparities among population groups; and promoting a range of collaborations to prevent and alleviate the effects of chronic diseases.* ~~*Counter-marketing and advertising; cyberspace resource center.*~~ ~~The counter-marketing and advertising campaign shall include, at a minimum, Internet, print, radio, and television advertising and shall be funded with a minimum of one-third of the total annual appropriation required by s. 27, Art. X of the State Constitution. A cyberspace resource center for copyrighted materials and information concerning tobacco education and use prevention, including cessation, shall be maintained by the program. Such resource center must be accessible to the public, including parents, teachers, and students, at each level of public and private schools, universities, and colleges in the state and shall provide links to other relevant resources. The Internet address for the resource center must be incorporated in all advertising. The information maintained in the resource center shall be used by the other components of the program.~~

(b) *Health communication interventions.—Effective media and health communication intervention efforts include, but are not limited to, audience research to define themes and execute messages for influential, high impact, and specifically targeted campaigns; market research to identify the target market and the behavioral theory motivating change; counter-marketing surveillance; community tie-ins to support and reinforce the statewide campaign; technologies such as viral marketing, social networks, personal web pages, and web logs; traditional media; process and outcome evaluation of the communication efforts; and promotion of available services, including the state telephone cessation quitline.* ~~*Cessation programs, counseling, and treatment.*~~ ~~This program component shall include two subcomponents:~~

~~1. A statewide toll-free cessation service, which may include counseling, referrals to other local resources and support services, and treatment to the extent funds are available for treatment services; and~~

~~2. A local community-based program to disseminate information about smoking cessation, how smoking cessation relates to prenatal care and obesity prevention, and other chronic tobacco-related diseases.~~

(c) *Cessation interventions.—Cessation interventions include, but are not limited to, sustaining, expanding, and promoting the service through population-based counseling and treatment programs; encouraging public and private insurance coverage for counseling and FDA-approved medication treatments for tobacco-use cessation; eliminating cost and other barriers to treatment for underserved populations; and making health care system changes. Youth interventions to prevent tobacco-use initiation and encourage cessation among young people are needed in order to reshape the environment so that it supports tobacco-free norms. Because most people who start smoking are younger than 18 years of age, intervening during adolescence is critical. Community programs and school-based policies and interventions should be a part of a comprehensive effort that is implemented in coordination with community and school environments and in conjunction with increasing the unit price of tobacco products, sustaining anti-tobacco media campaigns, making environments tobacco free, and engaging in other efforts to create tobacco-free social norms.* ~~*Surveillance and evaluation.*~~ ~~The program shall conduct ongoing epidemiological surveillance and shall contract for annual independent evaluations of the effectiveness of the various components of the program in meeting the goals as set forth in subsection (2).~~

(d) *Surveillance and evaluation.—The surveillance and evaluation of all program components shall monitor and document short-term, intermediate, and long-term intervention outcomes to inform program and policy direction and ensure accountability. The surveillance and evaluation must be conducted objectively through scientifically sound methodology.* ~~*Youth school programs.*~~ ~~School and after-school programs shall use current evidence based curricula and programs that involve youth to educate youth about the health hazards of tobacco, help youth develop skills to refuse tobacco, and demonstrate to youth how to stop using tobacco.~~

(e) *Administration and management.—Administration and management activities include, but are not limited to, strategic planning to guide program efforts and resources in order to accomplish goals; recruiting and developing qualified and diverse technical, program, and administrative staff; awarding and monitoring program contracts and grants to coordinate implementation across program areas; developing and maintaining a fiscal-management system to track allocations and the expenditure of funds; increasing capacity at the community level through ongoing training and technical assistance; creating effective communications internally among chronic disease prevention programs and local coalitions and partners; and educating the public and decision-makers on the health effects of tobacco and evidence-based effective program and policy interventions.* ~~*Community programs and chronic disease*~~

~~*prevention.*—The department shall promote and support local community-based partnerships that emphasize programs involving youth, including programs for the prevention, detection, and early intervention of smoking-related chronic diseases.~~

(f) *Training.*—The program shall include the training of health care practitioners, smoking-cessation counselors, and teachers by health professional students and other tobacco-use prevention specialists who are trained in preventing tobacco use and health education. Smoking-cessation counselors shall be trained by specialists who are certified in tobacco-use cessation.

(g) *County health departments* ~~Administration, statewide programs, and county health departments.~~—Each county health department is eligible to receive a portion of the annual appropriation, on a per capita basis, for coordinating tobacco education and use prevention programs within that county. Appropriated funds may be used to improve the infrastructure of the county health department to implement the comprehensive, statewide tobacco education and use prevention program. Each county health department shall prominently display in all treatment rooms and waiting rooms, counter-marketing and advertisement materials in the form of wall posters, brochures, television advertising if televisions are used in the lobby or waiting room, and screensavers and Internet advertising if computer kiosks are available for use or viewing by people at the county health department.

(h) *Enforcement and awareness of related laws.*—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Clean Indoor Air Act prescribed in chapter 386. The advertisements produced in accordance with *paragraph (b)* ~~paragraph (a)~~ may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

(i) *AHEC smoking-cessation initiative.*—~~For the 2007-2008 and 2008-2009 fiscal years only,~~ The AHEC network shall expand the AHEC smoking-cessation initiative to each county within the state and perform other activities as determined by the department.

(4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND MEETINGS.—The Tobacco Education and Use Prevention Advisory Council is created within the department.

(a) The council shall consist of 23 members, including:

1. The State Surgeon General, who shall serve as the chairperson.

2. One county health department director, appointed by the State Surgeon General.

3. Two members appointed by the Commissioner of Education, of whom one must be a school district superintendent.

4. The chief executive officer of the Florida Division of the American Cancer Society, or his or her designee.

5. The chief executive officer of the Greater Southeast Affiliate of the American Heart Association, or his or her designee.

6. The chief executive officer of the American Lung Association of Florida, or his or her designee.

7. The dean of the University of Miami School of Medicine, or his or her designee.

8. The dean of the University of Florida College of Medicine, or his or her designee.

9. The dean of the University of South Florida College of Medicine, or his or her designee.

10. The dean of the Florida State University College of Medicine, or his or her designee.

11. The dean of Nova Southeastern College of Osteopathic Medicine, or his or her designee.

12. The dean of the Lake Erie College of Osteopathic Medicine in Bradenton, Florida, or his or her designee.

13. The chief executive officer of the Campaign for Tobacco Free Kids, or his or her designee.

14. The chief executive officer of the Legacy Foundation, or his or her designee.

15. Four members appointed by the Governor, of whom two must have expertise in the field of tobacco-use prevention and education or smoking cessation and one individual who shall be between the ages of 16 and 21 at the time of his or her appointment.

16. Two members appointed by the President of the Senate, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

17. Two members appointed by the Speaker of the House of Representatives, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

(b) The appointments shall be for 3-year terms and shall reflect the diversity of the state's population. A vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term.

(c) An appointed member may not serve more than two consecutive terms.

(d) The council shall meet at least quarterly and upon the call of the chairperson. Meetings may be held via teleconference or other electronic means.

(e) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061. Members who are state officers or employees or who are appointed by state officers or employees shall be reimbursed for per diem and travel expenses pursuant to s. 112.061 from the state agency through which they serve.

(f) *The council shall adhere to all state ethics laws. Meetings of the council and the review panels are subject to chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.* ~~The department shall provide council members with information and other assistance as is reasonably necessary to assist the council in carrying out its responsibilities.~~

(5) COUNCIL DUTIES AND RESPONSIBILITIES.—The council shall advise the State Surgeon General as to the direction and scope of the Comprehensive Statewide Tobacco Education and Use Prevention Program. The responsibilities of the council *may* include, but are not limited to:

(a) Providing advice on program priorities and emphases.

(b) Providing advice on the overall program budget.

(c) Providing advice on copyrighted material, trademark, and future transactions as they pertain to the tobacco education and use prevention program.

(d) Reviewing*, as requested by the department,* broadcast material prepared for the Internet, portable media players, radio, and television *advertisement* ~~as it relates to the advertising component of the tobacco education and use prevention program~~.

(e) Participating in periodic program evaluation*, as requested by the department*.

(f) Assisting *the department* in *developing* ~~the development of~~ guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(g) Assisting *the department* in *developing* ~~the development of~~ administrative procedures relating to solicitation, review, and award of contracts and grants in order to ensure an impartial, high-quality peer review system.

(h) Assisting *the department* in *developing panels to review and evaluate potential fund recipients* ~~the development and supervision of peer review panels~~.

(i) *Assisting the department in* reviewing reports of ~~peer~~ review panels and making recommendations for *funding allocations* ~~contracts and grants~~.

(j) *Assisting the department in* reviewing the activities and ~~evaluating~~ the performance of the AHEC network to avoid duplicative efforts using state funds.

(k) Recommending *specific measureable outcomes* ~~meaningful outcome measures~~ through a regular review of *evidence-based and promising* tobacco-use prevention and education strategies and programs of other states and the Federal Government.

(l) Recommending policies to encourage a coordinated response to tobacco use in this state, focusing specifically on creating partnerships within and between the public and private sectors.

(6) CONTRACT REQUIREMENTS.—Contracts or grants for the program components or subcomponents described in paragraphs (3)(a)-(f) shall be awarded by the State Surgeon General, after consultation with the council, on the basis of merit, as determined by an open, competitive, peer-reviewed process that ensures objectivity, consistency, and high quality. The department shall award such grants or contracts no later than October 1 for each fiscal year. A recipient of a contract or grant for the program component described in paragraph *(3)(d)* ~~(3)(e)~~ is not eligible for a contract or grant award for any other program component described in subsection (3) in the same state fiscal year. ~~A school or college of medicine that is represented on the council is not eligible to receive a contract or grant under this section. For the 2007-2008 and 2008-2009 fiscal years only,~~ The department shall award a contract or grant in the amount of $10 million to the AHEC network for the purpose of developing the components described in paragraph (3)(i). ~~The AHEC network may apply for a competitive contract or grant after the 2008-2009 fiscal year.~~

(a) In order to ensure that all proposals for funding are appropriate and are evaluated fairly on the basis of merit, the State Surgeon General, in consultation with the council, shall appoint a ~~peer~~ review panel of independent, qualified experts in the field of tobacco control to review the content of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals will be recommended for funding.

(b) The council and the ~~peer~~ review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest. *Council members are subject to the applicable provisions of chapter 112.* ~~A member of the council or panel may not participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.Meetings of the council and the peer review panels are subject to chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.~~

(c) In each contract or grant agreement, the department shall limit the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant and limit overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant. The department, in consultation with the Department of Financial Services, shall publish guidelines for appropriate food and promotional items.

(d) In each advertising contract, the department shall limit the total of production fees, buyer commissions, and related costs to no more than 10 percent of the total contract amount.

(e) Notwithstanding the competitive process for contracts prescribed in this subsection, each county health department is eligible for core funding, on a per capita basis, to implement tobacco education and use prevention activities within that county.

(7) ANNUAL REPORT REQUIRED.—By *February 28* ~~January 31~~ of each year, the department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that evaluates the program's effectiveness in reducing and preventing tobacco use and that recommends improvements to enhance the program's effectiveness. The report must contain, at a minimum, an annual survey of youth attitudes and behavior toward tobacco, as well as a description of the progress in reducing the prevalence of tobacco use among youth, adults, and pregnant women; reducing per capita tobacco consumption; and reducing exposure to environmental tobacco smoke.

(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—From the total funds appropriated for the Comprehensive Statewide Tobacco Education and Use Prevention Program in the General Appropriations Act, an amount of up to 5 percent may be used by the department for administrative expenses.

~~(9) RULEMAKING AUTHORIZED. By January 1, 2008, the department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.~~

Section 8. Section 381.91, Florida Statutes, is transferred and renumbered as section 385.2024, Florida Statutes, to read:

385.2024 ~~381.91~~ Jessie Trice Cancer Prevention Program.—

(1) It is the intent of the Legislature to:

(a) Reduce the rates of illness and death from lung cancer and other cancers and improve the quality of life among low-income African-American and Hispanic populations through increased access to early, effective screening and diagnosis, education, and treatment programs.

(b) Create a community faith-based disease-prevention program in conjunction with the Health Choice Network and other community health centers to build upon the natural referral and education networks in place within minority communities and to increase access to health service delivery in Florida.

(c) Establish a funding source to build upon local private participation to sustain the operation of the program.

(2)(a) There is created the Jessie Trice Cancer Prevention Program, to be located, for administrative purposes, within the Department of Health, and operated from the community health centers within the Health Choice Network in Florida.

(b) Funding may be provided to develop contracts with community health centers and local community faith-based education programs to provide cancer screening, diagnosis, education, and treatment services to low-income populations throughout the state.

Section 9. Section 381.911, Florida Statutes, is transferred, renumbered as section 385.2023, Florida Statutes, and amended to read:

385.2023 ~~381.911~~ Prostate Cancer Awareness Program.—

(1) To the extent that funds are specifically made available for this purpose, the Prostate Cancer Awareness Program is established within the Department of Health. The purpose of this program is to implement the recommendations of January 2000 of the Florida Prostate Cancer Task Force to provide for statewide outreach and health education activities to ensure that men are aware of and appropriately seek medical counseling for prostate cancer as an early-detection health care measure.

(2) For purposes of implementing the program, the Department of Health and the Florida Public Health Foundation, Inc., may:

(a) Conduct activities directly or enter into a contract with a qualified nonprofit community education entity.

(b) Seek any available gifts, grants, or funds from the state, the Federal Government, philanthropic foundations, and industry or business groups.

(3) A prostate cancer advisory committee is created to advise and assist the Department of Health and the Florida Public Health Foundation, Inc., in implementing the program.

(a) The State Surgeon General shall appoint the advisory committee members, who shall consist of:

1. Three persons from prostate cancer survivor groups or cancer-related advocacy groups.

2. Three persons who are scientists or clinicians from public *or nonpublic* universities or research organizations.

3. Three persons who are engaged in the practice of a cancer-related medical specialty from health organizations committed to cancer research and control.

(b) Members shall serve without compensation but are entitled to reimbursement, pursuant to s. 112.061, for per diem and travel expenses incurred in the performance of their official duties.

(4) The program shall coordinate its efforts with those of the Florida Public Health Foundation, Inc.

Section 10. *Section 381.912, Florida Statutes, is repealed.*

Section 11. Section 381.92, Florida Statutes, is transferred and renumbered as section 385.2025, Florida Statutes, to read:

385.2025 ~~381.92~~ Florida Cancer Council.—

(1) Effective July 1, 2004, the Florida Cancer Council within the Department of Health is established for the purpose of making the state a center of excellence for cancer research.

(2)(a) The council shall be representative of the state's cancer centers, hospitals, and patient groups and shall be organized and shall operate in accordance with this act.

(b) The Florida Cancer Council may create not-for-profit corporate subsidiaries to fulfill its mission. The council and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys acquired from private, local, state, and federal sources, as well as technical and professional income generated or derived from the mission-related activities of the council.

(c) The members of the council shall consist of:

1. The chair of the Florida Dialogue on Cancer, who shall serve as the chair of the council;

2. The State Surgeon General or his or her designee;

3. The chief executive officer of the H. Lee Moffitt Cancer Center or his or her designee;

4. The director of the University of Florida Shands Cancer Center or his or her designee;

5. The chief executive officer of the University of Miami Sylvester Comprehensive Cancer Center or his or her designee;

6. The chief executive officer of the Mayo Clinic, Jacksonville, or his or her designee;

7. The chief executive officer of the American Cancer Society, Florida Division, Inc., or his or her designee;

8. The president of the American Cancer Society, Florida Division, Inc., Board of Directors or his or her designee;

9. The president of the Florida Society of Clinical Oncology or his or her designee;

10. The president of the American College of Surgeons, Florida Chapter, or his or her designee;

11. The chief executive officer of Enterprise Florida, Inc., or his or her designee;

12. Five representatives from cancer programs approved by the American College of Surgeons. Three shall be appointed by the Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the President of the Senate;

13. One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

14. One member of the Senate, to be appointed by the President of the Senate.

(d) Appointments made by the Speaker of the House of Representatives and the President of the Senate pursuant to paragraph (c) shall be for 2-year terms, concurrent with the bienniums in which they serve as presiding officers.

(e) Appointments made by the Governor pursuant to paragraph (c) shall be for 2-year terms, although the Governor may reappoint members.

(f) Members of the council or any subsidiaries shall serve without compensation, and each organization represented on the council shall cover the expenses of its representatives.

(3) The council shall issue an annual report to the Center for Universal Research to Eradicate Disease, the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 15 of each year, with policy and funding recommendations regarding cancer research capacity in Florida and related issues.

Section 12. Section 381.921, Florida Statutes, is transferred and renumbered as section 385.20251, Florida Statutes, to read:

385.20251 ~~381.921~~ Florida Cancer Council mission and duties.—The council, which shall work in concert with the Florida Center for Universal Research to Eradicate Disease to ensure that the goals of the center are advanced, shall endeavor to dramatically improve cancer research and treatment in this state through:

(1) Efforts to significantly expand cancer research capacity in the state by:

(a) Identifying ways to attract new research talent and attendant national grant-producing researchers to cancer research facilities in this state;

(b) Implementing a peer-reviewed, competitive process to identify and fund the best proposals to expand cancer research institutes in this state;

(c) Funding through available resources for those proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support;

(d) Encouraging the employment of bioinformatics in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines, to facilitate the full spectrum of cancer investigations;

(e) Facilitating the technical coordination, business development, and support of intellectual property as it relates to the advancement of cancer research; and

(f) Aiding in other multidisciplinary research-support activities as they inure to the advancement of cancer research.

(2) Efforts to improve both research and treatment through greater participation in clinical trials networks by:

(a) Identifying ways to increase adult enrollment in cancer clinical trials;

(b) Supporting public and private professional education programs designed to increase the awareness and knowledge about cancer clinical trials;

(c) Providing tools to cancer patients and community-based oncologists to aid in the identification of cancer clinical trials available in the state; and

(d) Creating opportunities for the state's academic cancer centers to collaborate with community-based oncologists in cancer clinical trials networks.

(3) Efforts to reduce the impact of cancer on disparate groups by:

(a) Identifying those cancers that disproportionately impact certain demographic groups; and

(b) Building collaborations designed to reduce health disparities as they relate to cancer.

Section 13. Paragraph (a) of subsection (2) and subsection (5) of section 381.922, Florida Statutes, as amended by section 2 of chapter 2009-5, Law of Florida, is amended to read:

381.922 William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.—

(2) The program shall provide grants for cancer research to further the search for cures for cancer.

(a) Emphasis shall be given to the goals enumerated in *s. 385.20251* ~~s. 381.921~~, as those goals support the advancement of such cures.

(5) For the 2008-2009 fiscal year and each fiscal year thereafter, the sum of $6.75 million is appropriated annually from recurring funds in the General Revenue Fund to the Biomedical Research Trust Fund within the Department of Health for purposes of the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program and shall be distributed pursuant to this section to provide grants to researchers seeking cures for cancer, with emphasis given to the goals enumerated in *s. 385.20251* ~~s. 381.921~~. From the total funds appropriated, an amount of up to 10 percent may be used for administrative expenses.

Section 14. Section 381.93, Florida Statutes, is transferred and renumbered as section 385.2021, Florida Statutes, to read:

385.2021 ~~381.93~~ Breast and cervical cancer early detection program.—This section may be cited as the "Mary Brogan Breast and Cervical Cancer Early Detection Program Act."

(1) It is the intent of the Legislature to reduce the rates of death due to breast and cervical cancer through early diagnosis and increased access to early screening, diagnosis, and treatment programs.

(2) The Department of Health, using available federal funds and state funds appropriated for that purpose, is authorized to establish the Mary Brogan Breast and Cervical Cancer Screening and Early Detection Program to provide screening, diagnosis, evaluation, treatment, case management, and followup and referral to the Agency for Health Care Administration for coverage of treatment services.

(3) The Mary Brogan Breast and Cervical Cancer Early Detection Program shall be funded through grants for such screening and early detection purposes from the federal Centers for Disease Control and Prevention under Title XV of the Public Health Service Act, 42 U.S.C. ss. 300k et seq.

(4) The department shall limit enrollment in the program to persons with incomes up to and including 200 percent of the federal poverty level. The department shall establish an eligibility process that includes an income-verification process to ensure that persons served under the program meet income guidelines.

(5) The department may provide other breast and cervical cancer screening and diagnostic services; however, such services shall be funded separately through other sources than this act.

Section 15. Section 381.931, Florida Statutes, is transferred and renumbered as section 385.20211, Florida Statutes, to read:

385.20211 ~~381.931~~ Annual report on Medicaid expenditures.—The Department of Health and the Agency for Health Care Administration shall monitor the total Medicaid expenditures for services made under this act. If Medicaid expenditures are projected to exceed the amount appropriated by the Legislature, the Department of Health shall limit the number of screenings to ensure Medicaid expenditures do not exceed the amount appropriated. The Department of Health, in cooperation with the Agency for Health Care Administration, shall prepare an annual report that must include the number of women screened; the percentage of positive and negative outcomes; the number of referrals to Medicaid and other providers for treatment services; the estimated number of women who are not screened or not served by Medicaid due to funding limitations, if any; the cost of Medicaid treatment services; and the estimated cost of treatment services for women who were not screened or referred for treatment due to funding limitations. The report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by March 1 of each year.

Section 16. *Chapter 385, Florida Statutes, entitled "Chronic Diseases," is renamed the "Healthy and Fit Florida Act."*

Section 17. Section 385.101, Florida Statutes, is amended to read:

385.101 Short title.—*This chapter* ~~Sections 385.101-385.103~~ may be cited as the "*Healthy and Fit Florida* ~~Chronic Diseases~~ Act."

Section 18. Section 385.102, Florida Statutes, is amended to read:

385.102 Legislative intent.—It is the finding of the Legislature that:

(1) Chronic diseases *continue to be the leading cause of death and disability in this state and the country* ~~exist in high proportions among the people of this state~~. ~~These~~ Chronic diseases include, but are not limited to, *arthritis, cardiovascular disease* ~~heart disease, hypertension~~, diabetes, renal disease, cancer, and ~~chronic obstructive~~ lung disease*, including chronic obstructive pulmonary disease*. These diseases ~~are~~ often *have the same preventable risk factors* ~~interrelated,~~ and ~~they directly and indirectly~~ account for a high rate of death*, disability,* and *underlying costs to the state's health care system* ~~illness~~.

(2) Chronic diseases have a significant impact on quality of life, not only for the individuals who experience their painful symptoms and resulting disabilities, but also for family members and caregivers.

(3) Racial and ethnic minorities and other underserved populations are disproportionately affected by chronic diseases.

(4) There are enormous medical costs and lost wages associated with chronic diseases and their complications.

(5) ~~(2)~~ Advances in medical knowledge and technology *assist* ~~have assisted~~ in the prevention*, detection, and management* of chronic diseases. Comprehensive approaches *that stress the* ~~stressing~~ application of current *medical* treatment, continuing research, professional training, ~~and~~ patient education*, and community-level policy and environmental changes* should be *implemented* ~~encouraged~~.

(6) ~~(3) A comprehensive program dealing with the early detection and prevention of chronic diseases is required to make knowledge and therapy available to all people of this state.~~ The mobilization of scientific, medical, and educational resources*, along with the implementation of community-based policy* under one comprehensive chronic disease *law,* ~~act~~ will facilitate the prevention*, early intervention,* and *management* ~~treatment~~ of *chronic* ~~these~~ diseases and their symptoms*. This integration of resources and policy will* ~~and~~ result in a decline in death and *disability* ~~illness~~ among the people of this state.

(7) Chronic diseases account for 70 percent of all deaths in the United States. The following chronic diseases are the leading causes of death and disability:

(a) Heart disease and stroke, which have remained the first and third leading causes of death for both men and women in the United States for over seven decades and account for approximately one-third of total deaths each year in this state.

(b) Cancer, which is the second leading cause of death and is responsible for one in four deaths in this state.

(c) Lung disease, which is the third leading cause of death and accounts for one in every six deaths in this state.

(d) Diabetes, which is the sixth leading cause of death in this state.

(e) Arthritis, which is the leading cause of disability in the United States, limiting daily activities for more than 19 million citizens. In this state, arthritis limits daily activities for an estimated 1.3 million people.

(8) The department shall establish, promote, and maintain state-level and local-level programs for chronic disease prevention and health pro-

motion to the extent that funds are specifically made available for this purpose.

Section 19. Section 385.1021, Florida Statutes, is created to read:

385.1021 Definitions.—As used in this chapter, the term:

(1) "CDC" means the United States Centers for Disease Control and Prevention.

(2) "Chronic disease" means an illness that is prolonged, does not resolve spontaneously, and is rarely cured completely.

(3) "Department" means the Department of Health.

(4) "Environmental changes" means changes to the economic, social, or physical natural or built environments which encourage or enable behaviors.

(5) "Policy change" means altering an informal or formal agreement between public or private sectors which sets forth values, behaviors, or resource allocation in order to improve health.

(6) "Primary prevention" means an intervention that is directed toward healthy populations and focuses on avoiding disease before it occurs.

(7) "Risk factor" means a characteristic or condition identified during the course of an epidemiological study of a disease that appears to be statistically associated with a high incidence of that disease.

(8) "Secondary prevention" means an intervention that is designed to promote the early detection and management of diseases and reduce the risks experienced by at-risk populations.

(9) "System changes" means altering standard activities, protocols, policies, processes, and structures carried out in population-based settings, such as schools, worksites, health care facilities, faith-based organizations, and the overall community, which promote and support new behaviors.

(10) "Tertiary prevention" means an intervention that is directed at rehabilitating and minimizing the effects of disease in a chronically ill population.

(11) "Tobacco" means, without limitation, tobacco itself and tobacco products that include tobacco and are intended or expected for human use or consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.

(12) "Wellness program" means a structured program that is designed or approved by the department to offer intervention activities on or off the worksite which help state employees change certain behaviors or adopt healthy lifestyles.

(13) "Youth" means children and young adults, up through 24 years of age, inclusive.

Section 20. Section 385.1022, Florida Statutes, is created to read:

385.1022 Chronic disease prevention program.—The department shall support public health programs to reduce the incidence of mortality and morbidity from diseases for which risk factors can be identified. Such risk factors include, but are not limited to, being overweight or obese, physical inactivity, poor nutrition and diet, tobacco use, sun exposure, and other practices that are detrimental to health. The programs shall educate and screen the general public as well as groups at particularly high risk of chronic diseases.

Section 21. Section 385.1023, Florida Statutes, is created to read:

385.1023 State-level prevention programs for chronic disease.—

(1) The department shall create state-level programs that address the leading, preventable chronic disease risk factors of poor nutrition and obesity, tobacco use, sun exposure, and physical inactivity in order to decrease the incidence of arthritis, cancer, diabetes, heart disease, lung disease, stroke, and other chronic diseases.

(2) State-level programs shall address, but need not be limited to, the following activities:

(a) Monitoring specific causal and behavioral risk factors that affect the health of residents in the state.

(b) Analyzing data regarding chronic disease mortality and morbidity to track changes over time.

(c) Promoting public awareness and increasing knowledge concerning the causes of chronic diseases, the importance of early detection, diagnosis, and appropriate evidence-based prevention, management, and treatment strategies.

(d) Disseminating educational materials and information concerning evidence-based results, available services, and pertinent new research findings and prevention strategies to patients, health insurers, health professionals, and the public.

(e) Using education and training resources and services developed by organizations having appropriate expertise and knowledge of chronic diseases for technical assistance.

(f) Evaluating the quality and accessibility of existing community-based services for chronic disease.

(g) Increasing awareness among state and local officials involved in health and human services, health professionals and providers, and policymakers about evidence-based chronic-disease prevention, tobacco cessation, and treatment strategies and their benefits for people who have chronic diseases.

(h) Developing a partnership with state and local governments, voluntary health organizations, hospitals, health insurers, universities, medical centers, employer groups, private companies, and health care providers to address the burden of chronic disease in this state.

(i) Implementing and coordinating state-level policies in order to reduce the burden of chronic disease.

(j) Providing lasting improvements in the delivery of health care for individuals who have chronic disease and their families, thus improving their quality of life while also containing health care costs.

Section 22. Section 385.103, Florida Statutes, is amended to read:

385.103 *Community-level* ~~Community intervention~~ programs *for chronic disease prevention and health promotion.—*

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

(a) "Chronic disease prevention and *health promotion* ~~control~~ program" means a program *that may include, but is not limited to,* ~~including~~ a combination of the following elements:

1. *Staff who are sufficiently trained and skilled in public health, community health, or school health education to facilitate the operation of the program* ~~Health screening~~;

2. *Community input into the planning, implementation, and evaluation processes* ~~Risk factor detection~~;

3. *Use of public health data to make decisions and to develop and prioritize community-based interventions focusing on chronic diseases and their risk factors;* ~~Appropriate intervention to enable and encourage changes in behaviors that create health risks; and~~

4. *Adherence to a population-based approach by using a socio-ecological model that addresses the influence on individual behavior, interpersonal behavior, organizational behavior, the community, and public policy;* ~~Counseling in nutrition, physical activity, the effects of tobacco use, hypertension, blood pressure control, and diabetes control and the provision of other clinical prevention services.~~

5. *Focus on at least the common preventable risk factors for chronic disease, such as physical inactivity, obesity, poor nutrition, and tobacco use;*

6. Focus on developing and implementing interventions and activities through communities, schools, worksites, faith-based organizations, and health-care settings;

7. Use of evidence-based interventions as well as best and promising practices to guide specific activities and effect change, which may include guidelines developed by organizations, volunteer scientists, and health care professionals who write published medical, scientific statements on various chronic disease topics. The statements shall be supported by scientific studies published in recognized journals that have a rigorous review and approval process. Scientific statements generally include a review of data available on a specific subject and an evaluation of its relationship to overall chronic disease science;

8. Use of policy, system, and environmental changes that support healthy behaviors so as to affect large segments of the population and encourage healthy choices;

9. Development of extensive and comprehensive evaluation that is linked to program planning at the state level and the community level in order to determine the program's effectiveness or necessary program modifications; and

10. Reduction of duplication of efforts through coordination among appropriate entities for the efficient use of resources.

(b) "~~Community~~ Health education program" means a program *that follows* ~~involving~~ the planned and coordinated use of ~~the~~ educational *standards and teaching methods* ~~resources available in a community~~ in an effort to *provide*:

1. Appropriate medical, research-based interventions to enable and encourage changes in behaviors which reduce or eliminate health risks;

2. Counseling in nutrition, weight management, physical inactivity, and tobacco-use prevention and cessation strategies; hypertension, blood pressure, high cholesterol, and diabetes control; and other clinical prevention services;

3. ~~1.~~ *Motivation and assistance to individuals or groups in adopting and maintaining* ~~Motivate and assist citizens to adopt and maintain~~ healthful practices and lifestyles; *and*

4. ~~2.~~ ~~Make available~~ Learning opportunities *that* ~~which~~ will increase the ability of people to make informed decisions affecting their personal, family, and community well-being and *that* ~~which~~ are designed to facilitate ~~voluntary~~ adoption of behavior *that* ~~which~~ will improve or maintain health. ~~;~~

~~3. Reduce, through coordination among appropriate agencies, duplication of health education efforts; and~~

~~4. Facilitate collaboration among appropriate agencies for efficient use of scarce resources.~~

(c) "Community intervention program" means a program combining the required elements of a chronic disease prevention and *health promotion* ~~control~~ program and *the principles of* a ~~community~~ health education program *that addresses system, policy, and environmental changes that ensure that communities provide support for healthy lifestyles* ~~into a unified program over which a single administrative entity has authority and responsibility~~.

~~(d) "Department" means the Department of Health.~~

~~(e) "Risk factor" means a factor identified during the course of an epidemiological study of a disease, which factor appears to be statistically associated with a high incidence of that disease.~~

(2) OPERATION OF *COMMUNITY-LEVEL* ~~COMMUNITY INTERVENTION~~ PROGRAMS *FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION.*—

(a) *The department shall develop and implement a comprehensive, community-based program for chronic disease prevention and health promotion. The program shall be designed to reduce major behavioral risk factors that are associated with chronic diseases by enhancing the knowledge, skills, motivation, and opportunities for individuals, organizations, health care providers, small businesses, health insurers, and communities to develop and maintain healthy lifestyles.* ~~The department shall assist the county health departments in developing and operating community intervention programs throughout the state. At a minimum, the community intervention programs shall address one to three of the following chronic diseases: cancer, diabetes, heart disease, stroke, hypertension, renal disease, and chronic obstructive lung disease.~~

(b) *The program shall include:*

1. Countywide assessments of specific, causal, and behavioral risk factors that affect the health of residents;

2. The development of community-based programs for chronic disease prevention and health promotion which incorporate health promotion and preventive care practices that are supported in scientific and medical literature;

3. The development and implementation of statewide age-specific, disease-specific, and community-specific health promotion and preventive care strategies using primary, secondary, and tertiary prevention interventions;

4. The promotion of community, research-based health-promotion model programs that meet specific criteria, address major risk factors, and motivate individuals to permanently adopt healthy behaviors and increase social and personal responsibilities;

5. The development of policies that encourage the use of alternative community delivery sites for health promotion, disease prevention, and preventive care programs and promote the use of neighborhood delivery sites that are close to work, home, and school; and

6. An emphasis on the importance of healthy and physically active lifestyles to build self-esteem and reduce morbidity and mortality associated with chronic disease and being overweight or obese. ~~Existing community resources, when available, shall be used to support the programs. The department shall seek funding for the programs from federal and state financial assistance programs which presently exist or which may be hereafter created. Additional services, as appropriate, may be incorporated into a program to the extent that resources are available. The department may accept gifts and grants in order to carry out a program.~~

~~(c) Volunteers shall be used to the maximum extent possible in carrying out the programs. The department shall contract for the necessary insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments under a program.~~

~~(d) The department may contract for the provision of all or any portion of the services required by a program, and shall so contract whenever the services so provided are more cost-efficient than those provided by the department.~~

~~(e) If the department determines that it is necessary for clients to help pay for services provided by a program, the department may require clients to make contribution therefor in either money or personal services. The amount of money or value of the personal services shall be fixed according to a fee schedule established by the department or by the entity developing the program. In establishing the fee schedule, the department or the entity developing the program shall take into account the expenses and resources of a client and his or her overall ability to pay for the services.~~

Section 23. Section 385.105, Florida Statutes, is created to read:

385.105 Physical activity, obesity prevention, nutrition, other health-promotion services, and wellness programs.—

(1) PHYSICAL ACTIVITY—.

(a) The department shall develop programs for people at every stage of their lives to increase physical fitness and promote behavior changes.

(b) The department shall work with school health advisory or wellness committees in each school district as established in s. 381.0056.

(c) The department shall develop public and private partnerships that allow the public to easily access recreational facilities and public land areas that are suitable for physical activity.

(d) The department shall work in collaboration with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, such as the Governor's Fitness Challenge.

(e) The department shall collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools.

(2) OBESITY PREVENTION.—The department shall promote healthy lifestyles to reduce the prevalence of excess weight gain and being overweight or obese through programs that are directed towards all residents of this state by:

(a) Using all appropriate media to promote maximum public awareness of the latest research on healthy lifestyles and chronic diseases and disseminating relevant information through a statewide clearinghouse relating to wellness, physical activity, and nutrition and the effect of these factors on chronic diseases and disabling conditions.

(b) Providing technical assistance, training, and resources on healthy lifestyles and chronic diseases to the public, health care providers, school districts, and other persons or entities, including faith-based organizations that request such assistance to promote physical activity, nutrition, and healthy lifestyle programs.

(c) Developing, implementing, and using all available research methods to collect data, including, but not limited to, population-specific data, and tracking the incidence and effects of weight gain, obesity, and related chronic diseases. The department shall include an evaluation and data-collection component in all programs as appropriate. All research conducted under this paragraph is subject to review and approval as required by the department's institutional review board under s. 381.86.

(d) Entering into partnerships with the Department of Education, local communities, school districts, and other entities to encourage schools in this state to promote activities during and after school to help students meet a minimum goal of 30 minutes of physical activity or physical fitness per day.

(e) Entering into partnerships with the Department of Education, school districts, and the Florida Sports Foundation to develop a programs recognizing the schools at which students demonstrate excellent physical fitness or fitness improvement.

(f) Collaborating with other state agencies to develop policies and strategies for preventing and treating obesity, which shall be incorporated into programs administered by each agency and shall include promoting healthy lifestyles of employees of each agency.

(g) Advising, in accordance with s. 456.081, health care practitioners about the morbidity, mortality, and costs associated with being overweight or obese, informing such practitioners of promising clinical practices for preventing and treating obesity, and encouraging practitioners to counsel their patients regarding the adoption of healthy lifestyles.

(h) Maximizing all local, state, and federal funding sources, including grants, public-private partnerships, and other mechanisms to strengthen the department's programs promoting physical activity and nutrition.

(3) NUTRITION.—The department shall promote optimal nutritional status in all stages of people's lives by developing strategies to:

(a) Promote and maintain optimal nutritional status in the population through activities, including, but not limited to:

1. Nutrition screening and assessment and nutrition counseling, including nutrition therapy, followup, case management, and referrals for persons who have medical conditions or nutrition-risk factors and who are provided health services through public health programs or through referrals from private health care providers or facilities;

2. Nutrition education to assist residents of the state in achieving optimal health and preventing chronic disease; and

3. Consultative nutrition services to group facilities which promote the provision of safe and nutritionally adequate diets.

(b) Monitor and conduct surveillance of the nutritional status of this state's population.

(c) Conduct or support research or evaluations related to public health nutrition. All research conducted under this paragraph is subject to review and approval as required by the department's institutional review board under s. 381.86.

(d) Establish policies and standards for public health nutrition practices.

(e) Promote interagency cooperation, professional education, and consultation.

(f) Provide technical assistance and advise state agencies, private institutions, and local organizations regarding public health nutrition standards.

(g) Work with the Department of Agriculture and Consumer Services, the Department of Education, and the Department of Management Services to further the use of fresh produce from this state in schools and encourage the development of community gardens. Nutritional services shall be available to eligible persons in accordance with eligibility criteria adopted by the department. The department shall provide by rule requirements for the service fees, when applicable, which may not exceed the department's actual costs.

The department may adopt rules to administer this subsection.

(4) OTHER HEALTH-PROMOTION SERVICES.—

(a) The department shall promote personal responsibility by encouraging residents of this state to be informed, follow health recommendations, seek medical consultations and health assessments, take healthy precautions, and comply with medical guidelines, including those that lead to earlier detection of chronic diseases in order to prevent chronic diseases or slow the progression of established chronic diseases.

(b) The department shall promote regular health visits during a person's lifetime, including annual physical examinations that include measuring body mass index and vital signs, blood work, immunizations, screenings, and dental examinations in order to reduce the financial, social, and personal burden of chronic disease.

(5) WELLNESS PROGRAMS.—

(a) Each state agency may conduct employee wellness programs in buildings and lands owned or leased by the state. The department shall serve as a model to develop and implement employee wellness programs that may include physical fitness, healthy nutrition, self-management of disease, education, and behavioral change. The department shall assist other state agencies to develop and implement employee wellness programs. These programs shall use existing resources, facilities, and programs or resources procured through grant funding and donations that are obtained in accordance with state ethics and procurement policies, and shall provide equal access to any such programs, resources, and facilities to all state employees.

(b) The department shall coordinate its efforts with the Department of Management Services and other state agencies.

(c) Each agency may establish an employee wellness work group to design the program. The department shall be available to provide policy guidance and assist in identifying effective wellness program strategies.

(d) The department shall provide by rule requirements for nominal participation fees, when applicable, which may not exceed the department's actual costs; collaborations with businesses; and the procurement of equipment and incentives.

Section 24. Section 385.202, Florida Statutes, is amended to read:

385.202 Statewide cancer registry.—

(1) Each facility*, laboratory, or practitioner* licensed under chapter 395*, chapter 458, chapter 459, chapter 464, chapter 483,* and each free-

standing radiation therapy center as defined in s. 408.07*,* shall report to the department ~~of Health such~~ information, specified by the department, by rule*. The department may adopt rules regarding reporting requirements for the cancer registry, which shall include the data required, the timeframe for reporting, and those professionals who are responsible for ensuring compliance with reporting requirements*~~, which indicates diagnosis, stage of disease, medical history, laboratory data, tissue diagnosis, and radiation, surgical, or other methods of diagnosis or treatment for each cancer diagnosed or treated by the facility or center~~. ~~Failure to comply with this requirement may be cause for registration or licensure suspension or revocation.~~

(2) The department shall establish, or cause to have established, by contract with a recognized medical organization in this state and its affiliated institutions, a statewide cancer registry program to ensure that cancer reports required under this section shall be maintained and available for use in the course of *public health surveillance and* any study for the purpose of reducing morbidity or mortality; and no liability of any kind or character for damages or other relief shall arise or be enforced against any *facility or practitioner* ~~hospital~~ by reason of having provided such information or material to the department.

(3) The department may adopt rules regarding the establishment and operation of a statewide cancer registry program.

(4) ~~(3)~~ The department or a contractual designee operating the statewide cancer registry program required by this section shall use or publish said material only for the purpose of *public health surveillance and* advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released for general publication. Information which discloses or could lead to the disclosure of the identity of any person whose condition or treatment has been reported and studied shall be confidential and exempt from the provisions of s. 119.07(1), except that:

(a) Release may be made with the written consent of all persons to whom the information applies;

(b) The department or a contractual designee may contact individuals for the purpose of epidemiologic investigation and monitoring, provided information that is confidential under this section is not further disclosed; or

(c) The department may exchange personal data with any other governmental agency or a contractual designee for the purpose of *public health surveillance and* medical or scientific research, *if* ~~provided~~ such governmental agency or contractual designee *does* ~~shall~~ not further disclose information that is confidential under this section.

(5) ~~(4)~~ Funds appropriated for this section shall be used for establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities *and practitioners*. Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities *and practitioners*.

(6) ~~(5)~~ The department may *adopt rules regarding the classifications of* ~~, by rule, classify~~ facilities *that are responsible for making reports to the cancer registry, the content and frequency of the reports, and the penalty for failure to comply with these requirements* ~~for purposes of reports made to the cancer registry and specify the content and frequency of the reports~~. ~~In classifying facilities, the department shall exempt certain facilities from reporting cancer information that was previously reported to the department or retrieved from existing state reports made to the department or the Agency for Health Care Administration. The provisions of~~ This section *does* ~~shall~~ not apply to any facility whose primary function is to provide psychiatric care to its patients.

(7) Notwithstanding subsection (1), each facility and practitioner that reports cancer cases to the department shall make their records available for onsite review by the department or its authorized representative.

Section 25. Subsection (3) of section 385.203, Florida Statutes, is amended to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(3) The council shall be composed of *26* ~~25~~ citizens of the state who have knowledge of, or work in, the area of diabetes mellitus as follows:

(a) Five interested citizens, three of whom are affected by diabetes.

(b) *Twenty-one* ~~Twenty~~ members, who must include one representative from each of the following areas: nursing with diabetes-educator certification; dietary with diabetes educator certification; podiatry; ophthalmology or optometry; psychology; pharmacy; adult endocrinology; pediatric endocrinology; the American Diabetes Association (ADA); the Juvenile Diabetes Foundation (JDF); *the Florida Academy of Family Physicians;* a community health center; a county health department; an American Diabetes Association recognized community education program; each medical school in the state; an osteopathic medical school; the insurance industry; a Children's Medical Services diabetes regional program; and an employer.

(c) One or more representatives from the Department of Health, who shall serve on the council as ex officio members.

Section 26. Section 385.206, Florida Statutes, is amended to read:

385.206 *Pediatric* Hematology-Oncology ~~care~~ Center Program.—

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

(a) "Department" means the Department of Health.

(b) "Hematology" means the study, diagnosis, and treatment of blood and blood-forming tissues.

(c) "Oncology" means the study, diagnosis, and treatment of malignant neoplasms or cancer.

(d) "Hemophilia" or "other hemostatic disorder" means a bleeding disorder resulting from a genetic abnormality of mechanisms related to the control of bleeding.

(e) "Sickle-cell anemia or other hemoglobinopathy" means an hereditary, chronic disease caused by an abnormal type of hemoglobin.

(f) "Patient" means a person under the age of 21 who is in need of hematologic-oncologic services and who is *enrolled in the Children's Medical Services Network* ~~declared medically and financially eligible by the department; or a person who received such services prior to age 21 and who requires long-term monitoring and evaluation to ascertain the sequelae and the effectiveness of treatment~~.

(g) "Center" means a facility designated by the department as having a program specifically designed to provide a full range of medical and specialty services to patients with hematologic and oncologic disorders.

(2) *PEDIATRIC* HEMATOLOGY-ONCOLOGY ~~CARE~~ CENTER PROGRAM; AUTHORITY.—The department *may designate* ~~is authorized to make grants and reimbursements to designated~~ centers *and provide funding* to ~~establish and~~ maintain programs for the care of patients with hematologic and oncologic disorders. Program administration costs shall be paid by the department from funds appropriated for this purpose.

(3) *GRANT FUNDING CONTRACTS* ~~GRANT AGREEMENTS; CONDITIONS~~.—

(a) Funding provided ~~A grant made~~ under this section shall be pursuant to a *contract* ~~contractual agreement~~ made between a center and the department. Each *contract* ~~agreement~~ shall provide that patients will receive *services* ~~specified types of treatment and care~~ from the center without additional charge to the patients or their parents or guardians. ~~Grants shall be disbursed in accordance with conditions set forth in the disbursement guidelines.~~

~~(4) GRANT DISBURSEMENTS AND SPECIAL DISBURSEMENTS FOR LOCAL PROGRAMS.—~~

(b) ~~(a)~~ *Funding may be provided* ~~Grant disbursements may be made~~ to centers *that* ~~which~~ meet the following criteria:

1. The personnel shall include at least one board-certified pediatric hematologist-oncologist, at least one board-certified pediatric surgeon, at

least one board-certified radiotherapist, and at least one board-certified pathologist.

2. ~~As approved by the department,~~ The center shall actively participate in a national children's cancer study group, maintain a pediatric tumor registry, have a multidisciplinary pediatric tumor board, and meet other guidelines for development, including, but not limited to, guidelines from such organizations as the American Academy of Pediatrics and the American Pediatric Surgical Association.

~~(b) Programs shall also be established to provide care to hematology-oncology patients within each district of the department. The guidelines for local programs shall be formulated by the department. Special disbursements may be made by the program office to centers for educational programs designed for the districts of the department. These programs may include teaching total supportive care of the dying patient and his or her family, home therapy to hemophiliacs and patients with other hemostatic disorders, and screening and counseling for patients with sickle cell anemia or other hemoglobinopathies.~~

(4) ~~(5)~~ PROGRAM AND PEER REVIEW.—The department shall evaluate ~~at least annually during the grant period~~ the services rendered by the centers ~~and the districts of the department~~. Data from the centers and other sources relating to pediatric cancer shall be reviewed annually by the Florida Association of Pediatric Tumor Programs, Inc.; and a written report with recommendations shall be made to the department. This database will be available to the department for *program planning and quality assurance initiatives* ~~formulation of its annual program and financial evaluation report~~. A portion of the funds appropriated for this section may be used to provide statewide consultation, supervision, and evaluation of the programs of the centers, as well as *central* ~~program~~ office support personnel.

Section 27. Paragraph (g) of subsection (2) and subsection (7) of section 385.207, Florida Statutes, are amended to read:

385.207 Care and assistance of persons with epilepsy; establishment of programs in epilepsy control.—

(2) The Department of Health shall:

(g) Continue current programs and develop cooperative programs and services designed to enhance the vocational rehabilitation of epilepsy clients, including the current jobs programs. The department shall*, as part of its contract with a provider of epilepsy services, collect information regarding the number of clients served, the outcomes reached, the expenses incurred, and the fees collected by such providers for the provision of services* ~~keep~~ and make *this information* available to the Governor and the Legislature *upon request* ~~information regarding the number of clients served, the outcome reached, and the expense incurred by such programs and services~~.

~~(7) The department shall limit total administrative expenditures from the Epilepsy Services Trust Fund to 5 percent of annual receipts.~~

Section 28. Paragraphs (b), (d), and (g) of subsection (2) and paragraph (b) of subsection (5) of section 385.210, Florida Statutes, are amended to read:

385.210 Arthritis prevention and education.—

(2) LEGISLATIVE FINDINGS.—The Legislature finds the following:

(b) Arthritis is the leading cause of disability in the United States, limiting daily activities for more than *19* ~~7~~ million citizens.

(d) There are enormous economic and social costs associated with treating arthritis and its complications; the economic costs are estimated at over *$128 billion (2003)* ~~$116 billion (1997)~~ annually in the United States.

(g) The National Arthritis Foundation, the *CDC* ~~Centers for Disease Control and Prevention~~, and the Association of State and Territorial Health Officials have led the development of a public health strategy, the National Arthritis Action Plan, to respond to this challenge.

(5) FUNDING.—

(b) The State Surgeon General *may* ~~shall~~ seek any federal waiver or waivers that may be necessary to maximize funds from the Federal Government to implement this program.

Section 29. Section 385.301, Florida Statutes, is created to read:

385.301 Rulemaking authority.—The department may adopt rules pursuant to chapter 120 to administer this chapter.

Section 30. Paragraph (l) of subsection (4) of section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(l) Orthotic*,* ~~or~~ prosthetic*, pediatric cardiological, or perinatological* clinical facilities that are a publicly traded corporation or that are wholly owned, directly or indirectly, by a publicly traded corporation. As used in this paragraph, a publicly traded corporation is a corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange.

Section 31. Subsection (9) of section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(9) Eligible women with incomes at or below 200 percent of the federal poverty level and under age 65, for cancer treatment pursuant to the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000, screened through the Mary Brogan Breast and Cervical Cancer Early Detection Program established under *s. 385.2021* ~~s. 381.93~~.

Section 32. *The amendment to s. 409.912(17), Florida Statutes, contained in CS/CS/CS/SB 1986, as enacted by the 2009 Regular Session of the Legislature, shall not take effect if that act becomes law.*

Section 33. *The repeal of s. 429.26(9), Florida Statutes, contained in CS/CS/CS/SB 1986, as enacted by the 2009 Regular Session of the Legislature, shall not take effect if that act becomes law.*

Section 34. *The Pharmacy and Therapeutic Advisory Council.—*

(1) The Pharmacy and Therapeutic Advisory Council is created within the Executive Office of the Governor to serve in an advisory capacity to the Department of Health and other governmental agencies. The council may not interfere with existing mandated Medicaid services and may not develop or implement new ones. Specifically, the council may not interfere with the work of the Agency for Health Care Administration as it complies with federal and state statutory obligations to develop a preferred drug list, to negotiate rebate agreements for medications included in the preferred drug list, and to protect the confidentiality of rebate agreements. The council may not interfere with the Medicaid Pharmacy and Therapeutics Committee or the Drug Utilization Review Board, which oversee clinical activities within the Bureau of Pharmacy Services if such interference would violate any federal or state statutory obligations.

(2) The Pharmacy and Therapeutic Advisory Council shall use Medicaid processes within the existing Medicaid structure of the Agency for Health Care Administration as a guide for assisting state agencies in:

(a) Developing an unbiased clinical perspective on drug evaluations and utilization protocols that are relevant to patient care provided through programs administered by state agencies.

(b) Developing drug-utilization-review processes that are relevant to the agencies and those receiving care through programs administered by the agencies.

(c) Building a formulary structure that enforces formulary compliance or adherence within each agency.

(d) Performing pharmacoeconomic analyses on formulary management so that the state maximizes the cost-effectiveness of its pharmaceutical purchasing.

(e) Reviewing new and existing therapies using criteria established for efficacy, safety, and quality in order to maximize cost-effective purchasing.

(f) Reviewing state agency proposals to maximize the cost-effectiveness of pharmaceutical purchasing in compliance with s. 381.0203.

(3) The council shall verify the cost-effectiveness and clinical efficacy of any state contracts under s. 381.0203(1), Florida Statutes, no less than once every 2 years.

(4) The members of the council and the chair shall be appointed by the Governor to 4-year staggered terms or until their successors are appointed. Members may be appointed to more than one term. The Governor shall fill any vacancies for the remainder of the unexpired term in the same manner as the original appointment.

(5) The council shall include voting and nonvoting members, and the chair, who is a voting member, must be a pharmacist employed by a state agency.

(a) The voting members shall represent:

1. The Agency for Health Care Administration.

2. The Agency for Persons with Disabilities.

3. The Department of Children and Family Services.

4. The Department of Corrections.

5. The Department of Elderly Affairs.

6. The Department of Health.

7. The Department of Juvenile Justice.

8. The Bureau of Pharmacy Services within the Agency for Health Care Administration, which shall be represented by the bureau chief.

9. The Bureau of Statewide Pharmaceutical Services within the Department of Health, which shall be represented by the bureau chief.

(b) The nonvoting members shall be:

1. A representative from the Agency for Health Care Administration's drug contracting program.

2. The contracting officer for the Department of Health's drug procurement program.

3. A clinical pharmacy program manager from the Agency for Health Care Administration.

4. The chair of the Department of Health's Pharmacy and Therapeutics Committee.

5. The general counsel for the Agency for Health Care Administration or his or her designee.

6. The general counsel for a state agency in the executive branch of state government, or his or her designee.

7. A representative from the Executive Office of the Governor.

8. The statewide pharmacy director of the Department of Corrections' Office of Health Services.

(6) Members of the council shall consist of at least one physician licensed under chapter 458 or chapter 459, Florida Statutes, at least one pharmacist licensed under chapter 465, Florida Statutes, and at least one registered nurse licensed under chapter 464, Florida Statutes. Each member designated in this subsection must have an active license in his or her profession and may not have been the subject of any agency disciplinary action.

(7) Members, who must be residents of this state, shall be selected on the basis of specialty, board certification, prior pharmacy and therapeutic experience, experience treating medical assistance recipients, ability to represent a broad base of constituents, and number of years of practice. Members must not have any conflicts of interest due to their service on the council.

(8) The council may request the participation of additional subject-matter experts to address specific drug, therapeutic, or drug-procurement issues under review by the council.

(9) A majority of the members of the council constitutes a quorum, and an affirmative vote of a majority of the voting members is necessary to take action.

(10) The council shall meet quarterly or at the call of the chair.

(11) The council shall be staffed by the chair's department or agency.

(12) The council members shall serve without compensation, but are entitled to reimbursement for travel and per diem expenses incurred in the performance of their duties in accordance with s. 112.061, Florida Statutes.

Section 35. Subsections (1) and (3) of section 430.80, Florida Statutes, are amended to read:

430.80 Implementation of a teaching nursing home pilot project.—

(1) As used in this section, the term "teaching nursing home" means a nursing home facility licensed under chapter 400 which contains a minimum of *275* ~~400~~ licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in this state *or operates in its own right a geriatric research center*.

(3) To be designated as a teaching nursing home, a nursing home licensee must, at a minimum:

(a) Provide a comprehensive program of integrated senior services that include institutional services and community-based services;

(b) Participate in a nationally recognized accreditation program and hold a valid accreditation, such as the accreditation awarded by the Joint Commission on Accreditation of Healthcare Organizations*, or possess a Gold Seal Award as conferred by the Agency for Health Care Administration on its licensed nursing home*;

(c) Have been in business in this state for a minimum of 10 consecutive years;

(d) Demonstrate an active program in multidisciplinary education and research that relates to gerontology;

(e) Have a formalized contractual relationship with at least one accredited health profession education program located in this state;

~~(f) Have a formalized contractual relationship with an accredited hospital that is designated by law as a teaching hospital; and~~

(f) ~~(g)~~ Have senior staff members who hold formal faculty appointments at universities, which must include at least one accredited health profession education program*; and* ~~.~~

(g) ~~(h)~~ Maintain insurance coverage pursuant to s. 400.141(20) or proof of financial responsibility in a minimum amount of $750,000. Such proof of financial responsibility may include:

1. Maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52; or

2. Obtaining and maintaining pursuant to chapter 675 an unexpired, irrevocable, nontransferable and nonassignable letter of credit issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized to receive deposits in this state. The letter of credit shall be used to satisfy the obligation of the facility to the claimant upon presentment of a final judgment indicating liability and awarding damages to be paid by the facility or upon presentment of a settlement agreement signed by all parties to the agreement when such final judgment or settlement is a result of a liability claim against the facility.

Section 36. Paragraph (g) is added to subsection (53) of section 499.003, Florida Statutes, to read:

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

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

(g) The sale, purchase, trade, or transfer of a prescription drug among agencies and health care entities of the state to complete the dispensing of the prescription drug to a patient under the care of a state agency or health care entity, or to a patient for whom the state is responsible for providing or arranging health care services. The agency or health care entity that received the prescription drug on behalf of the patient is deemed the patient's agent under s. 465.003(6).

Section 37. Subsection (1) of section 651.105, Florida Statutes, is amended to read:

651.105 Examination and inspections.—

(1) The office may at any time, and shall at least once every *5* ~~3~~ years, examine the business of any applicant for a certificate of authority and any provider engaged in the execution of care contracts or engaged in the performance of obligations under such contracts, in the same manner as is provided for examination of insurance companies pursuant to s. 624.316. Such examinations shall be made by a representative or examiner designated by the office, whose compensation will be fixed by the office pursuant to s. 624.320. Routine examinations may be made by having the necessary documents submitted to the office; and, for this purpose, financial documents and records conforming to commonly accepted accounting principles and practices, as required under s. 651.026, will be deemed adequate. The final written report of each such examination shall be filed with the office and, when so filed, will constitute a public record. Any provider being examined shall, upon request, give reasonable and timely access to all of its records. The representative or examiner designated by the office may at any time examine the records and affairs and inspect the physical property of any provider, whether in connection with a formal examination or not.

Section 38. Effective upon this act becoming a law, paragraphs (d) and (g) of subsection (5) of section 627.6692, Florida Statutes, are amended to read:

627.6692 Florida Health Insurance Coverage Continuation Act.—

(5) CONTINUATION OF COVERAGE UNDER GROUP HEALTH PLANS.—

(d)1. A qualified beneficiary must give written notice to the insurance carrier within 63 days after the occurrence of a qualifying event. Unless otherwise specified in the notice, a notice by any qualified beneficiary constitutes notice on behalf of all qualified beneficiaries. The written notice must inform the insurance carrier of the occurrence and type of the qualifying event giving rise to the potential election by a qualified beneficiary of continuation of coverage under the group health plan issued by that insurance carrier, except that in cases where the covered employee has been involuntarily discharged, the nature of such discharge need not be disclosed. The written notice must, at a minimum, identify the employer, the group health plan number, the name and address of all qualified beneficiaries, and such other information required by the insurance carrier under the terms of the group health plan or the commission by rule, to the extent that such information is known by the qualified beneficiary.

2. A special election period shall be provided for qualified beneficiaries whose qualifying event was involuntary termination of employment during the period from September 1, 2008, through February 16, 2009, who did not elect continuation coverage when it was first offered, or who did elect continuation coverage but are no longer enrolled. The carrier that issued the small employer's group health plan shall provide notice to individuals eligible for this special continuation coverage election period informing them of this opportunity. The notice must be provided by June 15, 2009.

a. Individuals have 30 days after notice is provided to elect continuation coverage by written notice to the insurer. The written notice must, at a minimum, identify the employer, the group health plan number, the name and address of all qualified beneficiaries, and such other information required by the insurance carrier under the terms of the group health plan or the commission by rule, to the extent that such information is known by the qualified beneficiary.

b. Coverage shall be effective with the first period of coverage on or after February 17, 2009.

c. For individuals electing continuation coverage during this election period, the period between the loss of coverage and beginning of coverage under this election is to be disregarded for purposes of determining the 63-day periods referred to in s. 627.6561(6).

3. ~~2.~~ Within 14 days after the receipt of written notice under *subparagraphs* ~~subparagraph~~ 1. *and 2.*, the insurance carrier shall send each qualified beneficiary by certified mail an election and premium notice form, approved by the office, which form must provide for the qualified beneficiary's election or nonelection of continuation of coverage under the group health plan and the applicable premium amount due after the election to continue coverage. This subparagraph does not require separate mailing of notices to qualified beneficiaries residing in the same household, but requires a separate mailing for each separate household.

(g) If an insurance carrier fails to comply with the notice requirements of subparagraph (d)*3.* ~~2.~~ and such noncompliance results in the failure of an eligible qualified beneficiary to elect continuation under the group health plan, the qualified beneficiary shall be deemed to have timely elected continuation of coverage within the election period and shall be covered under the group health plan at the expense of the noncomplying insurance carrier. The liability exposure of a noncomplying insurance carrier under this paragraph shall be limited to that period which includes the effective date of coverage pursuant to an affirmative election through the date on which the qualified beneficiary receives actual notice. This paragraph does not apply to the extent that the failure of the insurance carrier to comply with applicable notice requirements was due to noncompliance by the qualified beneficiary with notice requirements applicable to the qualified beneficiary.

Section 39. Paragraph (l) is added to subsection (13) of section 627.6699, Florida Statutes, to read:

627.6699 Employee Health Care Access Act.—

(13) STANDARDS TO ASSURE FAIR MARKETING.—

(l)1. In order to improve the ability of small employers to obtain information including premium rates for small employer health benefit plans and to facilitate the application process, all small employer carriers shall use a uniform employee health status form. The commission shall adopt rules specifying such form. The form shall be designed by the Office of Insurance Regulation, in consultation with small employer carriers, to permit its use as a written document and through electronic or other and alternative delivery formats. The form shall include the following health data elements for all persons to be covered under the policy that occurred in the 2 years before the date of completion of the form:

a. Any treatment or diagnosis by any licensed medical practitioner.

b. Any procedure or treatment in a hospital, rehabilitation program, or surgical center.

c. All current medications prescribed by a licensed practitioner.

c. Current diagnosis of pregnancy.

e. Current use of any tobacco products.

f. Pending test results.

g. Workers' compensation injury or illness.

h. Tests or treatments recommended but not completed.

2. The form shall require the signature of the employee completing the form. Use of a standardized form does not prevent a small employer carrier from obtaining information from other sources in order to determine the appropriate premium rate for a small employer.

Section 40. Except as otherwise expressly provided in this act, and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to health care; amending s. 154.503, F.S.; conforming a cross-reference; repealing s. 381.0053, F.S., relating to a comprehensive nutrition program; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion; repealing ss. 381.732, 381.733, and 381.734, F.S., relating to the Healthy Communities, Healthy People Act; amending s. 381.006, F.S.; requiring the Department of Health, when conducting an environmental health program inspection of a certified domestic violence center and certain residential child-caring agencies to limit the inspection of the domestic violence center or residential child-caring agency to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; requiring the Department of Health to include in its environmental health program the testing of the air in enclosed ice rinks; authorizing the department to adopt rules relating to air quality standards, monitoring, testing, record keeping, the maintenance and operation of equipment that affects air quality, and assessment of fees; authorizing the department to enter and inspect an enclosed ice skating rink at reasonable hours to determine compliance with applicable air quality statutes or rules; authorizing the department to assess a fee for a specified purpose; requiring the air quality standards be consistent with federal risk values or exposure guidelines; amending s. 381.0061, F.S.; providing that the department may impose a fine, which may not exceed a specified amount for a violation of the ice rink air quality standards; amending s. 381.0072, F.S.; requiring the Department of Health, when conducting a food service inspection of a certified domestic violence center to limit the inspection of the domestic violence center to the requirements set forth in the department's rules applicable to community-based residential facilities with five or fewer residents; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; requiring the department to establish and maintain certain pharmacy services program; transferring, renumbering, and amending s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising definitions; revising program components; requiring program components to include efforts to educate youth and their parents about tobacco use; requiring a youth-directed focus in each program component; requiring the Tobacco Education and Use Prevention Advisory Council to adhere to state ethics laws; providing that meetings of the council are subject to public-records and public-meetings requirements; revising the duties of the council; deleting a provision that prohibits a member of the council from participating in a discussion or decision with respect to a research proposal by a firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement; revising the submission date of an annual report; deleting an expired provision relating to rulemaking authority of the department; transferring and renumbering s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program; transferring, renumbering, and amending s. 381.911, F.S., relating to the Prostate Cancer Awareness Program; revising the criteria for members of the prostate cancer advisory committee; repealing s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force; transferring and renumbering s. 381.92, F.S., relating to the Florida Cancer Council; transferring and renumbering s. 381.921, F.S., relating to the mission and duties of the Florida Cancer Council; amending s. 381.922, F.S.; conforming cross-references; transferring and renumbering s. 381.93, F.S., relating to a breast and cervical cancer early detection program; transferring and renumbering s. 381.931, F.S., relating to an annual report on Medicaid expenditures; renaming ch. 385, F.S., as the "Healthy and Fit Florida Act"; amending s. 385.101, F.S.; renaming the "Chronic Diseases Act" as the "Healthy and Fit Florida Act"; amending s. 385.102, F.S.; revising legislative intent; creating s. 385.1021, F.S.; providing definitions; creating s. 385.1022, F.S.; requiring the Department of Health to support public health programs to reduce the incidence of mortality and morbidity from chronic diseases; creating s. 385.1023, F.S.; requiring the department to create state-level programs that address the risk factors of certain chronic diseases; providing required activities of the state-level programs; amending s. 385.103, F.S.; providing for community-level programs for the prevention of chronic diseases; revising definitions; requiring the department to develop and implement a community-based chronic disease prevention and health promotion program; providing the purpose of the program; providing requirements for the program; creating s. 385.105, F.S.; requiring the department to develop programs to increase physical fitness, to work with school districts, to develop partnerships that allow the public to access recreational facilities and public land areas suitable for physical activity, to work with the Executive Office of the Governor and Volunteer Florida, Inc., to promote school initiatives, and to collaborate with the Department of Education in recognizing nationally accepted best practices for improving physical education in schools; requiring the Department of Health to promote healthy lifestyles to reduce obesity; requiring the department to promote optimal nutritional status in all stages of people's lives, personal responsibility to prevent chronic disease or slow its progression, and regular health visits during a person's life span; authorizing state agencies to conduct employee wellness programs; requiring the department to serve as a model to develop and implement employee wellness programs; requiring the department to assist state agencies to develop the employee wellness programs; providing equal access to the programs by agency employees; requiring the department to coordinate efforts with the Department of Management Services and other state agencies; authorizing each state agency to establish an employee wellness work group to design the wellness program; requiring the department to provide requirements for participation fees, collaborations with businesses, and procurement of equipment and incentives; amending s. 385.202, F.S.; requiring facilities, laboratories, and practitioners to report information; authorizing the department to adopt rules regarding reporting requirements for the cancer registry; providing immunity from liability for facilities and practitioners reporting certain information; requiring the department to adopt rules regarding the establishment and operation of a statewide cancer registry program; requiring the department or contractual designee operating the statewide cancer registry program to use or publish material only for the purpose of public health surveillance and advancing medical research or medical education in the interest of reducing morbidity or mortality; authorizing the department to exchange personal data with any agency or contractual designee for the purpose of public health surveillance and medical or scientific research under certain circumstances; clarifying that the department may adopt rules regarding the classifications of facilities related to reports made to the cancer registry; requiring each facility and practitioner that reports cancer cases to the department to make their records available for onsite review; amending s. 385.203, F.S.; increasing the size of the Diabetes Advisory Council to include one representative of the Florida Academy of Family Physicians; amending s. 385.206, F.S.; renaming the "hematology-oncology care center program" as the "Pediatric Hematology-Oncology Center Program"; revising definitions; authorizing the department to designate centers and provide funding to maintain programs for the care of patients with hematologic and oncologic disorders; clarifying provisions related to grant-funding agreements and grant disbursements; revising the department's requirement to evaluate services rendered by the centers; requiring data from the centers and other sources relating to pediatric cancer to be available to the department for program planning and quality assurance initiatives; amending s. 385.207, F.S.; clarifying provisions that require the department to collect information regarding the number of clients served, the outcomes reached, the expense incurred, and fees collected by providers of epilepsy services; deleting the provision that requires the department to limit administrative expenses from the Epilepsy Services Trust Fund to a certain percentage of annual receipts; amending s. 385.210, F.S.; revising legislative findings regarding the economic costs of treating arthritis and its complications; authorizing the State Surgeon General to seek any federal waivers that may be necessary to maximize funds from the Federal Government to implement the Arthritis Prevention and Education Program; creating s. 385.301, F.S.; authorizing the department to adopt rules to administer the act; amending s. 400.9905, F.S.; revising the

definition of the term "clinic" as it relates to the Health Care Clinic Act; amending s. 409.904, F.S.; conforming a cross-reference; abrogating an amendment to s. 409.912(17), F.S., relating to a requirement that entities providing services under the Medicaid program maintain certain surplus funds; abrogating the repeal of 429.26(9), F.S., relating to assisted living facility resident examinations and evaluations in certain circumstances; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 430.80, F.S.; redefining the term "teaching nursing home" as it relates to the implementation of a teaching nursing home pilot project; revising the requirements to be designated as a teaching nursing home; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; amending s. 651.105, F.S.; revising the time period in which the Office of Insurance Regulation is required to examine the business of an applicant for a certificate of authority and a provider engaged in the execution of continuing care contracts; amending s. 627.6692, F.S.; providing for a special election period for continuation of coverage under group health plans for certain qualified beneficiaries; providing carrier notification requirements; providing for effectiveness of such coverage; providing for disregarding certain periods for which coverage is not provided; amending s. 627.6699, F.S.; requiring small employer carriers to use a uniform employee health status form; requiring the Financial Service Commission to adopt rules; requiring the Office of Insurance Regulation to design the form in consultation with small employer carriers; providing form delivery formats; specifying form requirements; providing effective dates.

MOTION

On motion by Senator Smith, the rules were waived to allow the following amendment to be considered:

Senator Smith moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (146242) (with title amendment)—Between lines 1864 and 1865 insert:

Section 40. Subsection (1) of section 641.407, Florida Statutes, is amended to read:

641.407 Minimum surplus.—

(1) Each prepaid health clinic *that is licensed before July 1, 2009,* shall have and maintain minimum surplus in accordance with the following schedule: On January 1, *2010* ~~1996~~, *$225,000* $150,000 or 10 percent of total liabilities, whichever is greater*; on January 1, 2011, $300,000 or 10 percent of total liabilities, whichever is greater. A prepaid health clinic that is licensed on or after July 1, 2009, shall have and maintain a surplus of $300,000 or 10 percent of total liabilities, whichever is greater. A prepaid health clinic that is licensed on or before January 1, 2004, and that has an active membership on July 1, 2009, shall have and maintain a minimum surplus of $150,000 or 10 percent of total liabilities, whichever is greater.*

And the title is amended as follows:

Delete line 2101 and insert: form requirements; amending s. 641.407, F.S.; revising the minimum surplus that a prepaid health clinic is required to maintain; providing a schedule for compliance; providing effective dates.

Amendment 3 as amended was adopted.

On motion by Senator Gaetz, by two-thirds vote **CS for HB 1471** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Aronberg	Bennett
Altman	Baker	Bullard
Constantine	Gelber	Pruitt
Crist	Haridopolos	Rich
Dean	Hill	Richter
Detert	Jones	Ring
Deutch	Joyner	Siplin
Diaz de la Portilla	Justice	Smith
Dockery	King	Sobel
Fasano	Lawson	Storms
Gaetz	Lynn	Villalobos
Garcia	Oelrich	Wilson
Gardiner	Peaden	Wise

Nays—None

CS for CS for HB 611—A bill to be entitled An act relating to public construction projects; amending s. 255.20, F.S.; increasing the threshold amount for which certain public projects must be competitively awarded; revising exceptions to the requirement that certain public projects be competitively awarded; defining the terms "repair" and "maintenance"; requiring local governments to provide notice for certain public projects; providing notice requirements; extending the notice period for specified public meetings; requiring a local government to support a decision to perform a project with its own employees and to make a factual finding that the project cost will be the same or less than the lowest bid; providing additional exceptions for projects related to public-use airports, certain ports, and certain public transit or transportation systems; authorizing governmental entities to consider certain contractors ineligible to bid; revising the index and year on which the required adjustment of the threshold amounts is based; revising provisions for certain contractors and vendors to challenge a local government's actions; providing an effective date.

—was read the third time by title.

On motion by Senator Haridopolos, **CS for CS for HB 611** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

HB 7119—A bill to be entitled An act relating to public records; creating s. 1002.221, F.S.; providing an exemption from public records requirements for K-12 education records held by an agency, public school, center, institution, or other entity that is part of the state's education system; providing requirements for the release, use, and maintenance of education records; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; amending s. 1006.52, F.S.; expanding the exemption from public records requirements for records of students in public postsecondary educational institutions to include education records and applicant records; providing requirements for the release, use, and maintenance of education records; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing legislative findings; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Detert, **HB 7119** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

CS for CS for CS for SB 1154—A bill to be entitled An act relating to energy; amending s. 366.92, F.S.; revising definitions and providing additional definitions; requiring that electric utilities meet or exceed specified standards for the production or purchase of clean energy; establishing a schedule for compliance; providing a penalty if a utility fails to meet the standards; authorizing the Public Service Commission to excuse certain electric utilities from compliance under specified conditions; requiring the commission to adopt rules; requiring an annual report to the Legislature; amending s. 366.93, F.S.; authorizing the Public Service Commission to allow a utility to recover the costs of converting an existing fossil fuel plant to a biomass plant under certain conditions; encouraging utilities to pursue joint ownership of nuclear power plants; requiring that certain costs be shared; creating s. 366.99, F.S.; providing a short title; providing legislative findings with respect to the need to reduce greenhouse gas emissions through the direct end-use of natural gas; defining terms; authorizing a utility to establish a surcharge for the purpose of constructing natural gas installations in areas that lack natural gas service; providing limitations on the surcharge; providing procedures for determining the surcharge and making filings to the commission; requiring the commission to conduct limited proceedings to determine the amount of the surcharge; providing for future expiration of provisions authorizing the surcharge; amending s. 377.6015, F.S.; providing that terms for members of the Florida Energy and Climate Commission begin and end on specified dates; amending s. 377.705, F.S.; requiring the Solar Energy Center to charge testing fees; directing the Florida Building Commission to make all changes to the building and energy codes necessary to conform to this act; providing that if a specified commissioner of the Florida Energy and Climate Commission is not confirmed during the 2009 Regular Session or the 2010 Regular Session, the commissioner's appointment shall be extended until May 1, 2010, except for any member who, during that time, the Senate expressly refuses to confirm; requiring the Florida Energy and Climate Commission to obtain the approval of the joint Legislative Budget Commission before spending or disbursing any funds received from the federal government as part of a federal stimulus package; amending s. 403.503, F.S.; revising the definition of "electrical power plant"; amending s. 525.09, F.S.; imposing a fee on alternative fuel containing alcohol; requiring the Florida Energy and Climate Commission to prepare a report that identifies ways in which to increase the energy-efficiency practices of low-income households; requiring the report to include certain determinations and recommendations; requiring that the report be submitted to the Legislature by a specified date; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator King, **CS for CS for CS for SB 1154** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Aronberg	Bennett
Altman	Baker	Bullard
Constantine	Hill	Richter
Crist	Jones	Ring
Dean	Joyner	Siplin
Detert	Justice	Smith
Deutch	King	Sobel
Diaz de la Portilla	Lawson	Storms
Dockery	Lynn	Villalobos
Gaetz	Oelrich	Wilson
Garcia	Peaden	Wise
Gardiner	Pruitt	
Gelber	Rich	

Nays—1

Fasano

Vote after roll call:

Nay—Haridopolos

CS for CS for CS for CS for HB 425—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 455.213, F.S.; deleting signature notarization from the information that the department may require in documents submitted for the issuance or renewal of a license; prescribing when an application is received for purposes of certain requirements of the Administrative Procedure Act; amending s. 455.227, F.S.; establishing additional grounds for discipline of professions subject to regulation; prohibiting the failure to report criminal convictions and pleas; prohibiting the failure to complete certain treatment programs; providing penalties; creating s. 455.2274, F.S.; authorizing the department's representative to appear in criminal proceedings under certain circumstances and provide certain assistance to the court; amending s. 468.402, F.S.; providing for certain disciplinary action against a talent agency for revocation, suspension, or denial of the agency's license in any jurisdiction; amending s. 468.403, F.S.; prohibiting certain acts by persons who are not licensed as a talent agency; amending s. 468.409, F.S.; requiring certain records kept by a talent agency to be readily available for inspection by the department; requiring copies of the records to be provided to the department in a specified manner; amending s. 468.410, F.S.; specifying the time by which a talent agency must give an applicant for the agency's registration or employment services a copy of the contract for those services; amending s. 468.412, F.S.; requiring a talent agency to advise an artist, in writing, of certain rights relating to contracts for employment; specifying that an engagement procured by a talent agency during a specified period remains commissionable to the agency; limiting a prohibition against division of fees by a talent agency to circumstances in which the artist does not give written consent; providing a definition; authorizing a talent agency to assign an engagement contract to another agency under certain circumstances; amending s. 468.413, F.S.; increasing the penalty that the department may assess against a talent agency that violates certain provisions of law; amending s. 468.609, F.S.; deleting a requirement that applicants for building code administrator certification complete a certain core curriculum before taking the certification examination; amending ss. 468.627 and 471.0195, F.S.; deleting provisions requiring building code administrator and inspector certificateholders and engineer licensees to complete a certain core curriculum or pass an equivalency test of the Florida Building Code Compliance and Mitigation Program; amending s. 473.305, F.S.; deleting an examination late filing fee applicable to certified public accountant examinees; amending s. 473.311, F.S.; deleting a provision requiring passage of a rules examination for renewal of license as a certified public accountant; amending s. 473.313, F.S.; deleting a provision requiring passage of an examination as a condition for reactivation of an inactive license as a certified public accountant; amending s. 475.175, F.S.; deleting the option to submit a notarized application for a real estate broker or sales associate license; amending s. 475.451, F.S.; limiting the attorney exemption from continuing education requirements to attorneys in good standing with The Florida Bar; amending s. 475.615, F.S.; deleting a requirement that an application for a real estate appraiser certification be notarized; amending ss. 476.134 and 476.144, F.S.; requiring a written examination for a barbering license; deleting provisions for a practical examination for barbering license applicants; amending s. 477.026, F.S.; increasing maximum fees for cosmetology licenses; amending ss. 481.215 and 481.313, F.S.; de-

leting provisions requiring architect, interior designer, and landscape architect licensees to complete a certain core curriculum or pass an equivalency test of the Florida Building Code Compliance and Mitigation Program; amending s. 481.229, F.S.; exempting certain persons or entities engaged in the manufacture, sale, or installation of commercial food service equipment from provisions regulating architecture and interior design under certain circumstances; amending s. 489.103, F.S.; revising a disclosure statement that a local permitting agency must provide to property owners who apply for building permits and claim certain exemptions from provisions regulating construction contracting; amending s. 489.105, F.S.; revising the term "specialty contractor" to require that the scope of work and responsibility of a specialty contractor be established in a category of construction contracting adopted by rule of the Construction Industry Licensing Board; amending s. 489.109, F.S.; increasing maximum fees for construction contractor certifications; establishing fees for registration or certification to qualify a business organization for contracting; deleting provisions relating to a business organization's certificate of authority to conform to changes made by the act; amending s. 489.114, F.S.; deleting provisions relating to a business organization's certificate of authority to conform to changes made by the act; amending s. 489.115, F.S.; deleting provisions requiring construction contractor certificateholders and registrants to complete a certain core curriculum or pass an equivalency test of the Florida Building Code Compliance and Mitigation Program; amending s. 489.117, F.S.; revising requirements for the registration of certain contractors; deleting provisions requiring a contractor applicant to submit proof of a local occupational license; specifying circumstances under which a specialty contractor holding a local license is not required to register with the board; deleting provisions for the issuance of tracking registrations to certain contractors who are not eligible for registration as specialty contractors; limiting the licensing and disciplinary actions that local jurisdictions must report to the board to certain actions of registered contractors; deleting provisions requiring the board to establish uniform job scopes for any construction contracting license category; amending s. 489.119, F.S.; deleting provisions for the issuance of a certificate of authority to a business organization for contracting; requiring a contractor to apply for registration or certification to qualify a business organization as the qualifying agent; authorizing the board to deny a registration or certification to qualify a business organization under certain circumstances; providing application procedures and requirements for the issuance of a business tax receipt to a business organization; deleting provisions for the issuance of an occupational license to a business organization; authorizing a local government to impose fines against certified or registered contractors under certain circumstances; requiring the qualifying agent of a business organization to present certain evidence to the board; providing that the board has discretion to approve a business organization; amending s. 489.127, F.S.; deleting provisions relating to a business organization's certificate of authority for contracting to conform to changes made by the act; amending s. 489.128, F.S.; revising the circumstances under which a person is considered an unlicensed contractor; deleting provisions relating to a business organization's certificate of authority for contracting to conform to changes made by the act; amending ss. 489.129 and 489.132, F.S.; deleting provisions relating to a business organization's certificate of authority for contracting to conform to changes made by the act; amending s. 489.1455, F.S.; deleting provisions requiring certain journeymen licensees to complete a certain core curriculum or pass an equivalency test of the Florida Building Code Compliance and Mitigation Program; amending s. 489.505, F.S.; revising the term "specialty contractor" to require that the scope of practice of a specialty contractor be established in a category of electrical or alarm system contracting adopted by rule of the Electrical Contractors' Licensing Board; amending s. 489.513, F.S.; deleting a requirement that the local license required for an electrical or alarm system contractor be an occupational license; limiting the licensing and disciplinary actions that local jurisdictions must report to the board to certain actions of registered contractors; deleting provisions requiring the board to establish uniform job scopes for any electrical and alarm system contracting license category; amending s. 489.516, F.S.; authorizing local officials to require a contractor to obtain a business tax receipt; deleting provisions requiring a contractor to pay an occupational license fee; amending s. 489.517, F.S.; deleting provisions requiring electrical and alarm system contractor certificateholders and registrants to complete a certain core curriculum or pass an equivalency test of the Florida Building Code Compliance and Mitigation Program; amending s. 489.521, F.S.; providing application procedures and requirements for the issuance of a business tax receipt to a business organization; deleting provisions for the issuance of an occupational license to a business organization; amending s. 489.5315, F.S.; specifying that certain electrical or alarm system contractors are not required to obtain a business tax receipt; deleting a provision exempting certain contractors from requirements for an occupational license to conform to changes made by the act; amending s. 489.532, F.S.; revising the circumstances under which a person is considered an unlicensed electrical or alarm system contractor; amending s. 489.537, F.S.; authorizing a county or municipality to collect fees for business tax receipts from electrical and alarm system contractors; deleting a provision authorizing the collection of occupational license fees; amending s. 509.233, F.S.; authorizing local governments to establish, by ordinance, local exemption procedures to allow patrons' dogs within certain designated outdoor portions of public food service establishments; deleting provisions for a pilot program that limits the authority for such local exemption procedures to a specified time; deleting a provision that provides for the future review and repeal of such pilot program; amending s. 509.302, F.S.; defining the term "hospitality industry"; revising the purpose of the program to focus on certain training and transition programs; requiring a statewide nonprofit organization that receives the program's grant funding to represent a hospitality industry in the state; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to use a portion of certain annual licenses fees for programs directed to careers in the restaurant industry and a portion of the fees for programs directed to careers in the lodging industry; authorizing the division to use a portion of the fees for administration of the program; deleting provisions related to the allocation of the funds to various programs; revising the criteria for the award of grants to conform to changes made by the act; removing an expired provision that authorized administrative fines to be used for the program; amending s. 548.002, F.S.; defining the term "event" for regulation of pugilistic exhibitions; amending s. 548.003, F.S.; authorizing the Florida State Boxing Commission to adopt criteria for the approval of certain amateur sanctioning organizations; authorizing the commission to adopt health and safety standards for amateur mixed martial arts; reenacting ss. 468.436(2)(a), 468.832(1)(a), 468.842(1)(a), 471.033(1)(a), 472.033(1)(a), 473.323(1)(a), 475.25(1)(a), 475.624(1), 476.204(1)(h), 477.029(1)(h), 481.225(1)(a), and 481.325(1)(a), F.S., relating to the discipline of community association managers or firms, home inspectors, mold assessors and remediators, engineers, surveyors and mappers, certified public accountants and accounting firms, real estate brokers and sales associates, real estate appraisers, barbers, cosmetologists, architects, and landscape architects, to incorporate the amendment made to s. 455.227, F.S., in references thereto; amending s. 20.165, F.S.; creating the Division of Service Operations of the department; amending s. 455.217, F.S.; conforming provisions and transferring to the Division of Service Operations from the Division of Technology certain responsibilities related to examinations; revising certain requirements for the department concerning the use of outside vendors for the development, preparation, and evaluation of examinations; amending s. 471.003, F.S.; revises the types of construction projects for which certain contractors are exempt from licensure as an engineer; requiring that the Office of Program Policy Analysis and Government Accountability perform a study and make certain recommendations to the Legislature by a specified date regarding the enactment of laws to provide for protection and remedies from certain online poker activities; providing for retroactive application; repealing s. 509.201, F.S., relating to posting and advertising the room rates of a public lodging establishment and related penalties; providing effective dates.

—was read the third time by title.

On motion by Senator Gaetz, **CS for CS for CS for CS for HB 425** was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Diaz de la Portilla	Joyner
Altman	Dockery	Justice
Aronberg	Fasano	King
Baker	Gaetz	Lawson
Bennett	Garcia	Lynn
Constantine	Gardiner	Oelrich
Crist	Gelber	Peaden
Dean	Haridopolos	Pruitt
Detert	Hill	Rich
Deutch	Jones	Richter

Siplin	Storms	Wise
Smith	Villalobos	
Sobel	Wilson	

Nays—None

CS for HB 1139—A bill to be entitled An act relating to the Florida Center for Nursing; amending s. 464.0195, F.S.; requiring the Board of Nursing to provide certain information to nurses before they are given the opportunity to contribute to funding the center at licensure renewal; providing an effective date.

—was read the third time by title.

On motion by Senator Rich, **CS for HB 1139** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

CS for CS for HB 483—A bill to be entitled An act relating to investor protection; amending s. 16.56, F.S.; expanding jurisdiction of the Office of Statewide Prosecution to investigate and prosecute certain additional offenses; amending s. 517.021, F.S.; revising definitions; amending s. 517.072, F.S.; exempting certain transactions in viatical settlement investments from certain registration requirements; specifying application of certain provisions; amending s. 517.12, F.S.; revising requirements for registration of dealers, associated persons, investment advisers, and branch offices; amending s. 517.121, F.S.; authorizing the Office of Financial Regulation to suspend registration for registrant failure to provide certain records; providing for rescinding suspensions; amending ss. 517.1215 and 517.1217, F.S.; changing an agency reference; amending s. 517.141, F.S.; excluding postjudgment interest from payments from the fund; amending s. 517.161, F.S.; expanding the class of persons related to or associated with an applicant or registrant for which certain violations may result in adverse actions taken against registrations; authorizing the office to suspend a registration under certain circumstances; creating s. 517.1611, F.S.; requiring the Financial Services Commission to adopt rules providing certain disciplinary guidelines; specifying criteria for such guidelines; requiring the commission to adopt rules for disqualifying registrants for certain periods of time for certain criminal actions; providing rules criteria; amending s. 517.191, F.S.; authorizing the office to apply to the court for orders directing restitution; authorizing the office to apply to the court to impose civil penalties for certain violations; specifying limitations; requiring deposit of civil penalties into the Anti-Fraud Trust Fund; authorizing the Attorney General to act as an enforcing authority for certain provisions of law; authorizing the Attorney General, with approval of the office, to investigate and enforce certain provisions; authorizing the Attorney General to bring certain actions for injunctive relief; authorizing the Attorney General to recover certain investigation and enforcement costs and attorney fees; providing for deposit of certain recovered moneys into the Legal Affairs Revolving Trust Fund; authorizing the Legal Affairs Revolving Trust Fund to be used for investigation and enforcement purposes; preserving the authority of the office to bring certain administrative actions; prohibiting subjecting persons to a civil penalty and an administrative fine under certain circumstances; specifying time limitations on bringing certain enforcement actions; amending s. 517.221, F.S.; increasing the amount of certain administrative fines; authorizing the office to bar certain persons from submitting applications or notifications for a license or registration under certain circumstances; amending s. 517.275, F.S.; revising criteria for prohibited practices relating to commodities; creating s. 896.108, F.S.; authorizing the Department of Law Enforcement to enter into agreements to pay rewards for information leading to the recovery of certain fines, penalties, or forfeitures; authorizing the executive director of the department to determine the amount of the reward; authorizing the executive director to exceed certain statutory limits of rewards under certain circumstances; providing limitations; providing for deposit of certain funds into certain trust funds; excluding certain persons from eligibility to collect rewards; providing that a payment of an award does not affect the admissibility of testimony in court; amending s. 905.34, F.S.; expanding subject matter jurisdiction of the statewide grand jury to include certain additional offenses; providing an effective date.

—was read the third time by title.

On motion by Senator Richter, **CS for CS for HB 483** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for CS for HB 167—A bill to be entitled An act relating to the energy-efficient appliance rebate program; creating s. 377.807, F.S.; authorizing the Florida Energy and Climate Commission to develop and administer a consumer rebate program for specified energy-efficient appliances; authorizing the commission to adopt rules; authorizing the commission to enter into contracts or memoranda of agreement with other agencies of the state, public-private partnerships, and other arrangements for specified purposes; providing an appropriation; providing requirements for the release of the appropriation; providing an effective date.

—was read the third time by title.

On motion by Senator Sobel, **CS for CS for HB 167** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	King
Alexander	Dockery	Lawson
Altman	Fasano	Lynn
Aronberg	Gaetz	Oelrich
Baker	Garcia	Peaden
Bennett	Gardiner	Pruitt
Bullard	Gelber	Rich
Constantine	Haridopolos	Richter
Crist	Hill	Ring
Dean	Jones	Siplin
Detert	Joyner	Smith
Deutch	Justice	Sobel

Storms	Wilson
Villalobos	Wise

Nays—None

HB 7089—A bill to be entitled An act relating to exceptional students; amending s. 1003.57, F.S.; revising provisions relating to due process hearings for exceptional students; requiring that such hearings be conducted by an administrative law judge from the Division of Administrative Hearings pursuant to a contract with the Department of Education; providing that any party to a hearing related to gifted students may request that the findings or decision be reviewed by the district court of appeal; authorizing a district school board to consider a change in placement for a student who has a disability if the student engages in behavior that violates the district school board's code of student conduct; providing for the removal and placement of such student in an alternative educational setting for a limited period; specifying the grounds for removal; providing definitions for the terms "controlled substance" and "weapon"; creating s. 1003.571, F.S.; requiring that the State Board of Education comply with the Individuals with Disabilities Education Act after evaluating and determining that such act is consistent with certain principles; requiring that the State Board of Education adopt rules; amending s. 1003.58, F.S.; conforming a cross-reference; providing an effective date.

—was read the third time by title.

On motion by Senator Detert, **HB 7089** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for HB 895—A bill to be entitled An act relating to public records; amending s. 1008.24, F.S.; providing an exemption from public records requirements for personally identifiable information or allegations of misconduct obtained or reported in connection with an investigation of a testing impropriety conducted by the Department of Education; providing that the exemption applies until the investigation is concluded or becomes inactive; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Detert, **CS for HB 895** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Bullard	Diaz de la Portilla
Alexander	Constantine	Dockery
Altman	Crist	Fasano
Aronberg	Dean	Gaetz
Baker	Detert	Garcia
Bennett	Deutch	Gardiner
Gelber	Lynn	Smith
Haridopolos	Oelrich	Sobel
Hill	Peaden	Storms
Jones	Pruitt	Villalobos
Joyner	Rich	Wilson
Justice	Richter	Wise
King	Ring	
Lawson	Siplin	

Nays—None

HB 949—A bill to be entitled An act relating to grounds for nonrecognition of foreign defamation judgments; amending s. 55.605, F.S.; providing that an out-of-country foreign judgment need not be recognized if the cause of action resulted in a defamation judgment obtained in a jurisdiction outside the United States, unless a court in this state first determines that the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and press as would be provided in this state; creating s. 55.6055, F.S.; providing that the courts of this state have personal jurisdiction over a person who obtains a judgment in a defamation proceeding outside the United States against a person residing in or having property in this state for the purpose of determining whether the foreign defamation judgment should be deemed nonrecognizable; providing for retroactive application; providing an effective date.

—was read the third time by title.

On motion by Senator Aronberg, **HB 949** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

SB 1862—A bill to be entitled An act relating to community corrections assistance to counties or county consortiums; amending s. 948.51, F.S.; adding rehabilitative community reentry programs to the list of programs, services, and facilities that may be funded using community corrections funds; deleting military-style boot camps from such list; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Joyner, **SB 1862** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Crist	Garcia
Alexander	Dean	Gardiner
Altman	Detert	Gelber
Aronberg	Deutch	Haridopolos
Baker	Diaz de la Portilla	Hill
Bennett	Dockery	Jones
Bullard	Fasano	Joyner
Constantine	Gaetz	Justice

King	Rich	Storms
Lawson	Richter	Villalobos
Lynn	Ring	Wilson
Oelrich	Siplin	Wise
Peaden	Smith	
Pruitt	Sobel	

Nays—None

CS for HB 115—A bill to be entitled An act relating to sexual offenders and predators; amending s. 257.12, F.S.; encouraging all public libraries to implement an Internet safety education program for children and adults; providing minimum requirements for the program; requiring libraries to annually report to the Division of Library and Information Services of the Department of State the number of participants who complete the program; requiring that the division adopt rules to award additional points to grant applicants implementing such a program; amending ss. 775.21, 943.0435, 944.606, 944.607, and 985.481, F.S.; requiring sexual offenders and predators to provide home telephone numbers and any cellular telephone numbers as part of the registration process; correcting cross-references to apply exclusions from designation as a sexual offender or predator to owners or operators of computer services rather than to persons traveling to meet a minor; amending ss. 847.0135 and 847.0138, F.S.; removing residency requirements in statutes relating to computer pornography involving minor children and the transmission of material harmful to a minor by electronic device or equipment, respectively; providing an effective date.

—was read the third time by title.

On motion by Senator Ring, **CS for HB 115** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for CS for SB 1468—A bill to be entitled An act relating to working waterfront property; creating s. 193.704, F.S.; providing definitions; identifying property that is eligible for classification as working waterfront property; requiring the assessment of working waterfront property based on current use; requiring an application for classification of property as working waterfront property; authorizing a property appraiser to approve an application that is not filed by a certain deadline due to extenuating circumstances; providing for the waiver of annual application requirements; providing for the loss of classification upon a change of ownership or use; requiring that property owners notify the property appraiser of changes in use or ownership of property; imposing a penalty on a property owner who fails to notify the property appraiser of an event resulting in the unlawful or improper classification of property as working waterfront property; requiring the imposition of tax liens to recover penalties and interest; providing for the assessment of a portion of property within a working waterfront property which is not used as working waterfront property; requiring that a property appraiser make a list relating to applications to certify property as working waterfront property; providing an appeal process for an application that has been denied; amending s. 195.073, F.S.; providing for the classification of land as working waterfront property on an assessment roll; amending s. 259.105, F.S.; renaming the "Stan Mayfield Working Waterfronts Program" within the Florida Communities Trust as the "Stan Mayfield Commercial Waterfronts Restoration and Preservation Program"; amending s. 380.502, F.S.; conforming provisions to changes made by the act; amending s. 380.503, F.S.; deleting a definition for the term "working waterfronts" for purposes of the Florida Communities Trust Act; amending s. 380.507, F.S.; providing a cross-reference; clarifying provisions relating to the authority of the Florida Communities Trust to provide grants or loans for certain projects; clarifying the trust's rulemaking authority; deleting obsolete provisions; amending s. 380.508, F.S.; deleting provisions relating to the purpose of working waterfront projects; amending s. 380.5105, F.S.; conforming provisions to changes made by the act; providing a definition for the term "commercial waterfront"; providing that certain property does not qualify as commercial waterfront property; providing for water-dependent commercial activities; limiting the uses of acquired property in perpetuity; requiring that the Florida Communities Trust adopt rules establishing procedures and an application process; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Altman, the rules were waived to allow the following amendment to be considered:

Senator Altman moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (629734)—Delete lines 129-140 and insert:

(b)1. Property classified as working waterfront property under this section shall be assessed solely on the basis of the property's current use. The property appraiser shall consider only the following use factors:

a. The condition of the property.

b. The present market value of the property in its current use.

c. The income produced by the property.

2. In no event shall the assessed value of the property exceed just value.

On motion by Senator Dean, further consideration of **CS for CS for SB 1468** as amended was deferred.

HB 7035—A bill to be entitled An act relating to a review under the Open Government Sunset Review Act regarding written valuations of state-owned surplus lands; amending s. 253.034, F.S., which provides an exemption from public records requirements for a written valuation of state-owned lands determined to be surplus and related documents used to form the valuation or which pertain to the valuation; reorganizing the exemption; clarifying provisions; removing the scheduled repeal of the exemption; providing an effective date.

—was read the third time by title.

On motion by Senator Constantine, **HB 7035** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Dockery	Lynn
Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Richter
Bullard	Haridopolos	Ring
Constantine	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson

Wise

Nays—None

CS for CS for HB 271—A bill to be entitled An act relating to confidential informants; creating "Rachel's Law"; defining terms; requiring a law enforcement agency that uses confidential informants to disclose certain information to persons who are requested to serve as confidential informants; providing that a law enforcement agency must provide an opportunity to consult with legal counsel to a person who is requested to serve as a confidential informant; requiring training for persons involved with the recruitment and use of confidential informants; requiring a law enforcement agency to adopt policies and procedures to preserve the safety of confidential informants, law enforcement personnel, target offenders, and the public; requiring a law enforcement agency that uses confidential informants to address the recruitment, control, and use of confidential informants in policies and procedures of the agency; requiring a law enforcement agency to establish policies and procedures to assess the suitability of using a person as a confidential informant; requiring a law enforcement agency to establish procedures to maintain the security of records relating to confidential informants; requiring a law enforcement agency to periodically review confidential informant practices; providing that the act does not grant any right or entitlement to a confidential informant or a person who is requested to be a confidential informant; providing that any failure to abide by the act does not create any additional right enforceable by a defendant in a criminal proceeding; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **CS for CS for HB 271** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

SB 2416—A bill to be entitled An act relating to solid waste disposal; amending s. 403.708, F.S.; authorizing the disposal of yard trash at a Class I landfill if the landfill has a system for collecting landfill gas and arranges for the reuse of the gas; providing an effective date.

—was read the third time by title.

Senator Bullard moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (616880) (with title amendment)—After line 27 insert:

Section 2. Subsection (7) of section 6 of chapter 99-395, Laws of Florida, is amended to read:

Section 6. Sewage requirements in Monroe County.—

(7) Class V injection wells, as defined by Department of Environmental Protection or Department of Health rule, shall meet the following requirements and shall otherwise comply with Department of Environmental Protection or Department of Health rules, as applicable:

(a) If the design capacity of the facility is less than 1,000,000 gallons per day, the injection well shall be at least 90 feet deep and cased to a minimum depth of 60 feet or to such greater cased depth and total well depth as may be required by Department of Environmental Protection rule.

(b) *Except as provided in paragraph (c) for backup wells,* if the design capacity of the facility is equal to or greater than 1,000,000 gallons per day, the injection well shall be cased to a minimum depth of 2,000 feet or to such greater depth as may be required by Department of Environmental Protection rule.

(c) If the injection well is used as a backup to a primary injection well, the following conditions apply:

1. The backup well may be used only when the primary injection well is out of service because of equipment failure, power failure, or the need for mechanical integrity testing or repair;

2. The backup well may not be used for a total of more than 500 hours during any 5-year period, unless specifically authorized in writing by the Department of Environmental Protection;

3. The backup well shall be at least 90 feet deep and cased to a minimum depth of 60 feet, or to such greater cased depth and total well depth as may be required by rule of the Department of Environmental Protection; and

4. Fluid injected into the backup well shall meet the requirements of subsections (5) and (6).

And the title is amended as follows:

Delete line 6 and insert: the gas; amending s. 6, ch. 99-395, Laws of Florida; providing exceptions to requirements of the Department of Environmental Protection regarding minimum casing for injection wells used by facilities that have a specified design capacity; providing requirements for an injection well used as a backup to a primary injection well; providing an effective date.

On motion by Senator Gaetz, **SB 2416** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Altman	Garcia	Pruitt
Aronberg	Gardiner	Rich
Baker	Gelber	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Crist	Jones	Smith
Dean	Joyner	Sobel
Detert	Justice	Storms
Deutch	King	Villalobos
Diaz de la Portilla	Lawson	Wilson
Dockery	Lynn	Wise

Nays—None

Vote after roll call:

Yea—Constantine

The Senate resumed consideration of—

CS for CS for SB 1468—A bill to be entitled An act relating to working waterfront property; creating s. 193.704, F.S.; providing definitions; identifying property that is eligible for classification as working waterfront property; requiring the assessment of working waterfront property based on current use; requiring an application for classification of property as working waterfront property; authorizing a property appraiser to approve an application that is not filed by a certain deadline due to extenuating circumstances; providing for the waiver of annual application requirements; providing for the loss of classification upon a

change of ownership or use; requiring that property owners notify the property appraiser of changes in use or ownership of property; imposing a penalty on a property owner who fails to notify the property appraiser of an event resulting in the unlawful or improper classification of property as working waterfront property; requiring the imposition of tax liens to recover penalties and interest; providing for the assessment of a portion of property within a working waterfront property which is not used as working waterfront property; requiring that a property appraiser make a list relating to applications to certify property as working waterfront property; providing an appeal process for an application that has been denied; amending s. 195.073, F.S.; providing for the classification of land as working waterfront property on an assessment roll; amending s. 259.105, F.S.; renaming the "Stan Mayfield Working Waterfronts Program" within the Florida Communities Trust as the "Stan Mayfield Commercial Waterfronts Restoration and Preservation Program"; amending s. 380.502, F.S.; conforming provisions to changes made by the act; amending s. 380.503, F.S.; deleting a definition for the term "working waterfronts" for purposes of the Florida Communities Trust Act; amending s. 380.507, F.S.; providing a cross-reference; clarifying provisions relating to the authority of the Florida Communities Trust to provide grants or loans for certain projects; clarifying the trust's rulemaking authority; deleting obsolete provisions; amending s. 380.508, F.S.; deleting provisions relating to the purpose of working waterfront projects; amending s. 380.5105, F.S.; conforming provisions to changes made by the act; providing a definition for the term "commercial waterfront"; providing that certain property does not qualify as commercial waterfront property; providing for water-dependent commercial activities; limiting the uses of acquired property in perpetuity; requiring that the Florida Communities Trust adopt rules establishing procedures and an application process; providing an effective date.

—which was previously considered and amended this day.

MOTION

On motion by Senator Altman, the rules were waived to allow the following amendment to be considered:

Senator Altman moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (854878)—Delete lines 131-140 and insert: *use.*

1. If appropriate to the property, the assessed value shall be calculated using the income approach to value, and using a capitalization rate based upon the debt coverage ratio formula. The capitalization rate shall be calculated and updated annually. The capitalization rate shall be based on data that is county specific unless insufficient data is available, in which case the property appraisers shall use data from counties with similar conditions and characteristics, or data provided by the department. The condition and size of the property shall also be taken into account when assessing the property.

2. In assessing property for which the methodology in 1. is not appropriate, the property appraiser shall consider only the following factors:

a. The condition of the property.

b. The present market value of the property in its current use.

c. The income produced by the property.

3. In no event shall the assessed value of the property exceed just value.

RECONSIDERATION OF AMENDMENT

On motion by Senator Altman, the Senate reconsidered the vote by which **Amendment 1 (629734)** was adopted. **Amendment 1** was withdrawn.

On motion by Senator Dean, **CS for CS for SB 1468** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Altman	Aronberg
Baker	Garcia	Peaden
Bennett	Gardiner	Pruitt
Bullard	Gelber	Rich
Constantine	Haridopolos	Richter
Crist	Hill	Ring
Dean	Jones	Siplin
Detert	Joyner	Smith
Deutch	Justice	Sobel
Diaz de la Portilla	King	Storms
Dockery	Lawson	Villalobos
Fasano	Lynn	Wilson
Gaetz	Oelrich	Wise

Nays—None

CS for SB 2334—A bill to be entitled An act relating to the Water Protection and Sustainability Program Trust Fund; amending s. 373.1961, F.S.; revising requirements for the use of moneys in the trust fund; authorizing the Northwest Florida Water Management District and the Suwannee River Water Management District to use a portion of moneys in the trust fund for specific purposes; providing an effective date.

—was read the third time by title.

On motion by Senator Dean, **CS for SB 2334** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for CS for HB 127—A bill to be entitled An act relating to enterprise zones; creating s. 290.00725, F.S.; authorizing the City of Ocala to apply to the Office of Tourism, Trade, and Economic Development for designation of an enterprise zone; providing an application deadline; providing requirements for the area of the enterprise zone; requiring the office to establish the effective date of the enterprise zone; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for CS for HB 127** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Detert	Hill
Alexander	Deutch	Jones
Altman	Diaz de la Portilla	Joyner
Aronberg	Dockery	Justice
Baker	Fasano	King
Bennett	Gaetz	Lawson
Bullard	Garcia	Lynn
Constantine	Gardiner	Oelrich
Crist	Gelber	Peaden
Dean	Haridopolos	Pruitt

Rich	Smith	Wilson
Richter	Sobel	Wise
Ring	Storms	
Siplin	Villalobos	

Nays—None

CS for SB 2408—A bill to be entitled An act relating to compensation for wrongful incarceration; amending s. 961.02, F.S.; defining the term "actual innocence" for purposes of the Victims of Wrongful Incarceration Compensation Act; redefining the term "wrongfully incarcerated person" in order to conform; amending s. 961.03, F.S.; requiring that a petition for compensation include clear and convincing evidence of actual innocence; requiring the petitioner to submit fingerprints for criminal history records checks; providing that failure to submit fingerprints within the prescribed timeframe does not warrant denial of compensation under the act; providing procedures for taking and submitting fingerprints; requiring that the results of the criminal history records checks be submitted to the clerk of the court; providing for use of the results by the court; specifying who will pay for the criminal history records checks; amending s. 961.05, F.S.; eliminating the requirement that a wrongfully incarcerated person provide certain court records and documentation from the Department of Corrections along with an application for compensation; requiring the Department of Legal Affairs to request certain records from the clerk of the court and the Department of Corrections; amending s. 961.06, F.S.; precluding submission of an application for compensation if the wrongfully incarcerated person has received a prior favorable judgment from a civil action arising out of the wrongful incarceration; providing an effective date.

—was read the third time by title.

On motion by Senator Joyner, **CS for SB 2408** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dockery	Lynn
Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Aronberg	Garcia	Rich
Baker	Gardiner	Richter
Bennett	Gelber	Ring
Bullard	Haridopolos	Siplin
Constantine	Hill	Smith
Crist	Jones	Sobel
Dean	Joyner	Storms
Detert	Justice	Villalobos
Deutch	King	Wilson
Diaz de la Portilla	Lawson	Wise

Nays—1

Oelrich

CS for HB 1065—A bill to be entitled An act relating to aircraft safety; providing a short title; creating s. 379.2293, F.S.; providing legislative findings and intent; exempting airport authorities and other entities from penalties, restrictions, or sanctions with respect to authorized actions taken to protect human life or aircraft from wildlife hazards; defining the term "authorized action taken for the purpose of protecting human life or aircraft safety from wildlife hazards"; providing that federal or state authorizations for such actions prevail over certain other regulations, permits, comprehensive plans, and laws; providing immunity from penalties with respect to authorized action for certain individuals; providing exceptions; providing an effective date.

—was read the third time by title.

On motion by Senator Baker, **CS for HB 1065** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for CS for CS for SB 904—A bill to be entitled An act relating to parental responsibility and time-sharing; amending s. 61.046, F.S.; redefining the terms "parenting plan," "parenting plan recommendations," and "time-sharing schedule"; creating s. 61.125, F.S.; providing for parenting coordination as an alternative dispute resolution process to resolve parenting plan disputes; providing for court referral; providing for domestic violence situations; providing the qualifications required for a parenting coordinator and for the disqualification of a coordinator; providing for the payment of parenting coordination fees and costs; providing for confidentiality; providing for emergency reporting to the court by the coordinator; providing a limitation on the coordinator's liability; amending s. 61.13, F.S., relating to child support, parenting plans, and time-sharing; deleting obsolete provisions; requiring a parenting plan to include the address to be used for determining school boundaries; revising the elements of the rebuttable presumption that shared parental responsibility is detrimental to a child when a parent is convicted of a crime involving domestic violence; providing that the presumption applies to a crime that is a misdemeanor of the first degree or higher rather than to a crime that is a felony of the third degree or higher; allowing the modification of a parenting plan only upon a showing of substantially changed circumstances; requiring a court to make explicit written findings if, when determining the best interests of a child for the purposes of shared parental responsibility and visitation, the court considered evidence of domestic or sexual violence and child abuse, abandonment, or neglect; amending s. 61.13001, F.S., relating to parental relocation; deleting terms and redefining the terms "other person," "parent," and "relocation"; substituting the term "access to" for "visitation"; deleting provisions relating to the requirement for a Notice of Intent to Relocate and substituting procedures relating to filing a petition to relocate; requiring a hearing on a motion seeking a temporary relocation to be held within a certain time; providing for applicability of changes made by the act; amending ss. 61.183, 61.20, and 61.21, F.S.; conforming provisions to changes made by the act; amending s. 741.30, F.S., relating to domestic violence; authorizing a court to issue an ex parte injunction that provides a temporary parenting plan; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Deutch, the rules were waived to allow the following amendment to be considered:

Senator Deutch moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (710614)—Delete line 371 and insert: rebutted *after the convicted parent is advised by the court that the presumption exists*, shared parental responsibility, including time-sharing

On motion by Senator Deutch, **CS for CS for CS for SB 904** as amended was passed, ordered engrossed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

THE PRESIDENT PRESIDING

On motion by Senator Richter, by two-thirds vote **CS for HB 903** was withdrawn from the Committees on Banking and Insurance; Judiciary; and General Government Appropriations.

On motion by Senator Richter, by two-thirds vote—

CS for HB 903—A bill to be entitled An act relating to attorney's fees in workers' compensation cases; amending s. 440.34, F.S.; clarifying requirements for the payment of fees and costs under a retainer agreement; specifying the amount of attorney's fees which a claimant is entitled to recover from a carrier or employer; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2072** and by two-thirds vote read the second time by title.

MOTION

On motion by Senator Ring, the rules were waived to allow the following amendment to be considered:

Senator Ring moved the following amendment which was adopted:

Amendment 1 (383074) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Paragraph (c) of subsection (3) of section 440.105, Florida Statutes, is repealed.*

Section 2. Paragraph (c) of subsection (11) of section 440.20, Florida Statutes, is amended to read:

440.20 Time for payment of compensation and medical bills; penalties for late payment.—

(11)

(c) Notwithstanding s. 440.21(2), when a claimant is represented by counsel, the claimant may waive all rights to any and all benefits under this chapter by entering into a settlement agreement releasing the employer and the carrier from liability for workers' compensation benefits in exchange for a lump-sum payment to the claimant. The ~~settlement agreement requires approval by the~~ judge of compensation claims *shall enter an order determining what, if any, portion of the settlement proceeds must be allocated to satisfy any child support arrearage* ~~only as to the attorney's fees paid to the claimant's attorney by the claimant~~. ~~The parties need not submit any information or documentation in support of the settlement, except as needed to justify the amount of the attorney's fees.~~ Neither the employer nor the carrier is responsible for any attorney's fees relating to the settlement and release of claims under this section. *Attorney's fees related to a settlement and release of claims are not subject to the provisions of s. 440.34(1). However, any attorney's fees paid by a claimant may not exceed the amount allowable under the Supreme Court's guidelines governing contingency fee agreements based upon the gross amount of the settlement.* Payment of the lump-sum settlement amount must be made within 14 days after the date the judge of compensation claims mails the order *determining the portion of the settlement proceeds, if any, that must be allocated to satisfy a child support arrearage* ~~approving the attorney's fees~~. ~~Any order entered by a judge of compensation claims approving the attorney's fees as set out in the settlement under this subsection is not considered to be an award and is not subject to modification or review.~~ The judge of compensation claims shall report these settlements to the Deputy Chief Judge in accordance with the requirements set forth in paragraphs (a) and (b). Settlements entered into under this subsection are valid and apply to all dates of accident.

Section 3. Section 440.34, Florida Statutes, is amended to read:

440.34 Attorney's fees; costs.—

(1) *A claimant is responsible for the payment of his or her own attorney's fees, except that he or she is entitled to recover attorney's fees payable by a carrier or employer if:*

(a) A carrier or employer furnishes benefits claimed in a petition for benefits more than 30 days after the carrier or employer, if self-insured, receives the petition; or

(b) The claimant successfully prevails in a proceeding filed under s. 440.24 or s. 440.28.

The attorney's fees a carrier or employer must pay under this subsection must equal 25 percent of the first $5,000 of the amount of the benefits secured, 20 percent of the next $5,000 of the amount of the benefits secured, and 15 percent of the remaining amount of the benefits secured. However, an attorney's fee payable under this subsection may be increased up to the fee paid by the employer or carrier to the employer's or carrier's attorneys if it is determined that the employer or carrier engaged in a bad faith denial of benefits, unreasonably delayed furnishing benefits that were due and owing, or unreasonably continued or increased the expense of litigation.

(2) Unless the parties agree otherwise, attorney's fees payable under subsection (1) shall be determined ~~A fee, gratuity, or other consideration may not be paid for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable~~ by the judge of compensation claims or court having jurisdiction over such proceedings. ~~Any attorney's fee approved by a judge of compensation claims for benefits secured on behalf of a claimant must equal to 20 percent of the first $5,000 of the amount of the benefits secured, 15 percent of the next $5,000 of the amount of the benefits secured, 10 percent of the remaining amount of the benefits secured to be provided during the first 10 years after the date the claim is filed, and 5 percent of the benefits secured after 10 years. The judge of compensation claims shall not approve a compensation order, a joint stipulation for lump sum settlement, a stipulation or agreement between a claimant and his or her attorney, or any other agreement related to benefits under this chapter that provides for an attorney's fee in excess of the amount permitted by this section. The judge of compensation claims is not required to approve any retainer agreement between the claimant and his or her attorney. The retainer agreement as to fees and costs may not be for compensation in excess of the amount allowed under this section.~~

(3) ~~(2)~~ In awarding a claimant's attorney's fee, the judge of compensation claims shall consider only those benefits secured by the attorney. An attorney is not entitled to attorney's fees for representation in any issue that was ripe, due, and owing and that reasonably could have been addressed, but was not addressed, during the pendency of other issues for the same injury. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorney's fees awarded by the judge of compensation claims. For purposes of this section, the term "benefits secured" does not include future medical benefits to be provided on any date more than 5 years after the date the claim is filed. ~~In the event an offer to settle an issue pending before a judge of compensation claims, including attorney's fees as provided for in this section, is communicated in writing to the claimant or the claimant's attorney at least 30 days prior to the trial date on such issue, for purposes of calculating the amount of attorney's fees to be taxed against the employer or carrier, the term "benefits secured" shall be deemed to include only that amount awarded to the claimant above the amount specified in the offer to settle. If multiple issues are pending before the judge of compensation claims, said offer of settlement shall address each~~

~~issue pending and shall state explicitly whether or not the offer on each issue is severable. The written offer shall also unequivocally state whether or not it includes medical witness fees and expenses and all other costs associated with the claim.~~

(4) ~~(3)~~ If any party should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the non-prevailing party the reasonable costs of such proceedings, not to include attorney's fees. ~~A claimant shall be responsible for the payment of her or his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:~~

~~(a) Against whom she or he successfully asserts a petition for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage loss, or death benefits, arising out of the same accident;~~

~~(b) In any case in which the employer or carrier files a response to petition denying benefits with the Office of the Judges of Compensation Claims and the injured person has employed an attorney in the successful prosecution of the petition;~~

~~(c) In a proceeding in which a carrier or employer denies that an accident occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; or~~

~~(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s. 440.28.~~

~~Regardless of the date benefits were initially requested, attorney's fees shall not attach under this subsection until 30 days after the date the carrier or employer, if self insured, receives the petition.~~

(5) ~~(4)~~ In such cases in which the claimant is responsible for the payment of her or his own attorney's fees, such fees are a lien upon compensation payable to the claimant, notwithstanding s. 440.22.

(6) ~~(5)~~ If any proceedings are had for review of any claim, award, or compensation order before any court, the court may award the injured employee or dependent an attorney's fee to be paid by the employer or carrier, in its discretion, which shall be paid as the court may direct.

(7) ~~(6)~~ A judge of compensation claims may not enter an order approving the contents of a retainer agreement that permits the escrowing of any portion of the employee's compensation until benefits have been secured.

(8) Nothing in this chapter impairs the right of a claimant to contract with an attorney for representation in connection with a claim filed under this chapter, except that an attorney may not recover an attorney's fee from a claimant on benefits secured for which an attorney's fee has been paid by a carrier or employer pursuant to this section.

(9) Notwithstanding any provision of law to the contrary, attorney's fees and costs of the prevailing party paid by a carrier to a claimant or a claimant's attorney pursuant to this chapter may not be recouped, directly or indirectly, by any carrier, included in any rate base or rate filing, or used to justify a rate or rate change.

(10) For purposes of first responders as defined in s. 112.1815(1), the finder of fact and law is not bound by any statutory provision regarding attorney's fees relating to the provision of indemnity or medical benefits for employment-related accidents or injuries involving exposure to a toxic substance or occupational disease, but must consider the following factors when awarding an attorney's fee:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal service properly.

(b) The fee customarily charged in the locality for similar legal services.

(c) The amount involved in the controversy and the benefits payable to the claimant.

(d) The time limitations imposed by the claimant or the circumstances.

(e) The experience, reputation, and ability of the attorney or attorneys performing services.

(f) The contingency or certainty of a fee.

For purposes of this subsection, the term "occupational disease" has the same meaning as provided in s. 112.1815(4).

~~(7) If an attorney's fee is owed under paragraph (3)(a), the judge of compensation claims may approve an alternative attorney's fee not to exceed $1,500 only once per accident, based on a maximum hourly rate of $150 per hour, if the judge of compensation claims expressly finds that the attorney's fee amount provided for in subsection (1), based on benefits secured, fails to fairly compensate the attorney for disputed medical only claims as provided in paragraph (3)(a) and the circumstances of the particular case warrant such action.~~

Section 4. *The Legislature finds that this act fulfills an important state interest relating to the public interest in prompt and adequate response to provide for the safety of the public unique to first responders.*

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to workers' compensation; repealing s. 440.105(3)(c), F.S., relating to the prohibition against a fee, consideration, or gratuity for an attorney or other person for certain services; amending s. 440.20, F.S.; requiring that a judge of compensation claims enter an order determining the portion of settlement proceeds to be allocated to child support arrearages; deleting the requirement that a judge of compensation claims approve the attorney's fees paid by a claimant; deleting the requirement that parties to a settlement submit information or documentation to support the settlement; exempting settlement attorney's fees from certain provisions of state law; limiting the amount of attorney's fees paid by a claimant; requiring payment of a settlement within a specified time after a judge determines the portion of the settlement amount allocated to child support; amending s. 440.34, F.S.; providing that a claimant is responsible for the payment of his or her attorney's fees; providing exceptions; specifying a schedule for the determination of attorney's fees to be paid by a carrier or employer; requiring that a judge of compensation claims determine the amount of attorney's fees unless the parties agree otherwise; deleting certain restrictions on the amount of attorney's fees; deleting requirements relating to offers of settlement; preserving the right of a claimant to contract with an attorney for representation in connection with certain claims; prohibiting the recovery of attorney's fees under certain circumstances; prohibiting the recoupment of certain attorney's fees and costs by a carrier; prohibiting the inclusion of such fees or costs in any rate base or rate filing and the use of such fees or costs to justify a rate or rate change; providing that the finder of fact and law is not bound by provisions of state law relating to the provision of indemnity or medical benefits for employment-related accidents or injuries involving exposure to a toxic substance or occupational disease when awarding attorney's fees in cases involving first responders; requiring that the finder of fact and law consider certain factors when awarding attorney's fees in such cases; defining the term "occupational disease" for specified purposes; deleting provisions authorizing a judge of compensation claims to approve alternative attorney's fees under certain circumstances; providing legislative findings; providing an effective date.

On motion by Senator Richter, by two-thirds vote **CS for HB 903** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dean	Gelber
Alexander	Detert	Haridopolos
Altman	Deutch	Hill
Aronberg	Diaz de la Portilla	Jones
Baker	Dockery	Joyner
Bennett	Fasano	Justice
Bullard	Gaetz	King
Constantine	Garcia	Lawson
Crist	Gardiner	Lynn

Oelrich	Ring	Storms
Peaden	Siplin	Villalobos
Rich	Smith	Wilson
Richter	Sobel	Wise

Nays—None

Vote after roll call:

Yea—Pruitt

CS for HB 597—A bill to be entitled An act relating to homelessness; creating s. 414.161, F.S.; establishing a homelessness prevention grant program; requiring grant applicants to be ranked competitively; providing preference for certain grant applicants; providing eligibility requirements; providing grant limitations and restrictions; requiring lead agencies for local homeless assistance continuum of care to track, monitor, and report on assisted families for a specified period of time; amending s. 420.507, F.S.; conforming a cross-reference; amending s. 420.621, F.S.; conforming a cross-reference; revising, providing, and deleting definitions; amending s. 420.622, F.S.; increasing and revising membership on the Council on Homelessness; removing a member from an obsolete organization; correcting the name of a member organization on the council; revising the date of an annual report; amending s. 420.625, F.S.; deleting a cross-reference to conform; creating s. 420.6275, F.S.; creating the Housing First program; providing legislative findings and intent; requiring the State Office on Homelessness to create specified procedures; providing methodology; providing components of the program; creating s. 420.628, F.S.; providing legislative findings and intent with respect to children and young adults leaving the child welfare system; amending s. 1003.01, F.S.; revising a definition; amending s. 1003.21, F.S.; conforming terminology; providing a school attendance exemption for certain children in foster care; amending s. 1003.22, F.S.; conforming terminology; providing a school certification of a school-entry health examination exemption for certain children in foster care; repealing s. 414.16, F.S., relating to the emergency assistance program for families with children that have lost shelter or face loss of shelter due to an emergency; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Crist, **CS for HB 597** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dockery	Lynn
Alexander	Fasano	Oelrich
Altman	Gaetz	Peaden
Aronberg	Garcia	Pruitt
Baker	Gardiner	Rich
Bennett	Gelber	Ring
Bullard	Haridopolos	Siplin
Constantine	Hill	Smith
Crist	Jones	Sobel
Dean	Joyner	Storms
Detert	Justice	Villalobos
Deutch	King	Wilson
Diaz de la Portilla	Lawson	Wise

Nays—None

Vote after roll call:

Yea—Richter

CS for CS for SB 564—A bill to be entitled An act relating to public campaign financing; repealing ss. 106.30-106.36, F.S., the "Florida Election Campaign Financing Act"; amending ss. 106.07, 106.141, 106.22, 106.265, 328.72, and 607.1622, F.S.; deleting references to the Election Campaign Financing Trust Fund, which expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution; amending s. 106.34, F.S.; providing expenditure limits for certain candidates for statewide office; providing effective dates, one of which is contingent.

—was read the third time by title.

On motion by Senator Haridopolos, **CS for CS for SB 564** was passed and certified to the House. The vote on passage was:

Yeas—34

Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Baker	Gardiner	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Constantine	Jones	Sobel
Crist	Justice	Storms
Dean	King	Villalobos
Detert	Lawson	Wilson
Diaz de la Portilla	Lynn	Wise
Dockery	Oelrich	
Fasano	Peaden	

Nays—3

Aronberg	Deutch	Gelber

Vote after roll call:

Nay to Yea—Aronberg, Deutch, Gelber

HJR 81—A joint resolution proposing the repeal of Section 7 of Article VI of the State Constitution, relating to public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits.

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

That the repeal of Section 7 of Article VI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VI, SECTION 7

REPEAL OF PUBLIC campaign financing REQUIREMENT.—Proposing the repeal of the provision in the State Constitution that requires public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits.

—was read the third time in full.

On motion by Senator Haridopolos, **HJR 81** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Dockery	Oelrich
Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Baker	Garcia	Richter
Bennett	Gardiner	Ring
Constantine	Haridopolos	Smith
Crist	Jones	Storms
Dean	King	Villalobos
Detert	Lawson	Wise
Diaz de la Portilla	Lynn	

Nays—11

Aronberg	Hill	Siplin
Bullard	Joyner	Sobel
Deutch	Justice	Wilson
Gelber	Rich	

SENATOR PRUITT PRESIDING

CS for CS for HB 485—A bill to be entitled An act relating to fast track economic stimulus for small businesses; amending s. 213.053, F.S.; authorizing the Department of Revenue to share certain confidential taxpayer information with the Office of Tourism, Trade, and Economic Development; preserving certain confidentiality of such information; amending s. 220.02, F.S.; revising legislative intent with respect to the order of tax credits to include the New Markets Development Program tax credit; amending s. 220.13, F.S.; revising a definition; creating ss. 288.991-288.9922, F.S.; providing a short title; establishing the New Markets Development Program; providing a purpose; providing definitions; providing for a tax credit for making certain qualified equity investments; specifying a credit amount; providing for uses of the credit; prohibiting sale or transfer of such credits; authorizing allocation of the credit; specifying limitations on such credits; specifying application and certification requirements and procedures for the Office of Tourism, Trade, and Economic Development to qualify certain equity investments as eligible for tax credits; providing for application fees; providing duties and responsibilities of the Department of Revenue; limiting the amount of investments the office may certify; providing requirements and limitations on issuance of certified equity investments; providing for calculation of tax credits; limiting the amount of the tax credit that may be redeemed in a fiscal year; providing for carryover of unredeemed tax credits under certain circumstances; providing for redemption of tax credits; specifying how tax credits may be claimed by insurance companies; requiring the calculations to be certified and accompanied by audited financial statements and notarized affidavits; providing requirements for recapture of tax credits under certain circumstances; requiring notice of proposed recapture; providing requirements for compliance and audits of qualified equity investments; providing annual reporting requirements for certain community development entities; providing annual reporting requirements for the office; authorizing the office to conduct certain examinations; authorizing the office to revoke or modify tax credit authorizations under certain circumstances; providing for taxpayer liability for reimbursement of fraudulently claimed tax credits; providing penalties; authorizing the office and the department to adopt rules; providing for future repeal of the tax credit program; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **CS for CS for HB 485** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

CS for CS for SB 126—A bill to be entitled An act relating to the confidential records of children; creating s. 39.00145, F.S.; requiring that the case record of a child under the supervision or in the custody of the Department of Children and Family Services be maintained in a complete and accurate manner; specifying who has access to the case record; authorizing the court to directly release the child's records to certain entities; providing that entities that have access to confidential information concerning a child may share it with other entities that provide services benefiting children; providing for exceptions for the sharing of confidential information under certain circumstances; amending s. 39.202, F.S.; expanding the list of persons or entities that have access to child abuse records; revising how long the department must keep such records; requiring the department to provide notice of how the child's records may be obtained after the child leaves the department's custody; authorizing the department to adopt rules; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Oelrich, **CS for CS for SB 126** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Fasano	Peaden
Alexander	Gaetz	Pruitt
Altman	Garcia	Rich
Aronberg	Gardiner	Richter
Baker	Gelber	Ring
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Constantine	Jones	Sobel
Crist	Joyner	Storms
Dean	Justice	Villalobos
Detert	King	Wilson
Deutch	Lawson	Wise
Diaz de la Portilla	Lynn	
Dockery	Oelrich	

Nays—None

By direction of the President, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for CS for SB 360, with Amendment 1, and requests the concurrence of the Senate.

Robert L. "Bob" Ward, Clerk

CS for CS for SB 360—A bill to be entitled An act relating to growth management; providing a short title; amending s. 163.3164, F.S.; revising definitions; providing a definition for the term "dense urban land area"; amending s. 163.3177, F.S.; extending dates relating to requirements for adopting amendments to the capital improvements element of a local comprehensive plan; deleting a penalty for local governments that fail to adopt a public school facilities element and interlocal agreement; authorizing the state land planning agency to issue a notice to a school board or local government to show cause for not imposing sanctions; requiring that the state land planning agency submit its findings to the Administration Commission within the Executive Office of the Governor if the agency finds insufficient cause to impose sanctions; authorizing the Administration Commission to impose certain sanctions; amending s. 163.3180, F.S.; revising concurrency requirements; providing legislative findings relating to transportation concurrency exception areas; providing for the applicability of transportation concurrency exception areas; deleting certain requirements for transportation concurrency exception areas; providing that the designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees and does not affect any contract or agreement entered into or development order rendered before such designation; requiring the Office of Program Policy Analysis and

Government Accountability to submit a report to the Legislature concerning the effects of the transportation concurrency exception areas; providing for an exemption from level-of-service standards for proposed development related to qualified job-creation projects; amending s. 163.3184, F.S.; clarifying the definition of the term "in compliance"; conforming cross-references; amending s. 163.3187, F.S.; exempting certain additional comprehensive plan amendments from the twice-per-year limitation; limiting the adoption of certain amendments to the text of a plan to once per calendar year; amending s. 163.3246, F.S.; conforming a cross-reference; amending s. 163.32465, F.S.; revising provisions relating to the state review of comprehensive plans; providing for additional types of amendments to which the alternate state review applies; requiring that agencies submit comments within a specified period after the state land planning agency notifies the local government that the plan amendment package is complete; requiring that the local government adopt a plan amendment within a specified period after comments are received; requiring that the state land planning agency adopt rules; deleting provisions relating to reporting requirements for the Office of Program Policy Analysis and Government Accountability; amending s. 380.06, F.S.; providing exemptions for dense urban land areas from the development-of-regional-impact program; providing exceptions; amending s. 163.31801, F.S.; revising provisions relating to impact fees; providing that notice is not required if an impact fee is decreased, suspended, or eliminated; amending s. 171.091, F.S.; requiring that a municipality submit a copy of any revision to the charter boundary article which results from an annexation or contraction to the Office of Economic and Demographic Research within the Legislature; amending s. 186.509, F.S.; revising provisions relating to a dispute resolution process to reconcile differences on planning and growth management issues between certain parties of interest; providing for mandatory mediation; providing that the act fulfills an important state interest; providing an effective date.

House Amendment 1 (839199) (with title amendment)—Remove everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Community Renewal Act."*

Section 2. Subsection (29) of section 163.3164, Florida Statutes, is amended, and subsection (34) is added to that section, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.—As used in this act:

(29) "~~Existing~~ Urban service area" means built-up areas where public facilities and services*, including, but not limited to, central water and sewer capacity and* ~~such as sewage treatment systems,~~ roads~~, schools, and recreation areas~~ are already in place *or are committed in the first 3 years of the capital improvement schedule. In addition, for counties that qualify as dense urban land areas under subsection (34), the non-rural area of a county which has adopted into the county charter a rural area designation or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July 1, 2009, are also urban service areas under this definition.*

(34) "Dense urban land area" means:

(a) A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

(b) A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or

(c) A county, including the municipalities located therein, which has a population of at least 1 million.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban land area by July 1, 2009, and every year thereafter. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that qualify or do not qualify as a dense urban land area is effective upon publication on the state land planning agency's Internet website.

Section 3. Paragraph (b) of subsection (3), paragraphs (a) and (h) of subsection (6), and paragraphs (a), (j), and (k) of subsection (12) of section 163.3177, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)

(b)1. The capital improvements element must be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities must be consistent with the capital improvements element. *The annual update to the capital improvements element of the comprehensive plan need not comply with the financial feasibility requirement until December 1, 2011.* ~~Amendments to implement this section must be adopted and transmitted no later than December 1, 2008.~~ Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, *2011* ~~2008~~, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

(f) A local government's comprehensive plan and plan amendments for land uses within all transportation concurrency exception areas that are designated and maintained in accordance with s. 163.3180(5) shall be deemed to meet the requirement to achieve and maintain level-of-service standards for transportation.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; the discouragement of urban sprawl; energy-efficient land use patterns ac-

counting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited ~~solely~~ by the projected population of the rural community. *For communities designated as rural areas of critical economic concern pursuant to s. 288.0656, the amount of land designated for future planned industrial, residential, commercial, or other land use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited by the projected population of the rural area of critical economic concern.* The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide for procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30.

c. The intergovernmental coordination element *shall* ~~may~~ provide for a ~~voluntary~~ dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. ~~A local government may develop and use an alternative local dispute resolution process for this purpose.~~

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.a. Local governments must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted

pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. *The state land planning agency may allow for a projected 5-year capital outlay full-time equivalent student growth rate to exceed 10 percent when the projected 10-year capital outlay full-time equivalent student enrollment is less than 2,000 students and the capacity rate for all schools within the school district in the tenth year will not exceed the 100-percent limitation.* The state land planning agency may allow for a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;

2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the school district is approaching the 10-percent threshold;

3. Whether one or more additional schools within the school district are at or approaching the 100-percent threshold; and

4. The adequacy of the data and analysis submitted to support the waiver request.

~~(j) Failure to adopt the public school facilities element, to enter into an approved interlocal agreement as required by subparagraph (6)(h)2. and s. 163.31777, or to amend the comprehensive plan as necessary to implement school concurrency, according to the phased schedule, shall result in a local government being prohibited from adopting amendments to the comprehensive plan which increase residential density until the necessary amendments have been adopted and transmitted to the state land planning agency.~~

(j) ~~(k)~~ The state land planning agency may issue ~~the school board~~ a notice to *the school board and the local government to* show cause why sanctions should not be enforced for failure to enter into an approved interlocal agreement as required by s. 163.31777 or for failure to implement ~~the~~ provisions ~~of this act~~ relating to public school concurrency. *If the state land planning agency finds that insufficient cause exists for the school board's or local government's failure to enter into an approved interlocal agreement as required by s. 163.31777 or for the school board's or local government's failure to implement the provisions relating to public school concurrency, the state land planning agency shall submit its finding to the Administration Commission which may impose on the local government any of the sanctions set forth in s. 163.3184(11)(a) and (b) and may impose on the district school board any of the sanctions set forth in s. 1008.32(4).* ~~The school board may be subject to sanctions imposed by the Administration Commission directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.~~

Section 4. Subsections (5) and (10) and paragraphs (b) and (e) of subsection (13) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(5)(a) The Legislature finds that under limited circumstances ~~dealing with transportation facilities~~, countervailing planning and public policy goals may come into conflict with the requirement that adequate public *transportation* facilities and services be available concurrent with the impacts of such development. The Legislature further finds that ~~often~~ the unintended result of the concurrency requirement for transportation facilities is *often* the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. *The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers.* ~~Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.~~

(b)*1. The following are transportation concurrency exception areas:*

a. A municipality that qualifies as a dense urban land area under s. 163.3164;

b. An urban service area under s. 163.3164 that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area under s. 163.3164, except a limited urban service area may not be included as an urban service area unless the parcel is defined as provided in s. 163.3164(33); and

c. A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area under s. 163.3164, but does not have an urban service area designated in the local comprehensive plan.

2. A municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164;

b. Community redevelopment areas as defined in s. 163.340;

c. Downtown revitalization areas as defined in s. 163.3164;

d. Urban infill and redevelopment under s. 163.2517; or

e. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14).

3. A county that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164;

b. Urban infill and redevelopment under s. 163.2517; or

c. Urban service areas as defined in s. 163.3164.

4. A local government that has a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. shall, within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future. If the state land planning agency finds insufficient cause for the failure to adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area after 2 years, it shall submit the finding to the Administration Commission, which may impose any of the sanctions set forth in s. 163.3184(11)(a) and (b) against the local government.

5. Transportation concurrency exception areas designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. do not apply to designated transportation concurrency districts located within a county that has a population of at least 1.5 million, has implemented and uses a transportation-related concurrency assessment to support alternative modes of transportation, including, but not limited to, mass transit, and does not levy transportation impact fees within the concurrency district.

6. Transportation concurrency exception areas designated under subparagraph 1., subparagraph 2., or subparagraph 3. do not apply in any county that has exempted more than 40 percent of the area inside the

urban service area from transportation concurrency for the purpose of urban infill.

7. A local government *that does not have a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3.* may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

a. ~~1.~~ Urban infill development;

b. ~~2.~~ Urban redevelopment;

c. ~~3.~~ Downtown revitalization;

d. ~~4.~~ Urban infill and redevelopment under s. 163.2517; or

e. ~~5.~~ An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, ~~existing~~ urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517*,* which pose only special part-time demands on the transportation system*, are exempt* ~~should be excepted~~ from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) *Except for transportation concurrency exception areas designated pursuant to subparagraph (b)1., subparagraph (b)2., or subparagraph (b) 3., the following requirements apply:* ~~A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.~~

1. ~~(e)~~ The local government shall *both* adopt into the *comprehensive* plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

2. ~~In addition,~~ The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis *supporting the local government's determination of the boundaries of the transportation concurrency exception* ~~justifying the size of the~~ area.

(e)(f) Before designating ~~Prior to the designation of~~ a concurrency exception area *pursuant to subparagraph (b)6.*, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for *regional transportation facilities identified pursuant to s. 186.507, including the* Strategic Intermodal System ~~facilities, as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall *provide a plan for the mitigation of* ~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any~~ impacts to the Strategic Intermodal System, including, if appropriate, *access management, parallel reliever roads, transportation demand management, and other measures* ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.~~

~~(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(f) The designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees. This subsection does not affect any contract or agreement entered into or development order rendered before the creation of the transportation concurrency exception area except as provided in s. 380.06(29)(e).

(g) The Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015, a report on transportation concurrency exception areas created pursuant to this subsection. At a minimum, the report shall address the methods that local governments have used to implement and fund transportation strategies to achieve the purposes of designated transportation concurrency exception areas, and the effects of the strategies on mobility, congestion, urban design, the density and intensity of land use mixes, and network connectivity plans used to promote urban infill, redevelopment, or downtown revitalization.

(10) *Except in transportation concurrency exception areas,* with regard to roadway facilities on the Strategic Intermodal System designated in accordance with *s.* ~~ss.339.61, 339.62,~~ 339.63 ~~, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819~~, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. *However, if the Office of Tourism, Trade, and Economic Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may provide for a waiver of transportation concurrency for the project.* For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(b) Level-of-service standards.—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

4. For the purpose of determining whether levels of service have been achieved, for the first 3 years of school concurrency implementation, a school district that includes relocatable facilities in its inventory of student stations shall include the capacity of such relocatable facilities as provided in s. 1013.35(2)(b)2.f., provided the relocatable facilities were purchased after 1998 and the relocatable facilities meet the standards for long-term use pursuant to s. 1013.20.

(e) Availability standard.—Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; *the construction of a charter school that complies with the requirements of s. 1002.33(18);* or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; ~~or~~ the construction or expansion of a public school facility, or a portion thereof*; or the construction of a charter school that complies with the requirements of s. 1002.33(18)*, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

5. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

Section 5. Paragraph (d) of subsection (3) of section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

(d) Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or *increased* ~~amended~~ impact fee. *A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.*

Section 6. Section 163.31802, Florida Statutes, is created to read:

163.31802 Prohibited standards for security devices.—A county, municipality, or other entity of local government may not adopt or maintain in effect an ordinance or rule that establishes standards for security cameras that require a lawful business to expend funds to enhance the services or functions provided by local government unless specifically provided by general law. Nothing in this section shall be construed to limit the ability of a county, municipality, airport, seaport, or other local governmental entity to adopt standards for security cameras in publicly operated facilities, including standards for private businesses operating within such public facilities pursuant to a lease or other contractual arrangement.

Section 7. Paragraph (b) of subsection (1) of section 163.3184, Florida Statutes, is amended, and paragraph (e) is added to subsection (3) of that section, to read:

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

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

(b) "In compliance" means consistent with the requirements of ss. 163.3177, ~~when a local government adopts an educational facilities element,~~ 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR AMENDMENT.—

(e) At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact the provisions of any proposed plan amendment transmitted pursuant to this subsection. Zoning changes approved by the local government are contingent upon the comprehensive plan or plan amendment transmitted becoming effective.

Section 8. Paragraphs (b) and (f) of subsection (1) of section 163.3187, Florida Statutes, are amended, and paragraph (q) is added to that subsection, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(b) Any local government comprehensive plan amendments directly related to a proposed development of regional impact, including changes which have been determined to be substantial deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated

by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in this section and applicable local ordinances~~, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan~~. ~~Nothing in this subsection shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.~~

(f) ~~Any comprehensive plan amendment that changes the schedule in~~ The capital improvements element *annual update required in s. 163.3177(3)(b)1.* ~~,~~ and any amendments directly related to the schedule~~, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program~~.

(q) Any local government plan amendment to designate an urban service area as a transportation concurrency exception area under s. 163.3180(5)(b)2. or 3. and an area exempt from the development-of-regional-impact process under s. 380.06(29).

Section 9. Subsection (2) of section 163.32465, Florida Statutes, is amended to read:

163.32465 State review of local comprehensive plans in urban areas.—

(2) ALTERNATIVE STATE REVIEW PROCESS PILOT PROGRAM.—Pinellas and Broward Counties, and the municipalities within these counties, and Jacksonville, Miami, Tampa, and Hialeah shall follow an alternative state review process provided in this section. Municipalities within the pilot counties may elect, by super majority vote of the governing body, not to participate in the pilot program. *In addition to the pilot program jurisdictions, any local government may use the alternative state review process to designate an urban service area as defined in s. 163.3164(29) in its comprehensive plan.*

Section 10. Section 171.091, Florida Statutes, is amended to read:

171.091 Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. *A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.*

Section 11. Section 186.509, Florida Statutes, is amended to read:

186.509 Dispute resolution process.—Each regional planning council shall establish by rule a dispute resolution process to reconcile differences on planning and growth management issues between local governments, regional agencies, and private interests. The dispute resolution process shall, within a reasonable set of timeframes, provide for: voluntary meetings among the disputing parties; if those meetings fail to resolve the dispute, initiation of *mandatory* ~~voluntary~~ mediation or a similar process; if that process fails, initiation of arbitration or administrative or judicial action, where appropriate. The council shall not utilize the dispute resolution process to address disputes involving environmental permits or other regulatory matters unless requested to do so by the parties. The resolution of any issue through the dispute resolution process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

Section 12. Paragraph (a) of subsection (7) and subsections (24) and (28) of section 380.06, Florida Statutes, are amended, and subsection (29) is added to that section, to read:

380.06 Developments of regional impact.—

(7) PREAPPLICATION PROCEDURES.—

(a) Before filing an application for development approval, the developer shall contact the regional planning agency with jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. *The levels of service required in the transportation methodology shall be the same levels of service used to evaluate concurrency in accordance with s. 163.3180.* The regional planning agency shall provide the developer information about the development-of-regional-impact process and the use of preapplication conferences to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. If agreement is reached regarding assumptions and methodology to be used in the application for development approval, the reviewing agencies may not subsequently object to those assumptions and methodologies unless subsequent changes to the project or information obtained during the review make those assumptions and methodologies inappropriate.

(24) STATUTORY EXEMPTIONS.—

(a) Any proposed hospital is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such

expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions which were exempt under this paragraph shall be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities, are exempt from the provisions of this section.

(l) Any proposed development within an urban service boundary established under s. 163.3177(14*), which is not otherwise exempt pursuant to subsection (29),* is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

~~(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).~~

(n) ~~(o)~~ The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(o) ~~(p)~~ Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(p) ~~(q)~~ Any proposed nursing home or assisted living facility is exempt from this section.

(q) ~~(r)~~ Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(r) ~~(s)~~ Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(s) ~~(t)~~ Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

(t) ~~(u)~~ Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-*(s)* ~~(t)~~, but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project*, unless such exempt use involves a development of regional impact that includes a landowner, tenant, or user that has entered into a funding agreement with the Office of Tourism, Trade, and Economic Development under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million*.

(28) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (24)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement ~~referenced under paragraph (24)(n)~~ for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) *or* ~~;~~ paragraph (24)(m)~~, or paragraph (24)(n)~~ shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects within an urban service boundary under paragraph (24)(l), *or* a rural land stewardship area under paragraph (24)(m)~~, or an urban infill and redevelopment area under paragraph (24)(n)~~, must address transportation impacts only.

(e) The vesting provision of s. 163.3167(8) relating to an authorized development of regional impact shall not apply to those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).

(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(a) The following are exempt from this section:

1. Any proposed development in a municipality that qualifies as a dense urban land area as defined in s. 163.3164;

2. Any proposed development within a county that qualifies as a dense urban land area as defined in s. 163.3164 and that is located within an urban service area defined in s. 163.3164 which has been adopted into the comprehensive plan; or

3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, which qualifies as a dense urban land area under s. 163.3164, but which does not have an urban service area designated in the comprehensive plan.

(b) If a municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14).

(c) If a county that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Urban infill and redevelopment under s. 163.2517; or

3. Urban service areas as defined in s. 163.3164.

(d) A development that is located partially outside an area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to this section.

(e) In an area that is exempt under paragraphs (a)-(c), any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be governed by s. 380.115(1). A pending application for development approval shall be governed by s. 380.115(2). A development that has a pending application for a comprehensive plan amendment and that elects not to continue development-of-regional-impact review is exempt from the limitation on plan amendments set forth in s. 163.3187(1) for the year following the effective date of the exemption.

(f) Local governments must submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of regional-impact threshold and would require development-of-regional-impact review but for the exemption from the program under paragraphs (a)-(c). For such development orders, the state land planning agency may appeal the development order pursuant to s. 380.07 for inconsistency with the comprehensive plan adopted under chapter 163.

(g) If a local government that qualifies as a dense urban land area under this subsection is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved.

(h) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.

(i) This subsection does not apply to areas:

1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;

2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or

3. Within 2 miles of the boundary of the Everglades Protection Area as described in s. 373.4592(2).

Section 13. *(1)(a) The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, inequitable, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.*

(b) The Legislature determines that the state shall evaluate and consider the implementation of a mobility fee to replace the existing transportation concurrency system. The mobility fee should be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and promote compact, mixed-use, and energy-efficient development.

(2) The state land planning agency and the Department of Transportation shall continue their respective current mobility fee studies and develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

Section 14. *(1) Except as provided in subsection (4), and in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, Florida Statutes, that has an expiration date of September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years following its date of expiration. This extension includes any local government-issued development order or building permit. The 2-year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19)(c). This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction.*

(2) The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted.

(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

(4) The extension provided for in subsection (1) does not apply to:

(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.

(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

(c) A permit or other authorization, if granted an extension, that would delay or prevent compliance with a court order.

(5) Permits extended under this section shall continue to be governed by rules in effect at the time the permit was issued, except when it can be demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision shall apply to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification shall not extend the time limit beyond 2 additional years.

(6) Nothing in this section shall impair the authority of a county or municipality to require the owner of a property, that has notified the county or municipality of the owner's intention to receive the extension of time granted by this section, to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.

Section 15. *The Legislature finds that this act fulfills an important state interest.*

Section 16. This act shall take effect upon becoming a law.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to growth management; providing a short title; amending s. 163.3164, F.S.; revising the definition of the term "existing urban service area"; providing a definition for the term "dense urban land area" and providing requirements of the Office of Economic and Demographic Research and the state land planning agency with respect thereto; amending s. 163.3177, F.S.; revising requirements for adopting amendments to the capital improvements element of a local comprehensive plan; revising requirements for future land use plan elements and intergovernmental coordination elements of a local comprehensive plan; revising requirements for the public school facilities element implementing a school concurrency program; deleting a penalty for local governments that fail to adopt a public school facilities element and interlocal agreement; authorizing the Administration Commission to impose sanctions; deleting authority of the Administration Commission to impose sanctions on a school board; amending s. 163.3180, F.S.; revising concurrency requirements; providing legislative findings relating to transportation concurrency exception areas; providing for the applicability of transportation concurrency exception areas; deleting certain requirements for transportation concurrency exception areas; providing that the designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees and does not affect any contract or agreement entered into or development order rendered before such designation; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature concerning the effects of the transportation concurrency exception areas; authorizing local governments to provide for a waiver of transportation concurrency requirements for certain projects under certain circumstances; revising school concurrency requirements; requiring charter schools to be considered as a mitigation option under certain circumstances; amending s. 163.31801, F.S.; revising requirements for adoption of impact fees; creating s. 163.31802, F.S.; prohibiting establishment of local standards for security cameras requiring businesses to expend funds to enhance local governmental services or functions under certain circumstances; amending s. 163.3184, F.S.; revising a definition; requiring local governments to consider applications for certain zoning changes required to comply with proposed plan amendments; amending s. 163.3187, F.S.; revising certain comprehensive plan amendments that are exempt from the twice-per-year limitation; exempting certain additional comprehensive plan amendments from the twice-per-year limitation; amending s. 163.32465, F.S.; authorizing local governments to use the alternative state review process to designate urban service areas; amending s. 171.091, F.S.; requiring that a municipality submit a copy of any revision to the charter boundary article which results from an annexation or contraction to the Office of Economic and Demographic Research; amending s. 186.509, F.S.; revising provisions relating to a dispute resolution process to reconcile differences on planning and growth management issues between certain parties of interest; providing for mandatory mediation; amending s. 380.06, F.S.; specifying levels of service required in the transportation methodology to be the same levels of service used to evaluate concurrency; revising statutory exemptions from the development of the regional impact review process; providing exemptions for dense urban land areas from the development-of-regional-impact program; providing exceptions; providing legislative findings and determinations relating to replacing the existing transportation concurrency system with a mobility fee system; requiring the state land planning agency and the Department of Transportation to continue mobility fee studies; requiring a joint report on a mobility fee methodology study to the Legislature; specifying report requirements; correcting cross-references; providing for extending and renewing certain permits subject to certain expiration dates; providing for application of the extension to certain related activities; providing for extension of commencement and completion dates; requiring permitholders to notify authorizing agencies of intent to use the extension and anticipated time of the extension; specifying nonapplication to certain permits; providing for application of certain rules to extended permits; preserving the authority of counties and municipalities to impose certain security and sanitary requirements on property owners under certain circumstances; requiring permitholders to notify permitting agencies of intent to use the extension; providing a legislative declaration of important state interest; providing an effective date.

Senator Bennett moved the following amendments which were adopted:

Senate Amendment 1 (152754) to House Amendment 1—Delete lines 15-17 and insert: ~~treatment systems,~~ roads, schools, and recreation areas are already in place. *In addition, for counties that*

Senate Amendment 2 (329058) (with directory amendment) to House Amendment 1—Delete lines 93-98.

And the directory clause is amended as follows:

Delete lines 58-59 and insert: amended to read:

Senate Amendment 3 (215776) (with directory amendment) to House Amendment 1—Delete lines 102-197.

And the directory clause is amended as follows:

Delete lines 55-56 and insert:

Section 3. Paragraph (b) of subsection (3), paragraph (h) of subsection (6), and paragraphs (a), (j), and (k) of

Senate Amendment 4 (605252) to House Amendment 1—Delete lines 392-394 and insert: *163.3164; and*

Senate Amendment 5 (193380) (with directory and title amendments) to House Amendment 1—Between lines 778 and 779 insert:

(7) Other than the exceptions listed in subsection (1), text amendments to the goals, objectives, or policies of the local government's comprehensive plan may be adopted only once a year, unless the text amendment is directly related to, and applies only to, a future land use map amendment.

And the directory clause is amended as follows:

Delete lines 748-749 and insert: section 163.3187, Florida Statutes, are amended, paragraph (q) is added to that subsection, and subsection (7) is added to that section, to read:

And the title is amended as follows:

Between lines 1260 and 1261 insert: limiting text amendments to once a year;

Senate Amendment 6 (131454) (with directory and title amendments) to House Amendment 1—Delete lines 827-850 and insert: applied to the proposed development. The regional planning agency shall provide the

And the directory clause is amended as follows:

Delete lines 822-823 and insert:

Section 12. Subsections (24) and (28) of section 380.06, Florida Statutes,

And the title is amended as follows:

Delete lines 1271-1274 and insert: mandatory mediation; amending s. 380.06, F.S.; revising statutory exemptions from

On motion by Senator Bennett, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate Amendments to the House Amendment.

CS for CS for SB 360 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Dean	Haridopolos
Altman	Deutch	Hill
Aronberg	Diaz de la Portilla	Jones
Baker	Fasano	King
Bennett	Gaetz	Lawson
Bullard	Garcia	Lynn
Crist	Gardiner	Oelrich

Peaden	Ring	Wise
Pruitt	Siplin	
Richter	Villalobos	

Nays—12

Alexander	Gelber	Smith
Constantine	Joyner	Sobel
Detert	Justice	Storms
Dockery	Rich	Wilson

SPECIAL ORDER CALENDAR, continued

On motion by Senator Fasano, the Senate resumed consideration of—

CS for CS for SB 682—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; creating the Division of Service Operations of the department; amending s. 455.217, F.S.; conforming provisions and transferring to the Division of Service Operations from the Division of Technology certain responsibilities related to examinations; revising certain requirements for the department concerning the use of outside vendors for the development, preparation, and evaluation of examinations; repealing s. 509.233(1) and (7), F.S., relating to a 3-year pilot program for local governments to allow patrons' dogs within certain designated outdoor portions of public food service establishments; abrogating the repeal of the program; requiring that the Office of Program Policy Analysis and Government Accountability perform a study and make certain recommendations to the Legislature by a specified date regarding the enactment of laws to provide for protection and remedies from certain online poker activities; providing an effective date.

—which was previously considered and amended this day with pending **Amendment 4 (907778)** by Senator Pruitt and pending point of order by Senator Dockery.

POINT OF ORDER DISPOSITION

The pending point of order by Senator Dockery was withdrawn.

Pending **Amendment 4 (907778)** by Senator Pruitt was withdrawn.

Senator Fasano moved the following amendment which was adopted:

Amendment 5 (948548) (with title amendment)—Between lines 67 and 68 insert:

Section 5. *The amendment to s. 471.003(2)(h)1., Florida Statutes, contained in CS/CS/CS/CS/HB 425, Eng. 1, 2009 Regular Session, shall not take effect.*

And the title is amended as follows:

Delete line 22 and insert: nullifying a provision of another bill which increases the threshold value of certain equipment for construction projects below which a contractor working with such equipment need not be a licensed engineer; providing an effective date.

Pursuant to Rule 4.19, **CS for CS for SB 682** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for CS for HB 479—A bill to be entitled An act relating to retirement; amending s. 121.021, F.S.; redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for members of the Elected Officers' Class; revising the dates for when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to participation in the Elected Officers' Class for retired members; amending s. 121.055, F.S.; revising provisions relating to participation in the Senior Management Service Class; revising benefit payment procedures for the Senior Management Service Optional Annuity Program; clarifying when a participant is considered retired; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to retirement benefits; deleting a restriction on the reemployment of certain personnel by the Florida School for the Deaf and the Blind; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; revising limitations on the payment of retirement benefits for certain retired persons who are reemployed by an employer participating in a state-administered retirement program; prohibiting certain persons holding public office from enrolling in the Florida Retirement System; deleting a provision authorizing an employing agency to reemploy a retired member as a firefighter or paramedic after a specified period; providing applicability; revising provisions relating to reemployment of retirees of the Public Employee Optional Retirement Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; clarifying that DROP participation cannot be canceled; clarifying maximum DROP participation; providing for the suspension of DROP benefits to a participant who is reemployed; deleting obsolete provisions; revising employer contribution requirements; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members may not be eligible to purchase service credit; amending s. 121.122, F.S.; providing that certain retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; revising conditions under which a retiree is entitled to certain additional retirement benefits; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; requiring the State Retirement Commission to use certain requirements used by the Secretary of Management Services before approving a disability retirement benefit; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the commission; amending s. 121.35, F.S.; revising a compulsory membership exception for certain members failing to elect membership in the optional retirement program; providing a cross-reference; defining the term "retiree" for purposes of the State University System Optional Retirement Program; amending s. 121.4501, F.S.; revising the definition of "eligible employee" for purposes of the Public Employee Optional Retirement Program; amending s. 121.591, F.S.; providing a cross-reference; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing s. 121.093, F.S., relating to instructional personnel reemployment after retirement from a developmental research school or the Florida School for the Deaf and the Blind; repealing s. 121.094, F.S., relating to instructional personnel reemployment after retirement from a charter school; repealing s. 121.45, F.S., relating to interstate compacts relating to pension portability; providing a declaration of important state interest; providing an effective date.

—which was previously considered this day. Pending **Amendment 1 (873470)** by Senator Lawson was withdrawn.

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senators Lawson, King, and Haridopolos offered the following amendment which was moved by Senator Lawson:

Amendment 2 (897738) (with title amendment)—Delete lines 115-1387 and insert:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, *municipality, metropolitan planning organization,* or special district of the state~~, or any city of the state~~ which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d). *Employers are not agents of the department, the state board, or the Division of Retirement, and the department, the state board, and the division are not responsible for erroneous information provided by representatives of employers.*

(11) "Officer or employee" means any person receiving salary payments for work performed in a regularly established position and, if employed by a *municipality* ~~city~~, a metropolitan planning organization, or a special district, employed in a covered group. *The term does not apply to state employees covered by a leasing agreement under s. 110.191, other public employees covered by a leasing agreement, or a co-employer relationship.*

(18) "Past service" of any member, as provided in s. 121.081(1), means the number of years and complete months and any fractional part of a month, recognized and credited by an employer and approved by the administrator, during which the member was in the active employ of *a governmental* ~~an~~ employer *and for which the employee is not entitled to a benefit before* ~~prior to~~ his or her date of participation.

(29) "Normal retirement date" means the ~~first day of any month following the~~ date a member attains *normal retirement age and is vested, which is determined as follows* ~~one of the following statuses~~:

(a) If a Regular Class member, *a Senior Management Service Class member, or an Elected Officers' Class* ~~the~~ member:

1. *The first day of the month the member* completes 6 or more years of creditable service and attains age 62; or

2. *The first day of the month following the date the member* completes 30 years of creditable service, regardless of age~~, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system~~.

(b) If a Special Risk Class member~~, the member~~:

1. *The first day of the month the member* completes 6 or more years of creditable service in the Special Risk Class and attains age 55;

2. *The first day of the month following the date the member* completes 25 years of creditable service in the Special Risk Class, regardless of age; or

3. *The first day of the month following the date the member* completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

~~(c) If a Senior Management Service Class member, the member:~~

~~1. Completes 6 years of creditable service in the Senior Management Service Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

~~(d) If an Elected Officers' Class member, the member~~:

~~1. Completes 6 years of creditable service in the Elected Officers' Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

"Normal retirement age" is attained on the "normal retirement date."

(39)(a) "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with *an employer, however:* ~~employers under this system, as defined in subsection (10), but in the event~~

1. For retirements effective before July 1, 2010, if a member *is* ~~should be~~ employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence *constitutes* ~~shall constitute~~ a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination ~~for a member,~~ if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or *state* board may require other evidence of termination as it deems necessary.

2. For retirements effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as it deems necessary.

(b) "Termination" for a member electing to participate *in* ~~under~~ the Deferred Retirement Option Program occurs when the ~~Deferred Retirement Option~~ program participant ceases all employment relationships with *an employer* ~~employers under this system~~ in accordance with s. 121.091(13), *however:* ~~but~~

1. For termination dates occurring before July 1, 2010, if ~~in the event~~ the ~~Deferred Retirement Option Program~~ participant *is* ~~should be~~ employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.

2. For termination dates occurring on or after July 1, 2010, if the participant becomes employed by any such employer within the next 6 calendar months, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence constitutes a continuation of the employment relationship.

(52) "Regularly established position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, ~~the term means~~ a position *that* ~~which~~ is authorized and established pursuant to law and is compensated from a salaries *and benefits* appropriation pursuant to s. 216.011(1)*(mm)* ~~(dd)~~, or an established position *that* ~~which~~ is authorized pursuant to s. 216.262(1)(a) and (b) and is compensated from a salaries account as provided *in s. 216.011(1)(nn)* ~~by rule~~.

(b) *With respect to* ~~In~~ a local *agency employer* ~~agency~~ (district school board, county agency, community college, *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district), ~~the term means~~ a regularly established position *that* ~~which~~ will be in existence for a period beyond 6 consecutive months, except as provided by rule.

(53) "Temporary position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ is compensated from an other personal services (OPS) account~~,~~ as provided ~~for~~ in s. 216.011(1)(dd).

(b) *With respect to* ~~In~~ a local *agency employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ will exist for less than 6 consecutive months, or other ~~employment~~ position as determined by rule of the division, regardless of whether it will exist for 6 consecutive months or longer.

(63) "State board" means the State Board of Administration.

(64) "Trustees" means the Board of Trustees of the State Board of Administration.

Section 2. Subsection (6) is added to section 121.031, Florida Statutes, to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(6) Unless prior written approval is obtained from the department or state board, any promotional materials or advertisements that, directly or indirectly, refer to the "Florida Retirement System" or the "FRS" must contain a disclaimer that the information is not approved or endorsed by the Florida Retirement System.

Section 3. Paragraph (a) of subsection (1) and paragraphs (c) and (f) of subsection (2) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(a) *Participation in the Florida Retirement System is* ~~The provisions of this law shall be~~ compulsory *for* ~~as to~~ all officers and employees, except elected officers who meet the requirements of s. 121.052(3), who are employed on or after December 1, 1970, *by* ~~of~~ an employer other than those referred to in paragraph (2)(b). ~~, and~~ Each officer or employee, as a condition of employment, *becomes* ~~shall become~~ a member of the system *on the* ~~as of his or her~~ date of employment, except that a person who is retired from any state retirement system and is reemployed on or after December 1, 1970, may not renew his or her membership in any state retirement system except as provided in s. 121.091(4)(h) for a person who recovers from disability, ~~and~~ as provided in *s. 121.053* ~~s. 121.091(9)(b)8.~~ for a person who is elected to public office, and, effective July 1, 1991, as provided in s. 121.122 for all other retirees.

1. Officers and employees of the University Athletic Association, Inc., a nonprofit association connected with the University of Florida, employed on and after July 1, 1979, *may* ~~shall~~ not participate in any state-supported retirement system.

2. ~~1.~~ Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan *adopted* ~~provided~~ by rule ~~adopted~~ by the Board of Regents may not participate in the Florida Retirement System. Effective July 1, 2008, any person appointed ~~thereafter~~ to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System notwithstanding ~~the provisions of~~ s. 121.35(2)(a).

~~2.~~ For purposes of this *subparagraph* ~~paragraph~~, the term*:*

a. "Faculty position" *means* ~~is defined as~~ a position assigned the principal responsibility of teaching, research, or public service activities or administrative responsibility directly related to the academic mission of the college. ~~The term~~

b. "Clinical faculty" *means* ~~is defined as~~ a faculty position appointment in conjunction with a professional position in a hospital or other clinical environment at a college. ~~The term~~

c. "Faculty practice plan" includes professional services to patients, institutions, or other parties which are rendered by the clinical faculty employed by a college that has a faculty practice plan at a state university authorized by the Board of Governors.

(2) OPTIONAL PARTICIPATION.—

(c) Employees of public community colleges or charter technical career centers sponsored by public community colleges, ~~as~~ designated in s. 1000.21(3), who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and ~~in~~ s. 1012.875 may ~~elect~~, in lieu of participating in the Florida Retirement System, *elect* to withdraw from the ~~Florida Retirement~~ system altogether and participate in *the State Community College System* ~~an~~ Optional Retirement Program provided by the employing agency under s. 1012.875~~, to be known as the State Community College System Optional Retirement Program~~. ~~Pursuant thereto:~~

1. Through June 30, 2001, the cost to the employer for such annuity *equals* ~~shall equal~~ the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class defined benefit program, plus the portion of the contribution rate required by s. 112.363(8) *which* ~~that~~ would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The employer shall deduct an amount ~~to provide~~ for the administration of the ~~optional retirement~~ program. The employer ~~providing the optional program~~ shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in ~~such~~ an optional retirement program *is* ~~shall be~~ irrevocable ~~for~~ as long as the employee holds a position eligible for participation, except as provided in subparagraph 3. Any service creditable under the Florida Retirement System *is* ~~shall be~~ retained after the member withdraws from the ~~Florida Retirement~~ system; however, additional service credit in the ~~Florida Retirement~~ system *may* ~~shall~~ not be earned while a member of the optional retirement program.

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, ~~to choose~~ to transfer from the optional retirement program to the defined benefit program of the Florida Retirement System or to the Public Employee Optional Retirement Program, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the Public Employee Optional Retirement Program, any contributions, interest, and earnings creditable to the employee under the State Community College System Optional Retirement Program *is* ~~shall be~~ retained by the employee in the State Community College System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) ~~shall~~ govern the election.

b. If the employee chooses to move to the defined benefit program of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State Community College System Optional Retirement Program.

(I) The cost for such credit *is the* ~~shall be an~~ amount representing the present value of *the* ~~that~~ employee's accumulated benefit obligation for the affected period of service. The cost shall be calculated as if the benefit commencement occurs on the first date the employee *becomes* ~~would become~~ eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation *must* ~~shall~~ include any service already maintained under the defined benefit plan in addition to the years under the State Community College System Optional Retirement Program. The present value of any service already maintained *must* ~~under the defined benefit plan shall~~ be applied as a credit to total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

(II) The employee must transfer from his or her State Community College System Optional Retirement Program account and from other employee moneys as necessary, a sum representing the present value of *the* ~~that~~ employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the State Community College System Optional Retirement Program.

4. Participation in the optional retirement program *is* ~~shall be~~ limited to ~~those~~ employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership or renewed membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12) or s. 121.122.

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and~~:~~

~~(A)~~ the duties and responsibilities of the position include ~~either~~ the formulation, interpretation, or implementation of policies*,* ~~;~~ or

~~(B) The duties and responsibilities of the position include~~ the performance of functions that are unique or specialized within higher education and that frequently ~~involve the~~ support ~~of~~ the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

5. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively. *A participant who receives a program distribution funded by employer contributions shall be deemed to be retired from a state-administered retirement system if the participant is subsequently employed with an employer that participates in the Florida Retirement System.*

6. Eligible community college employees *are* ~~shall be~~ compulsory members of the Florida Retirement System until, pursuant to ~~the procedures set forth in~~ s. 1012.875, a written election to withdraw from the ~~Florida Retirement~~ system and ~~to~~ participate in the State Community College System Optional Retirement Program is filed with the program administrator and received by the division.

a. *A* ~~Any~~ community college employee whose program eligibility results from initial employment *must* ~~shall~~ be enrolled in the State Community College System Optional Retirement Program retroactive to the first day of eligible employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the community college *to* ~~for~~ the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

b. *A* ~~Any~~ community college employee whose program eligibility *is* ~~results from a change in status~~ due to the subsequent designation of the employee's position as one of those specified in subparagraph 4*.,* or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in subparagraph 4*., must* ~~shall~~ be enrolled in the program *on* ~~upon~~ the first day of the first full calendar month that such change in status becomes effective. The employer retirement contributions paid from the effective date through the month of the employee plan change *must* ~~shall~~ be transferred to the community college *to* ~~for~~ the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

7. Effective July 1, 2003, through December 31, 2008, any participant of the State Community College System Optional Retirement Program who has service credit in the defined benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the defined benefit plan to the optional retirement program and the actual date of transfer may, during ~~his or her~~ employment, ~~elect to~~ transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for *the* ~~such~~ period of service credit. Upon ~~such~~ transfer, all ~~such~~ service credit previously earned under the defined benefit program of the Florida Retirement System during this period *is* ~~shall be~~ nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

(f)1. *If* ~~Whenever~~ an employer that participates in the Florida Retirement System undertakes the transfer, merger, or consolidation of governmental services or *assumes the* functions *and activities of an employing governmental entity that was not an employer under the system*, the employer must notify the department at least 60 days *before* ~~prior to~~ such action and ~~shall~~ provide documentation as required by the department. *The transfer, merger, or consolidation of governmental services or assumption of governmental functions and activities must occur between public employers. The current or former employer may pay the employees' past service cost, unless prohibited under this chapter. This subparagraph does not apply to the transfer, merger, or consolidation of governmental services or assumption of functions and activities of a public entity under a leasing agreement having a co-employer relationship. Employers and employees of a public governmental employer whose service is covered by a leasing agreement under s. 110.191, any other leasing agreement, or a co-employer relationship are not eligible to participate in the Florida Retirement System.*

2. *If* ~~When~~ the agency to which a member's employing unit is transferred, merged, or consolidated does not participate in the Florida Retirement System, a member *may* ~~shall~~ elect in writing to remain in the Florida Retirement System or to transfer to the local retirement system operated by *the* ~~such~~ agency. If *the* ~~such~~ agency does not participate in a local retirement system, the member shall continue membership in the Florida Retirement System. In either case, ~~the~~ membership *continues* ~~shall continue~~ for as long as the member is employed by the agency to which his or her unit was transferred, merged, or consolidated.

Section 4. Paragraph (f) of subsection (2) and paragraph (e) of subsection (3) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected officers.—

(2) MEMBERSHIP.—The following holders of elective office, hereinafter referred to as "elected officers," whether assuming elective office by election, reelection, or appointment, are members of the Elected Officers' Class, except as provided in subsection (3):

(f) Any elected officer of a municipality or special district *assuming office* on ~~or after~~ July 1, 1997, *through June 30, 2009,* as provided in paragraph (3)(e). *On or after January 1, 2010, an elected officer shall become a member only if the governing body of the municipality or special district, at the time it joins the Florida Retirement System for its elected officers, elects, by majority vote, to include all its elected positions in the Elected Officers' Class.*

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f) assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraphs (3)(a)-(d):

(e) ~~Effective July 1, 2001,~~ The governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected Officers' Class *as follows*.

1. Effective July 1, 1997, such election must be made between July 1, 1997, and December 31, 1997, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

2. Effective July 1, 2001, such election *must* ~~shall~~ be made between July 1, 2001, and December 31, 2001, and *is* ~~shall be~~ irrevocable. The designation of such positions *is* ~~shall be~~ effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

3. Effective July 1, 2009, such election must be made between July 1, 2009, and December 31, 2009, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

Section 5. Section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(1)~~(a)~~ *A* ~~Any~~ member who retired under *an* ~~any~~ existing system as defined in s. 121.021~~(2),~~ and receives a *retirement* benefit ~~thereof~~, and who *subsequently* serves in an office covered by the Elected Officers' Class for a period of at least 6 years, *is* ~~shall be~~ entitled to receive an

additional retirement benefit for ~~such~~ elected officer service *completed before* ~~prior to~~ July 1, 1990, under the Elected Officers' Class of the Florida Retirement System, as follows:

(a) ~~1.~~ Upon completion of 6 or more years of creditable service in an office covered by the Elected Officers' Class, ~~s. 121.052,~~ such member shall notify the administrator of his or her intent to purchase elected officer service *completed before* ~~prior to~~ July 1, 1990, and shall pay the member contribution applicable for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Florida Retirement System Trust Fund; however, such member may purchase retirement credit under the Elected Officers' Class only for ~~such~~ service as an elected officer.

(b) ~~2.~~ Upon payment of the amount specified in *paragraph (a)* ~~subparagraph 1.~~, the employer shall pay into the Florida Retirement System Trust Fund the applicable employer contribution for the period of elected officer service *completed before* ~~prior to~~ July 1, 1990, ~~being claimed by the member,~~ plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Florida Retirement System Trust Fund.

(2) ~~(b)~~ *A* ~~Any~~ retired member of the Florida Retirement System, or *an* ~~any~~ existing system as defined in s. 121.021~~(2)~~, who, *beginning* ~~on or after~~ July 1, 1990, *through June 30, 2010, serves in* ~~is serving in, or is elected or appointed to,~~ an elective office covered by the Elected Officers' Class shall be enrolled in the appropriate subclass of the Elected Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). ~~Pursuant thereto:~~

(a) ~~1.~~ *The* ~~Any such retired~~ member *may* ~~shall be eligible to~~ continue to receive retirement benefits as well as compensation for the elected officer service *if* ~~for as long as~~ he or she remains in an elective office covered by the Elected Officers' Class.

(b) ~~2.~~ If *the* ~~any such~~ member serves in an elective office covered by the Elected Officers' Class and becomes vested under that class, he or she *is* ~~shall be~~ entitled to receive an additional retirement benefit for *the* ~~such~~ elected officer service.

(c) ~~3.~~ *The* ~~Such~~ member *is* ~~shall be~~ entitled to purchase additional retirement credit in the Elected Officers' Class for any postretirement service performed in an elected position eligible for the Elected Officers' Class *before* ~~prior to~~ July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position *before* ~~prior to~~ July 1, 1991, by paying the applicable Elected Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, *is* ~~shall be~~ the difference between *the* ~~such~~ contribution and the total applicable contribution for the period being claimed, plus interest. The employer ~~of such member~~ may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service. *Any retiree who served in an elective office before July 1, 1990, suspended his or her retirement benefits, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.*

(d) ~~4.~~ Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions *of* ~~in~~ s. 121.122 may be used in conjunction with creditable service earned under this *subsection* ~~paragraph~~, *if* ~~provided~~ applicable vesting requirements and other existing statutory conditions required by this chapter are met.

~~5. An elected officer who is elected or appointed to an elective office and is participating in the Deferred Retirement Option Program is not subject to termination as provided in s. 121.021(39)(b), or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds such an elective office, as follows:~~

~~a. At the end of the 60 month DROP period:~~

~~(I) The officer's DROP account shall accrue no additional monthly benefits, but shall continue to earn interest as provided in s. 121.091(13).~~

~~(II) No Retirement contributions shall be required of the employer of the elected officer and no additional retirement credit shall be earned under the Florida Retirement System.~~

~~b. Nothing herein shall prevent An elected officer from voluntarily terminating his or her elective office at any time and electing to receive his or her DROP proceeds. However, until termination requirements are fulfilled as provided in s. 121.021(39), any elected officer whose termination limitations are extended by this section shall be ineligible for renewed membership in the system and shall receive no pension payments, DROP lump sum payments, or any other state payment other than the statutorily determined salary, travel, and per diem for the elective office.~~

~~c. Upon termination, the officer shall receive his or her accumulated DROP account, plus interest, and shall accrue and commence receiving monthly retirement benefits, which shall be paid on a prospective basis only.~~

However, an officer electing to participate in the Deferred Retirement Option Program on or before June 30, 2002, *is* ~~shall~~ not ~~be~~ required to terminate and *remains* ~~shall remain~~ subject to the provisions of this *paragraph* ~~subparagraph~~ as adopted in section 1 of chapter 2001-235, Laws of Florida.

(3) On or after July 1, 2010:

(a) A retiree of a state-administered retirement system who is elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not reenroll in the Florida Retirement System.

(b) An elected officer who is elected or appointed to an elective office and is participating in the Deferred Retirement Option Program is subject to termination as defined in s. 121.021 upon completion of his or her DROP participation period. An elected official may defer termination as provided in paragraph (2)(e).

(4) ~~(2)~~ Upon attaining his or her normal retirement date and ~~payment of the amount specified in paragraphs (1)(a) and (b)~~, and upon application to the administrator of the intent to retire, *a* ~~the~~ member *qualifying under subsection (1) or subsection (2)* shall receive a monthly benefit under this section, in addition to any benefits already being received, which shall commence on the last day of the month of retirement and be payable on the last day of the month thereafter during his or her lifetime. The amount of *the* ~~such~~ monthly benefit *is* ~~shall be~~ the total percentage of retirement credit purchased under this section multiplied by the member's average monthly compensation as an elected officer, adjusted according to the option selected at retirement under s. 121.091(6).

(5) ~~(3)~~ Any renewed member, as described in subsection (1) *or subsection (2)*, who is not receiving the maximum health insurance subsidy provided in s. 112.363 *is* ~~shall be~~ entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit *may* ~~shall~~ be received only at the time of payment of the second career retirement benefit. ~~In no case shall~~ The total health insurance subsidy received ~~by a retiree receiving benefits~~ from initial and renewed membership *may not* exceed the maximum allowed in s. 112.363.

(6) ~~(4)~~ *A* ~~No~~ retired judge consenting to temporary duty in any court, as assigned by the Chief Justice of the Supreme Court in accordance with s. 2, Art. V of the State Constitution, *is not* ~~shall be~~ subject to the renewed membership provisions of this section.

(7) A member who is elected or appointed to an elective office and who is participating in the Deferred Retirement Option Program is not subject

to termination as defined in s. 121.021, or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office, as follows:

(a) At the end of the 60-month DROP period:

1. The officer's DROP account may not accrue additional monthly benefits, but does continue to earn interest as provided in s. 121.091(13). However, an officer whose DROP participation begins on or after July 1, 2010, may not continue to earn such interest.

2. Retirement contributions are not required of the employer of the elected officer and additional retirement credit may not be earned under the Florida Retirement System.

(b) An elected officer may voluntarily terminate his or her elective office at any time and receive his or her DROP proceeds. However, until termination occurs, an elected officer whose termination limitations are extended by this section is ineligible for renewed membership in the system and may not receive pension payments, DROP lump sum payments, or any other state payment other than the statutorily determined salary, travel, and per diem for the elective office.

(c) Upon termination, the officer shall receive his or her accumulated DROP account, plus interest, and shall accrue and commence receiving monthly retirement benefits, which must be paid on a prospective basis only.

Section 6. Paragraph (f) of subsection (1) and paragraphs (c) and (e) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(f) Effective July 1, 1997:

1. *Except as provided in subparagraph 3., an* ~~any~~ elected state officer eligible for membership in the Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. *Except as provided in subparagraph 3., an* ~~any~~ elected ~~county~~ officer *of a local agency employer* eligible for membership in the Elected Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected ~~county~~ officers *of a local agency employer*, elect to *withdraw from the Florida Retirement System* ~~participate in a lifetime monthly annuity program~~, as provided in subparagraph (b)2., in lieu of membership in the Senior Management Service Class.

3. A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, as an elected official eligible for the Elected Officers' Class may not renew membership in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program as provided in subsection (6), and may not withdraw from the Florida Retirement System as a renewed member as provided in subparagraph (b)2., as applicable, in lieu of membership in the Senior Management Service Class.

(6)

(c) *Participation.*—

1. *An* ~~any~~ eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of participation in the Senior Management Service Class. Such election *must* ~~shall~~ be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. *An* ~~Any~~ eligible employee who is employed on or before February 1, 1987, and who fails to make an election to participate in the optional annuity program by May 1, 1987, shall be deemed to have elected membership in the Senior Management Service Class.

2. *Except as provided in subparagraph 6., an* ~~Any~~ employee who becomes eligible to participate in the optional annuity program by reason of initial employment commencing after February 1, 1987, may, within 90 days after the date of *commencing* ~~commencement of~~ employment, elect to participate in the optional annuity program. Such election *must* ~~shall~~ be made in writing and filed with the personnel officer of the employer. *An* ~~Any~~ eligible employee who does not within 90 days after *commencing* ~~commencement of such~~ employment elect to participate in the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

3. A person who is appointed to a position in the Senior Management Service Class and who is a member of an existing retirement system or the Special Risk or Special Risk Administrative Support Classes of the Florida Retirement System may elect to remain in such system or class in lieu of participation in the Senior Management Service Class or optional annuity program. Such election *must* ~~shall~~ be made in writing and filed with the department and the personnel officer of the employer within 90 days of such appointment. Any eligible employee who fails to make an election to participate in the existing system, the Special Risk Class of the Florida Retirement System, the Special Risk Administrative Support Class of the Florida Retirement System, or the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

4. Except as provided in subparagraph 5., an employee's election to participate in the optional annuity program is irrevocable *if the* ~~as long as such~~ employee continues to be employed in an eligible position and continues to meet the eligibility requirements set forth in this paragraph.

5. Effective from July 1, 2002, through September 30, 2002, any active employee in a regularly established position who has elected to participate in the Senior Management Service Optional Annuity Program has one opportunity to choose to move from the Senior Management Service Optional Annuity Program to the Florida Retirement System defined benefit program.

a. The election must be made in writing and must be filed with the department and the personnel officer of the employer before October 1, 2002, or, in the case of an active employee who is on a leave of absence on July 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable.

b. The employee *shall* ~~will~~ receive service credit under the defined benefit program of the Florida Retirement System equal to his or her years of service under the Senior Management Service Optional Annuity Program. The cost for such credit *is the* ~~shall be an~~ amount representing the present value of that employee's accumulated benefit obligation for the affected period of service.

c. The employee must transfer the total accumulated employer contributions and earnings on deposit in his or her Senior Management Service Optional Annuity Program account. If the transferred amount is not sufficient to pay the amount due, the employee must pay a sum representing the remainder of the amount due. ~~In no case may~~ The employee *may not* retain any employer contributions or earnings thereon from the Senior Management Service Optional Annuity Program account.

6. A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, may not renew membership in the Senior Management Service Optional Annuity Program.

(e) *Benefits.*—

1. Benefits ~~shall be payable~~ under the Senior Management Service Optional Annuity Program *are payable* only to participants in the program, or their beneficiaries as designated by the participant in the contract with *the* ~~a~~ provider company, and *must* ~~such benefits shall~~ be paid by the designated company in accordance with the terms of the annuity contract ~~or contracts~~ applicable to the participant. A participant

must be terminated from all employment *relationships* with ~~all~~ Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employer-funded benefit. Benefits funded by employer contributions *are* ~~shall be~~ payable *under the terms of the contract* ~~only as a lifetime annuity~~ to the participant, his or her beneficiary, or his or her estate, *in addition to* ~~except for~~:

a. A lump-sum payment to the beneficiary upon the death of the participant;

b. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 *calendar* months from the employment that entitled him or her to optional annuity program participation. ~~A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under the provisions of this chapter.~~ Such cash-out must be a complete liquidation of the account balance with that company and is subject to ~~the provisions of~~ the Internal Revenue Code; ~~or~~

c. A mandatory distribution of a de minimis account of a former participant who has been terminated for a minimum of 6 calendar months from the employment that entitled him or her to optional annuity program participation as authorized by the department; or

d. ~~c.~~ A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the participant's account directly to the custodian of an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant.

2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, *are* ~~shall~~ not ~~be~~ subject to assignment, execution, or attachment or to any legal process whatsoever.

3. *Except as provided in subparagraph 4.,* a participant who *terminates employment and* receives *a distribution, including a rollover or trustee-to-trustee transfer,* ~~optional annuity program benefits~~ funded by employer contributions shall be deemed to be retired from a state-administered retirement system *if the participant is subsequently employed with an* ~~in the event of subsequent employment with any~~ employer that participates in the Florida Retirement System.

4. A participant who receives optional annuity program benefits funded by employer contributions as a mandatory distribution of a de minimis account authorized by the department is not considered a retiree.

As used in this paragraph, a "de minimis account" means an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under this chapter.

Section 7. Paragraph (a) of subsection (6) of section 121.071, Florida Statutes, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(6)(a) Required employee contributions for all service other than current service, including, but not limited to, prior service, past service, military service, leave-of-absence service, out-of-state service, and certain non-Florida Retirement System in-state service, shall be paid by cash, personal check, cashier's check, ~~or~~ money order*, or a direct rollover or transfer from a qualified plan as provided under the Internal Revenue Code. The payment must* ~~only; shall~~ be accompanied by a statement identifying the service for which payment is made~~;~~ and shall be made in a lump sum for the total amount due or in annual payments of not less than $100, except for the final payment if less than $100, unless another method of payment is authorized by law or rule.

Section 8. Paragraphs (a), (b), (e), (f), and (h) of subsection (1) of section 121.081, Florida Statutes, are amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)(a) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who* ~~that~~ become a covered group under this system. The governing body of a covered group in compliance with s. 121.051(2)(b) may elect to provide benefits *for* ~~with respect to~~ past service earned *before* ~~prior to~~ January 1, 1975, in accordance with this chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The member contribution for both regular and special risk members *is* ~~shall be~~ 4 percent of the gross annual salary for each year of past service claimed, plus 4-percent employer matching contribution, plus 4-percent interest thereon compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until July 1, 1975, and 6.5-percent interest compounded annually thereafter until date of payment. Once the total cost for a member has been figured to date, then after July 1, 1975, 6.5-percent compounded interest shall be added each June 30 thereafter on any unpaid balance until the cost of such past service liability is paid in full. The following formula shall be used in calculating past service earned *before* ~~prior to~~ January 1, 1975: (Annual gross salary multiplied by 8 percent) multiplied by the 4-percent or 6.5-percent compound interest table factor, as may be applicable. The resulting product equals cost to date for each particular year of past service.

(b) Past service earned after January 1, 1975, may be claimed by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who become* ~~that becomes~~ a covered group under this system. The governing body of a covered group may elect to provide benefits *for* ~~with respect~~ to past service earned after January 1, 1975, in accordance with this chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The employer shall contribute an amount equal to the contribution rate in effect at the time the service was earned, multiplied by the employee's gross salary for each year of past service claimed, plus 6.5-percent interest thereon, compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until date of payment.

(e) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by a member of the Florida Retirement System who formerly was an officer or employee of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district, notwithstanding the status or form of the retirement system, if any, of that *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district and irrespective of whether *such* officers or employees ~~of that city, metropolitan planning organization, or special district~~ now or hereafter become a covered group under the Florida Retirement System. Such member may claim creditable service and be entitled to the benefits accruing to the regular class of members as provided for the past service claimed under this paragraph by paying into the retirement trust fund an amount equal to the total actuarial cost of providing the additional benefit resulting from such past-service credit, discounted by the applicable actuarial factors to date of retirement.

(f) *If* ~~When~~ any person~~, either prior to this act or hereafter,~~ becomes entitled to and *participates* ~~does participate~~ in one of the retirement systems *under* ~~consolidated within or created by~~ this chapter through the consolidation or merger of governments or the transfer of functions between units of government, ~~either~~ at the state or local level or between state and local units, or through the assumption of functions or activities by a state or local unit from an employing *governmental* entity *that* ~~which~~ was not an employer under the system, and such person becomes a member of the Florida Retirement System, such person *is* ~~shall be~~ entitled to receive past-service credit ~~as defined in s. 121.021(18)~~ for the time *the* ~~such~~ person performed services for, and was an employee of, such state or local unit or other *governmental* employing entity *before* ~~prior to~~ the transfer, merger, consolidation, or assumption of functions and activities. Past-service credit allowed by this paragraph *is* ~~shall~~ also ~~be~~ available to any person who becomes a member of an existing system *before*~~, as defined in s. 121.021(2), prior to~~ December 1, 1970, through the transfer, merger, consolidation, or assumption of functions and activities set forth in this paragraph and who subsequently becomes a member of the Florida Retirement System. However, credit for the past service may not be granted until contributions are made in the manner provided in this subsection. If a person rejected Florida Retirement System membership at the time of the transfer, merger, ~~or~~ consolidation, *or assumption of governmental functions and activities,* the required contributions shall be at total actuarial cost as specified in paragraph (e). Such contributions or accrued interest may not be paid from any *public* ~~state~~ funds.

(h) The following provisions apply to the purchase of past service:

1. Notwithstanding any of the provisions of this subsection, past-service credit may not be purchased under this chapter for any service that is used to obtain a *pension or* benefit from *a* ~~any~~ local retirement system. *Eligibility to receive or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.*

2. A member may not receive past service credit under paragraphs (a), (b), (e), or (f) for any leaves of absence without pay, except that credit for active military service leaves of absence may be claimed under paragraphs (a), (b), and (f), in accordance with s. 121.111(1).

3. A member may not receive past service credit for co-employer service. Co-employer service or a co-employer relationship is employment in a single position simultaneously covered and reported by both a public employer and a private employer.

4. ~~3.~~ If a member does not *want* ~~desire~~ to receive credit for all of his or her past service, the period the member claims must be the most recent past service prior to his or her participation in the Florida Retirement System.

5. ~~4.~~ The cost of past service purchased by an employing agency for its employees may be amortized over *the* ~~such~~ period of time ~~as is~~ provided in the agreement, but not to exceed 15 years, calculated in accordance with rule 60S-1.007(5)(f), Florida Administrative Code.

6. ~~5.~~ The retirement account of each member for whom past service is being provided by his or her employer shall be credited with all past service the employer agrees to purchase as soon as the agreement between the employer and the department is executed. ~~Pursuant thereto:~~

a. Each ~~such~~ member's account shall also be posted with the total contribution his or her employer agrees to make *on* ~~in~~ the member's behalf for past service earned *before* ~~prior to~~ October 1, 1975, excluding those contributions representing the employer's matching share and the compound interest calculation on the total contribution. However, a portion of any contributions paid by an employer for past service credit earned on and after October 1, 1975, may not be posted to *the* ~~a~~ member's account.

b. A refund of contributions payable after an employer has made a written agreement to purchase past service for employees of the covered group *includes* ~~shall include~~ contributions for past service which are posted to *the* ~~a~~ member's account. However, contributions for past service earned on and after October 1, 1975, are not refundable.

Section 9. Subsections (9), (13), and (14) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system and ~~may~~ receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

(b)~~1.~~ Any person *whose retirement is effective before July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates before July 1, 2010,* ~~who is retired under this chapter~~, except under the disability retirement provisions of subsection (4) *or as provided in s. 121.053*, may be reemployed by *an* ~~any private or public~~ employer *that participates in a state-administered retirement system* ~~after retirement~~ and receive retirement benefits and compensation from *that* ~~his or her~~ employer without any limitations, except that *the* ~~a~~ person may not *be reemployed by an employer* ~~receive both a salary from reemployment with any agency~~ participating in the Florida Retirement System *before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer* and retirement benefits ~~under this chapter~~ for ~~a period of~~ 12 *calendar* months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. ~~2.~~ *A retiree* ~~Any person to whom the limitation in subparagraph 1. applies~~ who violates such reemployment limitation ~~and who is reemployed with any agency participating in the Florida Retirement System~~ before completion of the 12-month limitation period *must* ~~shall~~ give timely notice of this fact in writing to the employer and to the Division *of Retirement or the state board* and shall have his or her retirement benefits suspended for *the months employed or* the balance of the 12-month limitation period *as required in sub-subparagraphs b. and c. A retiree* ~~Any person~~ employed in violation of this paragraph and *an employer who* ~~any employing agency which knowingly~~ employs or appoints such person *are* ~~without notifying the Division of Retirement to suspend retirement benefits shall be~~ jointly and severally liable for reimbursement to the retirement trust fund*, including the Florida Retirement System Trust Fund and the Public employee Optional Retirement Program Trust Fund, from which the benefits were paid* ~~of any benefits paid during the reemployment limitation period~~. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. ~~Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and~~ Retirement benefits shall remain suspended until ~~such~~ repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

a. ~~3.~~ A district school board may reemploy a *retiree* ~~retired member~~ as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. A district school board may reemploy a *retiree* ~~retired member~~ as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~other retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph *2.* ~~7.~~

b. ~~4.~~ A community college board of trustees may reemploy a *retiree* ~~retired member~~ as an adjunct instructor~~, that is, an instructor who is noncontractual and part-time,~~ or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph *2.* ~~7.~~ A *retiree* ~~retired member~~ may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months of retirement. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph* ~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement

System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

c. ~~5.~~ The State University System may reemploy a *retiree* ~~retired member~~ as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the *retiree* ~~retired member~~ has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph *2.* ~~7.~~, as appropriate. A *retiree* ~~retired member~~ may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months ~~of retirement~~. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph* ~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

d. ~~6.~~ The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a *retiree* ~~retired member~~ as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph *2.* ~~7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.~~

e. A developmental research school may reemploy a retiree as a substitute or hourly teacher or an education paraprofessional as defined in s. 1012.01(2) on a noncontractual basis after he or she has been retired for 1 calendar month. A developmental research school may reemploy a retiree as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A developmental research school that reemploys retired teachers and education paraprofessionals is subject to the retirement contribution required by subparagraph 2.

f. A charter school may reemploy a retiree as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month. A charter school may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A charter school that reemploys such teachers is subject to the retirement contribution required by subparagraph 2.

2. ~~7.~~ The employment ~~by an employer~~ of *a* ~~any~~ retiree or DROP participant of *a* ~~any~~ state-administered retirement system *does not affect* ~~shall have no effect on~~ the average final compensation or years of creditable service of the retiree or DROP participant. *Before* ~~Prior to~~ July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who *is* ~~has been~~ retired under *a* ~~any~~ state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees *who have* ~~with~~ renewed membership or*, as provided in* subsection (13)*, for* ~~with respect to~~ DROP participants.

~~8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.~~

3. ~~9.~~ Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office *if*~~, provided that~~ he or she *terminates* ~~shall be required to terminate~~ his or her nonelected covered employment. *Such* ~~Any person who exercises this election~~ shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. *A* ~~No~~ person who seeks to exercise the provisions of this subparagraph~~,~~ as *they* ~~the same~~ existed *before* ~~prior to~~ May 3, 1984, *may not be* ~~shall be~~ deemed to be retired under those provisions, unless such person is eligible to retire under ~~the provisions of~~ this subparagraph, as amended by chapter 84-11, Laws of Florida.

~~10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.~~

~~11. An employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retired contribution required in subparagraph 8. Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement~~

~~benefits shall be jointly and severally liable for reimbursement to the Retirement System Trust Fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780 hour reemployment limitation.~~

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, except as provided under the disability retirement provisions of subsection (4) or under s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer without limitation, except that the person may not be reemployed by an employer participating in the Florida Retirement System for 6 calendar months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13). A retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system.

1. The reemployed retiree may not renew membership in the Florida Retirement System.

2. The employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the Florida Retirement System in addition to the contributions required by s. 121.76.

(d) ~~(c)~~ The provisions of this subsection apply to retirees, as defined in s. 121.4501(2)~~(j)~~, of the Public Employee Optional Retirement Program ~~created in part II~~, subject to the following conditions:

1. *The* ~~Such~~ retirees may not be reemployed with an employer participating in the Florida Retirement System ~~as provided in paragraph (b)~~ until such person has been retired for *6* ~~3~~ calendar months~~, unless the participant has reached the normal retirement requirements of the defined benefit plan as provided in s. 121.021(29)~~.

2. *A* ~~Such~~ retiree employed in violation of this subsection and *an employer* ~~any employing agency~~ that ~~knowingly~~ employs or appoints such person *are* ~~shall be~~ jointly and severally liable for reimbursement of any benefits paid to the retirement trust fund from which the benefits were paid, including the Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. *The employer* ~~To avoid liability, such employing agency~~ must have a written statement from the retiree that he or she is not retired from a state-administered retirement system.

(e) The limitations of this subsection apply to reemployment in any capacity irrespective of the category of funds from which the person is compensated.

And the title is amended as follows:

Delete lines 3-50 and insert: redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for the Elected Officers' Class; revising when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to a retiree's participation in the Elected Officers' Class; providing that a retiree who is elected after a certain date may not reenroll in the Florida Retirement System and may not continue to earn interest on his or her DROP account after the end of the 60-month DROP period; amending s. 121.055, F.S.; providing that a retiree of that class who is reemployed as an elected official may not renew membership in the Senior Management Class or the Senior Management Annuity Program; revising provisions relating to de minimis accounts; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to employment after retirement; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; providing that retirees of a state-administered retirement system who retire after a certain date may not be reemployed by an employer participating in the Florida Retirement System for 6 months and may not renew membership in the Florida Retirement System; revising

MOTION

On motion by Senator King, the rules were waived to allow the following amendment to be considered:

Senator King moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A (232276)—Delete lines 105-111 and insert:

1. For DROP effective dates occurring before July 1, 2010, if ~~in the event~~ the ~~Deferred Retirement Option Program~~ participant *is* ~~should be~~ employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.

2. For DROP effective dates occurring on or after July 1,

MOTION

On motion by Senator Fasano, the rules were waived to allow the following amendment to be considered:

Senator Fasano moved the following substitute amendment:

Amendment 3 (171224) (with title amendment)—Delete lines 115-1387 and insert:

(10) "Employer" means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department, board, district school board, *municipality, metropolitan planning organization,* or special district of the state~~, or any city of the state~~ which participates in the system for the benefit of certain of its employees, or a charter school or charter technical career center that participates as provided in s. 121.051(2)(d). *Employers are not agents of the department, the state board, or the Division of Retirement, and the department, the state board, and the division are not responsible for erroneous information provided by representatives of employers.*

(11) "Officer or employee" means any person receiving salary payments for work performed in a regularly established position and, if employed by a *municipality* ~~city~~, a metropolitan planning organization, or a special district, employed in a covered group. *The term does not apply to state employees covered by a leasing agreement under s. 110.191, other public employees covered by a leasing agreement, or a co-employer relationship.*

(18) "Past service" of any member, as provided in s. 121.081(1), means the number of years and complete months and any fractional part of a month, recognized and credited by an employer and approved by the administrator, during which the member was in the active employ of *a governmental* ~~an~~ employer *and for which the employee is not entitled to a benefit before* ~~prior to~~ his or her date of participation.

(29) "Normal retirement date" means the ~~first day of any month following the~~ date a member attains *normal retirement age and is vested, which is determined as follows* ~~one of the following statuses~~:

(a) If a Regular Class member, *a Senior Management Service Class member, or an Elected Officers' Class* ~~the~~ member:

1. *The first day of the month the member* completes 6 or more years of creditable service and attains age 62; or

2. *The first day of the month following the date the member* completes 30 years of creditable service, regardless of age~~, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system~~.

(b) If a Special Risk Class member~~, the member~~:

1. *The first day of the month the member* completes 6 or more years of creditable service in the Special Risk Class and attains age 55;

2. *The first day of the month following the date the member* completes 25 years of creditable service in the Special Risk Class, regardless of age; or

3. *The first day of the month following the date the member* completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

~~(c) If a Senior Management Service Class member, the member:~~

~~1. Completes 6 years of creditable service in the Senior Management Service Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

~~(d) If an Elected Officers' Class member, the member~~:

~~1. Completes 6 years of creditable service in the Elected Officers' Class and attains age 62; or~~

~~2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.~~

"Normal retirement age" is attained on the "normal retirement date."

(39)(a) "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with *an employer, however:* ~~employers under this system, as defined in subsection (10), but in the event~~

1. For retirements effective before July 1, 2010, if a member *is* ~~should be~~ employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence *constitutes* ~~shall constitute~~ a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination ~~for a member,~~ if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or *state* board may require other evidence of termination as it deems necessary.

2. For retirements effective on or after July 1, 2010, if a member is employed by any such employer within the next 6 calendar months, termination shall be deemed not to have occurred. A leave of absence constitutes a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The department or state board may require other evidence of termination as it deems necessary.

(b) "Termination" for a member electing to participate *in* ~~under~~ the Deferred Retirement Option Program occurs when the ~~Deferred Retirement Option~~ program participant ceases all employment relationships with *an employer* ~~employers under this system~~ in accordance with s. 121.091(13), *however:* ~~but~~

1. For termination dates occurring before July 1, 2010, if ~~in the event~~ the ~~Deferred Retirement Option Program~~ participant *is* ~~should be~~ employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence shall constitute a continuation of the employment relationship.

2. For termination dates occurring on or after July 1, 2010, if the participant becomes employed by any such employer within the next 6 calendar months, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)4.c. A leave of absence constitutes a continuation of the employment relationship.

(52) "Regularly established position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, ~~the term means~~ a position *that* ~~which~~ is authorized and established pursuant to law and is compensated from a salaries *and benefits* appropriation pursuant to s. 216.011(1)*(mm)* ~~(dd)~~, or an established position *that* ~~which~~ is authorized pursuant to s. 216.262(1)(a) and (b) and is compensated from a salaries account as provided *in s. 216.011(1)(nn)* ~~by rule~~.

(b) *With respect to* ~~In~~ a local *agency employer* ~~agency~~ (district school board, county agency, community college, *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district), ~~the term means~~ a regularly established position *that* ~~which~~ will be in existence for a period beyond 6 consecutive months, except as provided by rule.

(53) "Temporary position" *means* ~~is defined as follows~~:

(a) *With respect to* ~~In~~ a state *employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ is compensated from an other personal services (OPS) account~~,~~ as provided ~~for~~ in s. 216.011(1)(dd).

(b) *With respect to* ~~In~~ a local *agency employer* ~~agency~~, *a* ~~the term means an employment~~ position *that* ~~which~~ will exist for less than 6 consecutive months, or other ~~employment~~ position as determined by rule of the division, regardless of whether it will exist for 6 consecutive months or longer.

(63) "State board" means the State Board of Administration.

(64) "Trustees" means the Board of Trustees of the State Board of Administration.

Section 2. Subsection (6) is added to section 121.031, Florida Statutes, to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(6) Unless prior written approval is obtained from the department or state board, any promotional materials or advertisements that, directly or indirectly, refer to the "Florida Retirement System" or the "FRS" must contain a disclaimer that the information is not approved or endorsed by the Florida Retirement System.

Section 3. Paragraph (a) of subsection (1) and paragraphs (c) and (f) of subsection (2) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(a) *Participation in the Florida Retirement System is* ~~The provisions of this law shall be~~ compulsory *for* ~~as to~~ all officers and employees, except elected officers who meet the requirements of s. 121.052(3), who are employed on or after December 1, 1970, *by* ~~of~~ an employer other than

those referred to in paragraph (2)(b).~~, and~~ Each officer or employee, as a condition of employment, *becomes* ~~shall become~~ a member of the system *on the* ~~as of his or her~~ date of employment, except that a person who is retired from any state retirement system and is reemployed on or after December 1, 1970, may not renew his or her membership in any state retirement system except as provided in s. 121.091(4)(h) for a person who recovers from disability, ~~and~~ as provided in *s. 121.053* ~~s. 121.091(9)(b)8.~~ for a person who is elected to public office, and, effective July 1, 1991, as provided in s. 121.122 for all other retirees.

1. Officers and employees of the University Athletic Association, Inc., a nonprofit association connected with the University of Florida, employed on and after July 1, 1979, *may* ~~shall~~ not participate in any state-supported retirement system.

2. ~~1.~~ Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan *adopted* ~~provided~~ by rule ~~adopted~~ by the Board of Regents may not participate in the Florida Retirement System. Effective July 1, 2008, any person appointed ~~thereafter~~ to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System notwithstanding ~~the provisions of~~ s. 121.35(2)(a).

~~2.~~ For purposes of this *subparagraph* ~~paragraph~~, the term*:*

a. "Faculty position" *means* ~~is defined as~~ a position assigned the principal responsibility of teaching, research, or public service activities or administrative responsibility directly related to the academic mission of the college. ~~The term~~

b. "Clinical faculty" *means* ~~is defined as~~ a faculty position appointment in conjunction with a professional position in a hospital or other clinical environment at a college. ~~The term~~

c. "Faculty practice plan" includes professional services to patients, institutions, or other parties which are rendered by the clinical faculty employed by a college that has a faculty practice plan at a state university authorized by the Board of Governors.

(2) OPTIONAL PARTICIPATION.—

(c) Employees of public community colleges or charter technical career centers sponsored by public community colleges, ~~as~~ designated in s. 1000.21(3), who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and ~~in~~ s. 1012.875 may ~~elect~~, in lieu of participating in the Florida Retirement System, *elect* to withdraw from the ~~Florida Retirement~~ system altogether and participate in *the State Community College System* ~~an~~ Optional Retirement Program provided by the employing agency under s. 1012.875~~, to be known as the State Community College System Optional Retirement Program~~. ~~Pursuant thereto:~~

1. Through June 30, 2001, the cost to the employer for such annuity *equals* ~~shall equal~~ the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class defined benefit program, plus the portion of the contribution rate required by s. 112.363(8) *which* ~~that~~ would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The employer shall deduct an amount ~~to provide~~ for the administration of the ~~optional retirement~~ program. The employer ~~providing the optional program~~ shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in ~~such~~ an optional retirement program *is* ~~shall be~~ irrevocable ~~for~~ as long as the employee holds a position eligible for participation, except as provided in subparagraph 3. Any service creditable under the Florida Retirement System *is* ~~shall be~~ retained after the member withdraws from the ~~Florida Retirement~~ system; however, additional service credit in the ~~Florida Retirement~~ system *may* ~~shall~~ not be earned while a member of the optional retirement program.

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, ~~to choose~~ to transfer from the optional retirement program to the defined benefit program of the Florida Retirement System or to the Public Employee Optional Retirement Program, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the Public Employee Optional Retirement Program, any contributions, interest, and earnings creditable to the employee under the State Community College System Optional Retirement Program *is* ~~shall be~~ retained by the employee in the State Community College System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) ~~shall~~ govern the election.

b. If the employee chooses to move to the defined benefit program of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State Community College System Optional Retirement Program.

(I) The cost for such credit *is the* ~~shall be an~~ amount representing the present value of *the* ~~that~~ employee's accumulated benefit obligation for the affected period of service. The cost shall be calculated as if the benefit commencement occurs on the first date the employee *becomes* ~~would become~~ eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation *must* ~~shall~~ include any service already maintained under the defined benefit plan in addition to the years under the State Community College System Optional Retirement Program. The present value of any service already maintained *must* ~~under the defined benefit plan shall~~ be applied as a credit to total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

(II) The employee must transfer from his or her State Community College System Optional Retirement Program account and from other employee moneys as necessary, a sum representing the present value of *the* ~~that~~ employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the State Community College System Optional Retirement Program.

4. Participation in the optional retirement program *is* ~~shall be~~ limited to ~~those~~ employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership or renewed membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12) or s. 121.122.

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and~~:~~

~~(A)~~ the duties and responsibilities of the position include ~~either~~ the formulation, interpretation, or implementation of policies*,* ~~;~~ or

~~(B) The duties and responsibilities of the position include~~ the performance of functions that are unique or specialized within higher education and that frequently ~~involve the~~ support ~~of~~ the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

5. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System

under ss. 121.091(9), 121.122, and 121.091(5), respectively. *A participant who receives a program distribution funded by employer contributions shall be deemed to be retired from a state-administered retirement system if the participant is subsequently employed with an employer that participates in the Florida Retirement System.*

6. Eligible community college employees *are* ~~shall be~~ compulsory members of the Florida Retirement System until, pursuant to ~~the procedures set forth in~~ s. 1012.875, a written election to withdraw from the ~~Florida Retirement~~ system and ~~to~~ participate in the State Community College System Optional Retirement Program is filed with the program administrator and received by the division.

a. *A* ~~Any~~ community college employee whose program eligibility results from initial employment *must* ~~shall~~ be enrolled in the State Community College System Optional Retirement Program retroactive to the first day of eligible employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the community college *to* ~~for~~ the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

b. *A* ~~Any~~ community college employee whose program eligibility *is* ~~results from a change in status~~ due to the subsequent designation of the employee's position as one of those specified in subparagraph 4*.,* or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in subparagraph 4*., must* ~~shall~~ be enrolled in the program *on* ~~upon~~ the first day of the first full calendar month that such change in status becomes effective. The employer retirement contributions paid from the effective date through the month of the employee plan change *must* ~~shall~~ be transferred to the community college *to* ~~for~~ the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

7. Effective July 1, 2003, through December 31, 2008, any participant of the State Community College System Optional Retirement Program who has service credit in the defined benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the defined benefit plan to the optional retirement program and the actual date of transfer may, during ~~his or her~~ employment, ~~elect to~~ transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for *the* ~~such~~ period of service credit. Upon ~~such~~ transfer, all ~~such~~ service credit previously earned under the defined benefit program of the Florida Retirement System during this period *is* ~~shall be~~ nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

(f)1. *If* ~~Whenever~~ an employer that participates in the Florida Retirement System undertakes the transfer, merger, or consolidation of governmental services or *assumes the* functions *and activities of an employing governmental entity that was not an employer under the system*, the employer must notify the department at least 60 days *before* ~~prior to~~ such action and ~~shall~~ provide documentation as required by the department. *The transfer, merger, or consolidation of governmental services or assumption of governmental functions and activities must occur between public employers. The current or former employer may pay the employees' past service cost, unless prohibited under this chapter. This subparagraph does not apply to the transfer, merger, or consolidation of governmental services or assumption of functions and activities of a public entity under a leasing agreement having a co-employer relationship. Employers and employees of a public governmental employer whose service is covered by a leasing agreement under s. 110.191, any other leasing agreement, or a co-employer relationship are not eligible to participate in the Florida Retirement System.*

2. *If* ~~When~~ the agency to which a member's employing unit is transferred, merged, or consolidated does not participate in the Florida Retirement System, a member *may* ~~shall~~ elect in writing to remain in the Florida Retirement System or to transfer to the local retirement system operated by *the* ~~such~~ agency. If *the* ~~such~~ agency does not participate in a local retirement system, the member shall continue membership in the Florida Retirement System. In either case, ~~the~~ membership *continues* ~~shall continue~~ for as long as the member is employed by the agency to which his or her unit was transferred, merged, or consolidated.

Section 4. Paragraph (f) of subsection (2) and paragraph (e) of subsection (3) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected officers.—

(2) MEMBERSHIP.—The following holders of elective office, hereinafter referred to as "elected officers," whether assuming elective office by election, reelection, or appointment, are members of the Elected Officers' Class, except as provided in subsection (3):

(f) Any elected officer of a municipality or special district *assuming office* on ~~or after~~ July 1, 1997, *through June 30, 2009,* as provided in paragraph (3)(e). *On or after January 1, 2010, an elected officer shall become a member only if the governing body of the municipality or special district, at the time it joins the Florida Retirement System for its elected officers, elects, by majority vote, to include all its elected positions in the Elected Officers' Class.*

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f) assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraphs (3)(a)-(d):

(e) ~~Effective July 1, 2001,~~ The governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected Officers' Class *as follows*.

1. Effective July 1, 1997, such election must be made between July 1, 1997, and December 31, 1997, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

2. Effective July 1, 2001, such election *must* ~~shall~~ be made between July 1, 2001, and December 31, 2001, and *is* ~~shall be~~ irrevocable. The designation of such positions *is* ~~shall be~~ effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

3. Effective July 1, 2009, such election must be made between July 1, 2009, and December 31, 2009, and is irrevocable. The designation of such positions is effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body.

Section 5. Section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(1)~~(a)~~ *A* ~~Any~~ member who retired under *an* ~~any~~ existing system as defined in s. 121.021~~(2),~~ and receives a *retirement* benefit ~~thereof~~, and who *subsequently* serves in an office covered by the Elected Officers' Class for a period of at least 6 years, *is* ~~shall be~~ entitled to receive an additional retirement benefit for ~~such~~ elected officer service *completed before* ~~prior to~~ July 1, 1990, under the Elected Officers' Class of the Florida Retirement System, as follows:

(a) ~~1.~~ Upon completion of 6 or more years of creditable service in an office covered by the Elected Officers' Class, ~~s. 121.052,~~ such member shall notify the administrator of his or her intent to purchase elected officer service *completed before* ~~prior to~~ July 1, 1990, and shall pay the member contribution applicable for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Florida Retirement System Trust Fund; however, such member may purchase retirement credit under the Elected Officers' Class only for ~~such~~ service as an elected officer.

(b) ~~2.~~ Upon payment of the amount specified in *paragraph (a)* ~~subparagraph 1.~~, the employer shall pay into the Florida Retirement System Trust Fund the applicable employer contribution for the period of elected officer service *completed before* ~~prior to~~ July 1, 1990, ~~being claimed by the member,~~ plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until full payment is made to the Florida Retirement System Trust Fund.

(2) ~~(b)~~ *A* ~~Any~~ retired member of the Florida Retirement System, or *an* ~~any~~ existing system as defined in s. 121.021~~(2)~~, who, *beginning* ~~on or after~~ July 1, 1990, *through June 30, 2010, serves in* ~~is serving in, or is elected or appointed to,~~ an elective office covered by the Elected Officers' Class shall be enrolled in the appropriate subclass of the Elected Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). ~~Pursuant thereto:~~

(a) ~~1.~~ *The* ~~Any such retired~~ member *may* ~~shall be eligible to~~ continue to receive retirement benefits as well as compensation for the elected officer service *if* ~~for as long as~~ he or she remains in an elective office covered by the Elected Officers' Class.

(b) ~~2.~~ If *the* ~~any such~~ member serves in an elective office covered by the Elected Officers' Class and becomes vested under that class, he or she *is* ~~shall be~~ entitled to receive an additional retirement benefit for *the* ~~such~~ elected officer service.

(c) ~~3.~~ *The* ~~Such~~ member *is* ~~shall be~~ entitled to purchase additional retirement credit in the Elected Officers' Class for any postretirement service performed in an elected position eligible for the Elected Officers' Class *before* ~~prior to~~ July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position *before* ~~prior to~~ July 1, 1991, by paying the applicable Elected Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, *is* ~~shall be~~ the difference between *the* ~~such~~ contribution and the total applicable contribution for the period being claimed, plus interest. The employer ~~of such member~~ may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service. *Any retiree who served in an elective office before July 1, 1990, suspended his or her retirement benefits, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.*

(d) ~~4.~~ Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions *of* ~~in~~ s. 121.122 may be used in conjunction with creditable service earned under this *subsection* ~~paragraph~~, *if* ~~provided~~ applicable vesting requirements and other existing statutory conditions required by this chapter are met.

~~5. An elected officer who is elected or appointed to an elective office and is participating in the Deferred Retirement Option Program is not subject to termination as provided in s. 121.021(39)(b), or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds such an elective office, as follows:~~

~~a. At the end of the 60-month DROP period:~~

~~(I) The officer's DROP account shall accrue no additional monthly benefits, but shall continue to earn interest as provided in s. 121.091(13).~~

~~(II) No Retirement contributions shall be required of the employer of the elected officer and no additional retirement credit shall be earned under the Florida Retirement System.~~

~~b. Nothing herein shall prevent An elected officer from voluntarily terminating his or her elective office at any time and electing to receive his or her DROP proceeds. However, until termination requirements are fulfilled as provided in s. 121.021(39), any elected officer whose termination limitations are extended by this section shall be ineligible for renewed membership in the system and shall receive no pension payments, DROP lump sum payments, or any other state payment other than the statutorily determined salary, travel, and per diem for the elective office.~~

~~c. Upon termination, the officer shall receive his or her accumulated DROP account, plus interest, and shall accrue and commence receiving monthly retirement benefits, which shall be paid on a prospective basis only.~~

However, an officer electing to participate in the Deferred Retirement Option Program on or before June 30, 2002, *is* ~~shall~~ not ~~be~~ required to terminate and *remains* ~~shall remain~~ subject to the provisions of this *paragraph* ~~subparagraph~~ as adopted in section 1 of chapter 2001-235, Laws of Florida.

(3) On or after July 1, 2010:

(a) A retiree of a state-administered retirement system who is elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not reenroll in the Florida Retirement System.

(b) An elected officer who is elected or appointed to an elective office and is participating in the Deferred Retirement Option Program is subject to termination as defined in s. 121.021 upon completion of his or her DROP participation period. An elected official may defer termination as provided in paragraph (2)(e).

(4) ~~(2)~~ Upon attaining his or her normal retirement date and ~~payment of the amount specified in paragraphs (1)(a) and (b)~~, and upon application to the administrator of the intent to retire, *a* ~~the~~ member *qualifying under subsection (1) or subsection (2)* shall receive a monthly benefit under this section, in addition to any benefits already being received, which shall commence on the last day of the month of retirement and be payable on the last day of the month thereafter during his or her lifetime. The amount of *the* ~~such~~ monthly benefit *is* ~~shall be~~ the total percentage of retirement credit purchased under this section multiplied by the member's average monthly compensation as an elected officer, adjusted according to the option selected at retirement under s. 121.091(6).

(5) ~~(3)~~ Any renewed member, as described in subsection (1) *or subsection (2)*, who is not receiving the maximum health insurance subsidy provided in s. 112.363 *is* ~~shall be~~ entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit *may* ~~shall~~ be received only at the time of payment of the second career retirement benefit. ~~In no case shall~~ The total health insurance subsidy received ~~by a retiree receiving benefits~~ from initial and renewed membership *may not* exceed the maximum allowed in s. 112.363.

(6) ~~(4)~~ *A* ~~No~~ retired judge consenting to temporary duty in any court, as assigned by the Chief Justice of the Supreme Court in accordance with s. 2, Art. V of the State Constitution, *is not* ~~shall be~~ subject to the renewed membership provisions of this section.

(7) A member who is elected or appointed to an elective office and who is participating in the Deferred Retirement Option Program is not subject to termination as defined in s. 121.021, or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office, as follows:

(a) At the end of the 60-month DROP period:

1. The officer's DROP account may not accrue additional monthly benefits, but does continue to earn interest as provided in s. 121.091(13). However, an officer whose DROP participation begins on or after July 1, 2010, may not continue to earn such interest.

2. Retirement contributions are not required of the employer of the elected officer and additional retirement credit may not be earned under the Florida Retirement System.

(b) An elected officer may voluntarily terminate his or her elective office at any time and receive his or her DROP proceeds. However, until termination occurs, an elected officer whose termination limitations are extended by this section is ineligible for renewed membership in the system and may not receive pension payments, DROP lump sum payments, or any other state payment other than the statutorily determined salary, travel, and per diem for the elective office.

(c) Upon termination, the officer shall receive his or her accumulated DROP account, plus interest, and shall accrue and commence receiving monthly retirement benefits, which must be paid on a prospective basis only.

Section 6. Paragraph (f) of subsection (1) and paragraphs (c) and (e) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(f) Effective July 1, 1997:

1. *Except as provided in subparagraph 3., an* ~~any~~ elected state officer eligible for membership in the Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. *Except as provided in subparagraph 3., an* ~~any~~ elected ~~county~~ officer *of a local agency employer* eligible for membership in the Elected Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected ~~county~~ officers *of a local agency employer*, elect to *withdraw from the Florida Retirement System* ~~participate in a lifetime monthly annuity program~~, as provided in subparagraph (b)2., in lieu of membership in the Senior Management Service Class.

3. A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, as an elected official eligible for the Elected Officers' Class may not renew membership in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program as provided in subsection (6), and may not withdraw from the Florida Retirement System as a renewed member as provided in subparagraph (b)2., as applicable, in lieu of membership in the Senior Management Service Class.

(6)

(c) Participation.—

1. *An* ~~any~~ eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of participation in the Senior Management Service Class. Such election *must* ~~shall~~ be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. *An* ~~Any~~ eligible employee who is employed on or before February 1, 1987, and who fails to make an election to participate in the optional annuity program by May 1, 1987, shall be deemed to have elected membership in the Senior Management Service Class.

2. *Except as provided in subparagraph 6., an* ~~Any~~ employee who becomes eligible to participate in the optional annuity program by reason of initial employment commencing after February 1, 1987, may, within 90 days after the date of *commencing* ~~commencement of~~ employment, elect to participate in the optional annuity program. Such election *must* ~~shall~~ be made in writing and filed with the personnel officer of the employer. *An* ~~Any~~ eligible employee who does not within 90 days after *commencing* ~~commencement of such~~ employment elect to participate in the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

3. A person who is appointed to a position in the Senior Management Service Class and who is a member of an existing retirement system or the Special Risk or Special Risk Administrative Support Classes of the Florida Retirement System may elect to remain in such system or class in lieu of participation in the Senior Management Service Class or optional annuity program. Such election *must* ~~shall~~ be made in writing and filed with the department and the personnel officer of the employer within 90 days of such appointment. Any eligible employee who fails to make an election to participate in the existing system, the Special Risk Class of the Florida Retirement System, the Special Risk Administrative Support Class of the Florida Retirement System, or the optional annuity program shall be deemed to have elected membership in the Senior Management Service Class.

4. Except as provided in subparagraph 5., an employee's election to participate in the optional annuity program is irrevocable *if the* ~~as long as such~~ employee continues to be employed in an eligible position and continues to meet the eligibility requirements set forth in this paragraph.

5. Effective from July 1, 2002, through September 30, 2002, any active employee in a regularly established position who has elected to participate in the Senior Management Service Optional Annuity Program has one opportunity to choose to move from the Senior Management Service Optional Annuity Program to the Florida Retirement System defined benefit program.

a. The election must be made in writing and must be filed with the department and the personnel officer of the employer before October 1, 2002, or, in the case of an active employee who is on a leave of absence on July 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable.

b. The employee *shall* ~~will~~ receive service credit under the defined benefit program of the Florida Retirement System equal to his or her years of service under the Senior Management Service Optional Annuity Program. The cost for such credit *is the* ~~shall be an~~ amount representing the present value of that employee's accumulated benefit obligation for the affected period of service.

c. The employee must transfer the total accumulated employer contributions and earnings on deposit in his or her Senior Management Service Optional Annuity Program account. If the transferred amount is not sufficient to pay the amount due, the employee must pay a sum representing the remainder of the amount due. ~~In no case may~~ The employee *may not* retain any employer contributions or earnings thereon from the Senior Management Service Optional Annuity Program account.

6. A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, may not renew membership in the Senior Management Service Optional Annuity Program.

(e) Benefits.—

1. Benefits ~~shall be payable~~ under the Senior Management Service Optional Annuity Program *are payable* only to participants in the program, or their beneficiaries as designated by the participant in the contract with *the* ~~a~~ provider company, and *must* ~~such benefits shall~~ be paid by the designated company in accordance with the terms of the annuity contract ~~or contracts~~ applicable to the participant. A participant must be terminated from all employment *relationships* with ~~all~~ Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employer-funded benefit. Benefits funded by employer contributions *are* ~~shall be~~ payable *under the terms of the contract* ~~only as a lifetime annuity~~ to the participant, his or her beneficiary, or his or her estate, *in addition to* ~~except for~~:

a. A lump-sum payment to the beneficiary upon the death of the participant;

b. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 *calendar* months from the employment that entitled him or her to optional annuity program participation. ~~A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under the provisions of this chapter.~~ Such cash-out must be a complete liquidation of the account balance with that company and is subject to ~~the provisions of~~ the Internal Revenue Code; ~~or~~

c. A mandatory distribution of a de minimis account of a former participant who has been terminated for a minimum of 6 calendar months from the employment that entitled him or her to optional annuity program participation as authorized by the department; or

d. ~~c.~~ A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the participant's account directly to the custodian of an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant.

2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, *are* ~~shall~~ not ~~be~~ subject to assignment, execution, or attachment or to any legal process whatsoever.

3. *Except as provided in subparagraph 4.,* a participant who *terminates employment and* receives *a distribution, including a rollover or trustee-to-trustee transfer,* ~~optional annuity program benefits~~ funded by employer contributions shall be deemed to be retired from a state-administered retirement system *if the participant is subsequently employed with an* ~~in the event of subsequent employment with any~~ employer that participates in the Florida Retirement System.

4. A participant who receives optional annuity program benefits funded by employer contributions as a mandatory distribution of a de minimis account authorized by the department is not considered a retiree.

As used in this paragraph, a "de minimis account" means an account with a provider company containing employer contributions and accumulated earnings of not more than $5,000 made under this chapter.

Section 7. Paragraph (a) of subsection (6) of section 121.071, Florida Statutes, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(6)(a) Required employee contributions for all service other than current service, including, but not limited to, prior service, past service, military service, leave-of-absence service, out-of-state service, and certain non-Florida Retirement System in-state service, shall be paid by cash, personal check, cashier's check, ~~or~~ money order*, or a direct rollover or transfer from a qualified plan as provided under the Internal Revenue Code. The payment must* ~~only; shall~~ be accompanied by a statement identifying the service for which payment is made~~;~~ and shall be made in a lump sum for the total amount due or in annual payments of not less than $100, except for the final payment if less than $100, unless another method of payment is authorized by law or rule.

Section 8. Paragraphs (a), (b), (e), (f), and (h) of subsection (1) of section 121.081, Florida Statutes, are amended to read:

121.081 Past service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)(a) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who* ~~that~~ become a covered group under this system. The governing body of a covered group in compliance with s. 121.051(2)(b) may elect to provide benefits *for* ~~with respect to~~ past service earned *before* ~~prior to~~ January 1, 1975, in accordance with this chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The member contribution for both regular and special risk members *is* ~~shall be~~ 4 percent of the gross annual salary for each year of past service claimed, plus 4-percent employer matching contribution, plus 4-percent interest thereon compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until July 1, 1975, and 6.5-percent interest compounded annually thereafter until date of payment. Once the total cost for a member has been figured to date, then after July 1, 1975, 6.5-percent compounded interest shall be added each June 30 thereafter on any unpaid balance until the cost of such past service liability is paid in full. The following formula shall be used in calculating past service earned *before* ~~prior to~~ January 1, 1975: (Annual gross salary multiplied by 8 percent) multiplied by the 4-percent or 6.5-percent compound interest table factor, as may be applicable. The resulting product equals cost to date for each particular year of past service.

(b) Past service earned after January 1, 1975, may be claimed by officers or employees of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district *who become* ~~that becomes~~ a covered group under this system. The governing body of a covered group may elect to provide benefits *for* ~~with respect~~ to past service earned after January 1, 1975, in accordance with this chapter, and the cost for such past service *is* ~~shall be~~ established by applying the following formula: The employer shall contribute an amount equal to the contribution rate in effect at the time the service was earned, multiplied by the employee's gross salary for each year of past service claimed, plus 6.5-percent interest thereon, compounded annually, figured on each year of past service, with interest compounded from date of annual salary earned until date of payment.

(e) Past service, as defined in s. 121.021~~(18)~~, may be claimed as creditable service by a member of the Florida Retirement System who formerly was an officer or employee of a *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district, notwithstanding the status or form of the retirement system, if any, of that *municipality* ~~city~~, metropolitan planning organization, *charter school, charter technical career center,* or special district and irrespective of whether *such* officers or employees ~~of that city, metropolitan planning organization, or special district~~ now or hereafter become a covered group under the Florida Retirement System. Such member may claim creditable service and be entitled to the benefits accruing to the regular class of members as provided for the past service claimed under this paragraph by paying into the retirement trust fund an amount equal to the total actuarial cost of providing the additional benefit resulting from such past-service credit, discounted by the applicable actuarial factors to date of retirement.

(f) *If* ~~When~~ any person~~, either prior to this act or hereafter,~~ becomes entitled to and *participates* ~~does participate~~ in one of the retirement systems *under* ~~consolidated within or created by~~ this chapter through the consolidation or merger of governments or the transfer of functions between units of government, ~~either~~ at the state or local level or between state and local units, or through the assumption of functions or activities by a state or local unit from an employing *governmental* entity *that* ~~which~~ was not an employer under the system, and such person becomes a member of the Florida Retirement System, such person *is* ~~shall be~~ entitled to receive past-service credit ~~as defined in s. 121.021(18)~~ for the time *the* ~~such~~ person performed services for, and was an employee of, such state or local unit or other *governmental* employing entity *before* ~~prior to~~ the transfer, merger, consolidation, or assumption of functions and activities. Past-service credit allowed by this paragraph *is* ~~shall~~ also ~~be~~ available to any person who becomes a member of an existing system *before*~~, as defined in s. 121.021(2), prior to~~ December 1, 1970, through the transfer, merger, consolidation, or assumption of functions and activities set forth in this paragraph and who subsequently becomes a member of the Florida Retirement System. However, credit for the past service may not be granted until contributions are made in the manner provided in this subsection. If a person rejected Florida Retirement System membership at the time of the transfer, merger, ~~or~~ consolidation, *or assumption of governmental functions and activities,* the required contributions shall be at total actuarial cost as specified in paragraph (e). Such contributions or accrued interest may not be paid from any *public* ~~state~~ funds.

(h) The following provisions apply to the purchase of past service:

1. Notwithstanding any of the provisions of this subsection, past-service credit may not be purchased under this chapter for any service that is used to obtain a *pension or* benefit from *a* ~~any~~ local retirement system. *Eligibility to receive or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.*

2. A member may not receive past service credit under paragraphs (a), (b), (e), or (f) for any leaves of absence without pay, except that credit for active military service leaves of absence may be claimed under paragraphs (a), (b), and (f), in accordance with s. 121.111(1).

3. A member may not receive past service credit for co-employer service. Co-employer service or a co-employer relationship is employment in a single position simultaneously covered and reported by both a public employer and a private employer.

4. ~~3.~~ If a member does not *want* ~~desire~~ to receive credit for all of his or her past service, the period the member claims must be the most recent past service prior to his or her participation in the Florida Retirement System.

5. ~~4.~~ The cost of past service purchased by an employing agency for its employees may be amortized over *the* ~~such~~ period of time ~~as is~~ provided in the agreement, but not to exceed 15 years, calculated in accordance with rule 60S-1.007(5)(f), Florida Administrative Code.

6. ~~5.~~ The retirement account of each member for whom past service is being provided by his or her employer shall be credited with all past service the employer agrees to purchase as soon as the agreement between the employer and the department is executed. ~~Pursuant thereto:~~

a. Each ~~such~~ member's account shall also be posted with the total contribution his or her employer agrees to make *on* ~~in~~ the member's behalf for past service earned *before* ~~prior to~~ October 1, 1975, excluding those contributions representing the employer's matching share and the compound interest calculation on the total contribution. However, a portion of any contributions paid by an employer for past service credit earned on and after October 1, 1975, may not be posted to *the* ~~a~~ member's account.

b. A refund of contributions payable after an employer has made a written agreement to purchase past service for employees of the covered group *includes* ~~shall include~~ contributions for past service which are posted to *the* ~~a~~ member's account. However, contributions for past service earned on and after October 1, 1975, are not refundable.

Section 9. Subsections (9), (13), and (14) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(a) Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be employed by an employer that does not participate in a state-administered retirement system and ~~may~~ receive compensation from that employment without limiting or restricting in any way the retirement benefits payable to that person.

(b)~~1.~~ Any person *whose retirement is effective before July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates before July 1, 2010,* ~~who is retired under this chapter~~, except under the disability retirement provisions of subsection (4) *or as provided in s. 121.053*, may be reemployed by *an* ~~any private or public~~ employer *that participates in a state-administered retirement system* ~~after retirement~~ and receive retirement benefits and compensation from *that* ~~his or her~~ employer ~~without any limitations~~, except that *the* ~~a~~ person may not *be reemployed by an employer* ~~receive both a salary from reemployment with any agency~~ participating in the Florida Retirement System *before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer* and retirement benefits ~~under this chapter~~ for ~~a period of~~ 12 *calendar* months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. ~~2.~~ *A retiree* ~~Any person to whom the limitation in subparagraph 1. applies~~ who violates such reemployment limitation ~~and who is reemployed with any agency participating in the Florida Retirement System~~ before completion of the 12-month limitation period *must* ~~shall~~ give timely notice of this fact in writing to the employer and to the Division *of Retirement or the state board* and shall have his or her retirement benefits suspended for *the months employed or* the balance of the 12-month limitation period *as required in sub-subparagraphs b. and c. A retiree* ~~Any person~~ employed in violation of this paragraph and *an employer who* ~~any employing agency which knowingly~~ employs or appoints such person *are* ~~without notifying the Division of Retirement to suspend retirement benefits shall be~~ jointly and severally liable for reimbursement to the retirement trust fund*, including the Florida Retirement System Trust Fund and the Public employee Optional Retirement Program Trust Fund, from which the benefits were paid* ~~of any benefits paid during the reemployment limitation period~~. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. ~~Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and~~ Retirement benefits shall remain suspended until ~~such~~ repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

a. ~~3.~~ A district school board may reemploy a *retiree* ~~retired member~~ as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. A district school board may reemploy a *retiree* ~~retired member~~ as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~other retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph *2.* ~~7.~~

b. ~~4.~~ A community college board of trustees may reemploy a *retiree* ~~retired member~~ as an adjunct instructor~~, that is, an instructor who is noncontractual and part-time,~~ or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph *2.* ~~7.~~ A *retiree* ~~retired member~~ may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months of retirement. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph* ~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

c. ~~5.~~ The State University System may reemploy a *retiree* ~~retired member~~ as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the *retiree* ~~retired member~~ has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. *A* ~~Any retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph *2.* ~~7.~~, as appropriate. A *retiree* ~~retired member~~ may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. *A retiree* ~~Any retired member~~ reemployed for more than 780 hours during the first 12 months of retirement *must* ~~shall~~ give timely notice in writing to the employer and to the Division *of Retirement or the state board* of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the ~~first~~ 12 months ~~of retirement~~. Any *retiree* ~~person~~ employed in violation of this *sub-subparagraph*

~~subparagraph~~ and any *employer who* ~~employing agency which knowingly~~ employs or appoints such person without notifying the division ~~of Retirement~~ to suspend retirement benefits *are* ~~shall be~~ jointly and severally liable for ~~reimbursement to the retirement trust fund of~~ any benefits paid during the reemployment limitation period. *The employer must* ~~To avoid liability, such employing agency shall~~ have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by *the retiree* ~~a retired member~~ while reemployed in excess of 780 hours during the first 12 months of retirement *must* ~~shall~~ be repaid to the *Florida* Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the *retiree's* ~~retired member's~~ first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

d. ~~6.~~ The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a *retiree* ~~retired member~~ as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month~~, in accordance with s. 121.021(39)~~. Any ~~retired~~ member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph *2.* ~~7.~~ ~~Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.~~

e. A developmental research school may reemploy a retiree as a substitute or hourly teacher or an education paraprofessional as defined in s. 1012.01(2) on a noncontractual basis after he or she has been retired for 1 calendar month. A developmental research school may reemploy a retiree as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A developmental research school that reemploys retired teachers and education paraprofessionals is subject to the retirement contribution required by subparagraph 2.

f. A charter school may reemploy a retiree as a substitute or hourly teacher on a noncontractual basis after he or she has been retired for 1 calendar month. A charter school may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month after retirement. Any member who is reemployed within 1 calendar month voids his or her application for retirement benefits. A charter school that reemploys such teachers is subject to the retirement contribution required by subparagraph 2.

2. ~~7.~~ The employment ~~by an employer~~ of *a* ~~any~~ retiree or DROP participant of *a* ~~any~~ state-administered retirement system *does not affect* ~~shall have no effect on~~ the average final compensation or years of creditable service of the retiree or DROP participant. *Before* ~~Prior to~~ July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who *is* ~~has been~~ retired under *a* ~~any~~ state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees *who have* ~~with~~ renewed membership or*, as provided in* subsection (13)*, for* ~~with respect to~~ DROP participants.

~~8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.~~

3. ~~9.~~ Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office *if*~~, provided that~~ he or she *terminates* ~~shall be required to terminate~~ his or her nonelected covered employment. *Such* ~~Any person who exercises this election~~ shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. *A* ~~No~~ person who seeks to exercise the provisions of this subparagraph~~,~~ as *they* ~~the same~~ existed *before* ~~prior to~~ May 3, 1984, *may not be* ~~shall be~~ deemed to be retired under those provisions, unless such person is eligible to retire under ~~the provisions of~~ this subparagraph, as amended by chapter 84-11, Laws of Florida.

~~10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.~~

~~11. An employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retired contribution required in subparagraph 8. Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the Retirement System Trust Fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.~~

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer. However, the a person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 6

calendar months after meeting the definition of termination. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. The reemployed retiree may not renew membership in the Florida Retirement System.

2. The employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the Florida Retirement System in addition to the contributions required by s. 121.76.

3. A retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system. Retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retiree's 6-month reemployment limitation period shall apply toward the repayment of benefits received in violation of this paragraph.

(d) ~~(c)~~ The provisions of this subsection apply to retirees, as defined in s. 121.4501(2)~~(j)~~, of the Public Employee Optional Retirement Program ~~created in part II~~, subject to the following conditions:

1. *The* ~~Such~~ retirees may not be reemployed with an employer participating in the Florida Retirement System ~~as provided in paragraph (b)~~ until such person has been retired for *6* ~~3~~ calendar months~~, unless the participant has reached the normal retirement requirements of the defined benefit plan as provided in s. 121.021(29)~~.

2. *A* ~~Such~~ retiree employed in violation of this subsection and *an employer* ~~any employing agency~~ that ~~knowingly~~ employs or appoints such person *are* ~~shall be~~ jointly and severally liable for reimbursement of any benefits paid to the retirement trust fund from which the benefits were paid, including the Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. *The employer* ~~To avoid liability, such employing agency~~ must have a written statement from the retiree that he or she is not retired from a state-administered retirement system.

(e) The limitations of this subsection apply to reemployment in any capacity irrespective of the category of funds from which the person is compensated.

And the title is amended as follows:

Delete lines 3-50 and insert: redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for the Elected Officers' Class; revising when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to a retiree's participation in the Elected Officers' Class; providing that a retiree who is elected after a certain date may not reenroll in the Florida Retirement System and may not continue to earn interest on his or her DROP account after the end of the 60-month DROP period; amending s. 121.055, F.S.; providing that a retiree of that class who is reemployed as an elected official may not renew membership in the Senior Management Class or the Senior Management Annuity Program; revising provisions relating to de minimis accounts; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to employment after retirement; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; providing that retirees of a state-administered retirement system who retire after a certain date may not be reemployed by an employer participating in the Florida Retirement System for 6 months after terminating employment and may not renew membership in the Florida Retirement System; revising

On motion by Senator Fasano, further consideration of **CS for CS for HB 479** with pending **Amendment 2 (897738)** as amended by Senator Lawson and pending substitute **Amendment 3 (171224)** by Senator Fasano was deferred.

On motion by Senator Lynn—

CS for SJR 532—A joint resolution proposing amendments to Sections 4 and 6 of Article VII and the creation of two new sections in Article XII of the State Constitution to generally limit the maximum annual increase in the assessed value of certain nonhomestead properties and to provide an additional homestead exemption to persons who have not owned a principal residence within the preceding 10 years.

—was read the second time by title.

MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendment to be considered:

Senator Lynn moved the following amendment:

Amendment 1 (239820) (with title amendment)—Delete lines 138-332 and insert: changes in assessments shall not exceed *five* ~~ten~~ percent ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed *five* ~~ten~~ percent ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the

adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

(1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.

(2) The installation of a renewable energy source device.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(e) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related, the veteran was a resident of this state at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this subsection, an applicant must submit to the county property appraiser, by March 1, proof of residency at the time of entering military service, an official letter from the United States Department of Veterans Affairs stating the percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related, and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years. This subsection shall take effect December 7, 2006, is self-executing, and does not require implementing legislation.

(f)(1) By general law, and subject to conditions specified therein, the legislature shall provide an additional homestead exemption to the person or persons who:

a. Establish the right to receive the homestead exemption in subsection (a) within one year after purchasing the homestead property; and

b. Have not owned property to which the homestead exemption provided in subsection (a) applied during the immediately preceding three-year period.

(2) The additional homestead exemption shall equal 25 percent of the just value of the property on January 1 of the year in which the homestead exemption in subsection (a) is received, but not more than $100,000.

a. The amount of the additional exemption shall be reduced in each subsequent year by an amount equal to twenty percent of the amount of the initial additional exemption or by an amount equal to the difference between the just value of the property and the assessed value determined under subsection (d) of section 4 of this Article, whichever is greater.

b. The additional homestead exemption shall not apply after the fifth year after the initial additional exemption is granted.

(3) Only one additional exemption under this subsection may apply to a single homestead property.

ARTICLE XII

SCHEDULE

Property tax limit for commercial and residential rental property.—The amendment to Section 4 of Article VII permitting the legislature to reduce the maximum annual increase in the assessed value of nonhomestead property and this section shall take effect January 1, 20ll.

Additional homestead exemption for new homestead property owners.—The amendment to subsection (f) of Section 6 of Article VII providing for an additional homestead exemption for persons who have not owned property to which the homestead exemption applied during a preceding three-year period and this section shall take effect January 1, 2011, and shall be available for properties purchased on or after January 1, 2010.

CONSTITUTIONAL AMENDMENTS

ARTICLE VII, SECTIONS 4 and 6

ARTICLE XII

PROPERTY TAX LIMIT FOR PROPERTY TYPES; ADDITIONAL HOMESTEAD EXEMPTION FOR NEW HOMESTEAD OWNERS.—The State Constitution generally limits the maximum annual increase in the assessed value of nonhomestead property to 10 percent annually. This proposed amendment reduces the maximum annual increase in the assessed values of those properties to 5 percent annually.

This amendment also requires the Legislature to provide an additional homestead exemption for persons who have not owned a homestead to which the homestead exemption applied during the immediately preceding 3-year period. Under the exemption, 25 percent of the just value of the new homestead, up to $100,000, will be exempt from property taxes. The amount of the additional exemption will decrease in each succeeding year for 5 years. The additional exemption will not apply after the 5th year.

And the title is amended as follows:

Delete lines 8-9 and insert: persons who have not owned property to which the homestead exemption applied within the preceding 3 years.

MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendment to be considered:

Senators Lynn, Altman, and Gaetz offered the following substitute amendment which was moved by Senator Lynn and adopted:

Amendment 2 (179426) (with title amendment)—Delete lines 138-332 and insert: changes in assessments shall not exceed *five* ~~ten~~ percent ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed *five* ~~ten~~ percent ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

(1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.

(2) The installation of a renewable energy source device.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(e) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related, the veteran was a resident of this state at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this subsection, an applicant must submit to the county property appraiser, by March 1, proof of residency at the time of entering military service, an official letter from the United States Department of Veterans Affairs stating the percentage of the

veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related, and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years. This subsection shall take effect December 7, 2006, is self-executing, and does not require implementing legislation.

(f)(1) By general law, and subject to conditions specified therein, the legislature shall provide an additional homestead exemption to the person or persons who:

a. Establish the right to receive the homestead exemption in subsection (a) within one year after purchasing the homestead property; and

b. Have not owned a principal residence during the eight-year period before the purchase. For married persons, neither the purchaser nor his or her spouse may have owned a principal residence during the preceding eight years.

(2) The additional homestead exemption shall equal 25 percent of the just value of the property on January 1 of the year in which the homestead exemption in subsection (a) is received, but not more than $100,000.

a. The amount of the additional exemption shall be reduced in each subsequent year by an amount equal to twenty percent of the amount of the initial additional exemption or by an amount equal to the difference between the just value of the property and the assessed value determined under subsection (d) of section 4 of this Article, whichever is greater.

b. The additional homestead exemption shall not apply after the fifth year after the initial additional exemption is granted.

(3) Only one additional exemption under this subsection may apply to a single homestead property.

ARTICLE XII

SCHEDULE

Property tax limit for nonhomestead property.—The amendment to Section 4 of Article VII reducing the limit on the maximum annual increase in the assessed value of nonhomestead property to five percent from ten percent and this section shall take effect January 1, 20ll.

Additional homestead exemption for first-time homestead property owners.—The amendment to subsection (f) of Section 6 of Article VII providing for an additional homestead exemption for persons who have not owned a principal residence within an eight-year period and this section shall take effect January 1, 2011, and shall be available for properties purchased on or after January 1, 2010.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENTS

ARTICLE VII, SECTIONS 4 and 6

ARTICLE XII

PROPERTY TAX LIMIT FOR NONHOMESTEAD PROPERTY; ADDITIONAL HOMESTEAD EXEMPTION FOR NEW HOMESTEAD OWNERS.—The State Constitution generally limits the maximum annual increase in the assessed value of nonhomestead property to 10 percent annually. This proposed amendment reduces the maximum annual increase in the assessed values of those properties to 5 percent annually.

This amendment also requires the Legislature to provide an additional homestead exemption for persons who have not owned a principal residence during the preceding 8 years. Under the exemption, 25 percent of the just value of a first-time homestead, up to $100,000, will be exempt from property taxes. The amount of the additional exemption will decrease in each succeeding year for 5 years by the greater of 20 percent of the initial additional exemption or the difference between the just value and the assessed value of the property. The additional exemption will not be available in the 6th and subsequent years.

And the title is amended as follows:

Delete lines 8-9 and insert: persons who have not owned a principal residence within the preceding 8 years.

Pursuant to Rule 4.19, **CS for SJR 532** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Altman, the Senate resumed consideration of—

CS for CS for CS for HB 439—A bill to be entitled An act relating to uniform traffic control; creating the "Mark Wandall Traffic Safety Act"; amending s. 316.003, F.S.; defining the term "traffic infraction detector"; creating s. 316.0083, F.S.; creating the Mark Wandall Traffic Safety Program to be administered by the Department of Transportation; requiring a county or municipality to enact an ordinance in order to use a traffic infraction detector to identify a motor vehicle that fails to stop at a traffic control signal steady red light; requiring such detectors to meet department contract specifications; requiring authorization of a traffic infraction enforcement officer or a code enforcement officer to issue and enforce a ticket for such violation; requiring signage; requiring certain public awareness procedures; requiring the ordinance to establish a fine of a certain amount; requiring the ordinance to provide for installing, maintaining, and operating such detectors on rights-of-way owned or maintained by the Department of Transportation, county, or municipality; prohibiting additional charges; exempting emergency vehicles; providing that the registered owner of the motor vehicle involved in the violation is responsible and liable for payment of the fine assessed; providing exceptions; providing procedures for disposition and enforcement of tickets; providing for a person to contest such ticket; providing for disposition of revenue collected; providing complaint procedures; providing for the Legislature to exclude a county or municipality from the program; requiring reports from participating municipalities and counties to the department; requiring the department to make reports to the Governor and the Legislature; amending s. 316.0745, F.S.; providing that traffic infraction detectors must meet certain specifications; creating s. 316.07456, F.S.; providing for preexisting equipment; requiring counties and municipalities that enacted an ordinance to enforce red light violations or entered into a contract to purchase or lease equipment to enforce red light violations prior to the effective date of this act to charge a certain penalty amount; requiring counties or municipalities that have acquired such equipment pursuant to an agreement entered into prior to the effective date of this act to make certain payments to the state; creating s. 316.0776, F.S.; providing for placement and installation of detectors on the State Highway System, county roads, and city streets; amending s. 316.1967, F.S.; providing for inclusion of persons with outstanding violations in a list sent to the department for enforcement purposes; amending s. 395.4036, F.S.; providing for distribution of funds to trauma centers, certain hospitals, certain nursing homes, and certain health units and programs; ratifying prior enforcement actions; providing for severability; providing an effective date.

—which was previously considered April 29 with pending **Amendment 1 (611714)** by Senator Altman as amended and **Amendment 1B (338640)** by Senator Altman. **Amendment 1B (338640)** was withdrawn.

Senator Haridopolos moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (569104)—Delete line 439 and insert:

Section 13. This act shall take effect July 1, 2009.

Senator Altman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (480426)—Delete lines 292-300 and insert:

(c) One hundred fifty dollars for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a county or municipality's traffic infraction enforcement officer. Eighty dollars shall be distributed to the county or municipality issuing the citation, $45 shall be distributed to the General Revenue Fund, and the remaining $25 shall be remitted to the Department of Revenue for deposit into the Department of Health Administrative Trust Fund.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for CS for HB 439** as amended was placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Villalobos, the rules were waived and the Secretary was directed to transmit **CS for HB 1471** to the House at the direction of the President.

CS for SB 2036—A bill to be entitled An act relating to residential property insurance; amending s. 627.062, F.S.; authorizing certain insurers to use a rate in excess of the otherwise applicable filed rate; prohibiting the consideration of certain policies when making a specified calculation; preserving the authority of the Office of Insurance Regulation to disapprove rates as inadequate or disapprove a rate filing for using an unlawful rating factor; authorizing the office to direct an insurer to make a specified type of rate filing under certain circumstances; creating s. 627.7031, F.S.; authorizing an insurer to offer or renew policies at rates established in accordance with specified provisions of state law if certain conditions are met; requiring that certain policies contain a specified notice; providing for applicability; providing an effective date.

—was read the second time by title.

Amendments were considered and failed and amendments were considered and adopted to conform **CS for SB 2036** to **CS for CS for HB 1171**.

Pending further consideration of **CS for SB 2036** as amended, on motion by Senator Bennett, by two-thirds vote **CS for CS for HB 1171** was withdrawn from the Committee on Banking and Insurance; and the Policy and Steering Committee on Ways and Means.

On motion by Senator Bennett—

CS for CS for HB 1171—A bill to be entitled An act relating to residential property insurance; amending s. 627.062, F.S.; authorizing certain insurers to use a rate in excess of the otherwise applicable filed rate; prohibiting the consideration of certain policies when making a specified calculation; preserving the authority of the Office of Insurance Regulation to disapprove rates as inadequate or disapprove a rate filing for using an unlawful rating factor; authorizing the office to direct an insurer to make a specified type of rate filing under certain circumstances; creating s. 627.7031, F.S.; authorizing an insurer to offer or renew policies at rates established in accordance with specified provisions of state law if certain conditions are met; requiring that certain policies contain a specified notice; providing for applicability; requiring written notice of nonrenewal, cancellation, or termination; providing an effective date.

—a companion measure, was substituted for **CS for SB 2036** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for CS for HB 1171** was placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano, the Senate resumed consideration of—

CS for CS for HB 479—A bill to be entitled An act relating to retirement; amending s. 121.021, F.S.; redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for members of the Elected Officers' Class; revising the dates for when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to participation in the Elected Officers' Class for retired members; amending s. 121.055, F.S.; revising provisions relating to participation in the Senior Management Service Class; revising benefit payment procedures for the Senior Management Service Optional Annuity Program; clarifying when a participant is considered retired; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to retirement benefits; deleting a restriction on the reemployment of certain personnel by the Florida School for the Deaf and the Blind; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; revising limitations on the payment of retirement benefits for certain retired persons who are reemployed by an employer participating in a state-administered retirement program; prohibiting certain persons holding public office from enrolling in the Florida Retirement System; deleting a provision authorizing an employing agency to reemploy a retired member as a firefighter or paramedic after a specified period; providing applicability; revising provisions relating to reemployment of retirees of the Public Employee Optional Retirement Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; clarifying that DROP participation cannot be canceled; clarifying maximum DROP participation; providing for the suspension of DROP benefits to a participant who is reemployed; deleting obsolete provisions; revising employer contribution requirements; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members may not be eligible to purchase service credit; amending s. 121.122, F.S.; providing that certain retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; revising conditions under which a retiree is entitled to certain additional retirement benefits; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; requiring the State Retirement Commission to use certain requirements used by the Secretary of Management Services before approving a disability retirement benefit; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the commission; amending s. 121.35, F.S.; revising a compulsory membership exception for certain members failing to elect membership in the optional retirement program; providing a cross-reference; defining the term "retiree" for purposes of the State University System Optional Retirement Program; amending s. 121.4501, F.S.; revising the definition of "eligible employee" for purposes of the Public Employee Optional Retirement Program; amending s. 121.591, F.S.; providing a cross-reference; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing s. 121.093, F.S., relating to instructional personnel reemployment after retirement from a developmental research school or the Florida School for the Deaf and the Blind; repealing s. 121.094, F.S., relating to instructional personnel reemployment after retirement from a charter school; repealing s. 121.45, F.S., relating to interstate compacts relating to pension portability; providing a declaration of important state interest; providing an effective date.

—which was previously considered this day with pending **Amendment 2 (897738)** as amended by Senator Lawson and substitute **Amendment 3 (171224)** by Senator Fasano. Substitute **Amendment 3** was adopted.

Pursuant to Rule 4.19, **CS for CS for HB 479** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Haridopolos—

CS for SB 2198—A bill to be entitled An act relating to tobacco settlement agreements; amending s. 569.23, F.S.; providing definitions; requiring trial courts to stay the execution of all judgments in favor of certain former class action members during appellate proceedings upon the posting of a supersedeas bond or other surety by signatories, parents, successors, or affiliates of a signatory to a tobacco settlement agreement applicable to all such judgments; limiting the total cumulative value of all supersedeas bonds or other surety to a certain amount; permitting a court to order a specific defendant that dissipates assets to avoid payment of a judgment to increase the surety; providing applicability; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Haridopolos, the rules were waived to allow the following amendment to be considered:

Senator Haridopolos moved the following amendment which was adopted:

Amendment 1 (719218) (with title amendment)—Delete lines 19-172 and insert:

Section 1. *(1) It is the intent of the Legislature to amend s. 569.23, Florida Statutes, to prescribe the security required to be provided to stay the execution of a judgment in a civil action against a signatory, or successor, parent, or affiliate of a signatory, to a tobacco settlement agreement brought by or on behalf of persons who claim or have been determined to be members of a former class action that was decertified in whole or in part.*

(2) It is further the intent of the Legislature that:

(a) The security shall be provided through the posting with or payment into the registry of the clerk of the Supreme Court of a supersedeas bond, other surety, or cash.

(b) The security shall apply during the pendency of all appeals or discretionary appellate reviews in Florida courts.

(c) The total amount of security that must be provided by all appellants collectively in a single judgment is based upon the total number of judgments by circuit courts of this state on appeal at the time the security is provided. In cases having multiple appellants, an individual appellant shall provide security with respect to the percent or amount of liability specifically allocated against that appellant in the judgment, or, if liability is not specifically allocated in the judgment, for a share of the unallocated portion of the judgment determined by dividing the judgment equally among all appellants. A judgment may not be stayed until the entire amount of security required by all appellants collectively is provided.

(d) The amount of security shall be tiered using the following number ranges of judgments on appeal:

NUMBER OF JUDGMENTS	*AMOUNT OF SECURITY PER JUDGMENT*	*MINIMUM TOTAL ALL SECURITY*	*MAXIMUM TOTAL ALL SECURITY*
1-80	*$2,500,000*	*$2,500,000*	*$200,000,000*
81-100	*$2,000,000*	*$162,000,000*	*$200,000,000*
101-150	*$1,333,333*	*$134,666,633*	*$199,999,950*
151-200	*$1,000,000*	*$151,000,000*	*$200,000,000*
201-300	*$666,667*	*$134,000,067*	*$200,000,000*
301-500	*$400,000*	*$120,000,000*	*$200,000,000*
501-1000	*$200,000*	*$100,000,000*	*$200,000,000*
1001-2000	*$100,000*	*$100,000,000*	*$200,000,000*
2001-3000	*$66,667*	*$133,334,000*	*$200,000,001*

(e) When the number of judgments on appeal changes so that the total is within a larger or smaller range, a party may petition the court to change the security amount consistent with the statutory appeal bond rights prescribed in this act. If the amount of security on deposit is changed by the court, the security shall be modified as follows:

1. If the security on deposit is in the form of a supersedeas bond or other surety, the appellant shall replace that supersedeas bond or other surety with security in the new amount as required by this act.

2. If the security on deposit is in the form of cash, the clerk of the Supreme Court shall, as appropriate:

a. Refund to the appellant the difference between the amount of security on deposit and the reduced amount of security required;

b. Hold the difference for future judgments against that appellant; or

c. Record any additional cash provided by the appellant consistent with a court order.

(f) Any security provided by an appellant for any single judgment is intended to secure the collection of that judgment against the appellant in cases covered by this act. A claim may not be made against such security unless an appellant fails to pay a judgment in a case covered by this act within 30 days after the judgment becomes final. For purposes of this act, a judgment is "final" following the completion of all appeals or discretionary appellate reviews, including reviews by the United States Supreme Court. If an appellant fails to pay a judgment within such time period:

1. Any stay of execution required in favor of the appellant under this act shall be immediately lifted by operation of law, unless a stay is provided pursuant to some other provision of law, rule of court, or judicial order; or

2. Any appellee against whom a stay of execution of any single judgment against the appellant was in effect under this act may petition the trial court or the Supreme Court for an order directing the clerk of the Supreme Court to make equitable distribution of such security to the appellee whose judgment against such appellant was secured by operation of this act.

(g) The clerk of the Supreme Court shall collect fees for receipt of deposits under this act as authorized by ss. 28.231 and 28.24(10)(a). In addition, for as long as any cash remains on deposit with the clerk, the clerk of the Supreme Court is entitled to regularly receive as an additional fee, the net investment income earned thereon. The clerk shall use the services of the Chief Financial Officer, as needed, for the custody and management of all bonds, other surety, or cash posted or deposited with the clerk. All fees collected under this act shall be deposited into the State Courts Revenue Trust Fund for use as specified by law.

(3) It is further the intent of the Legislature to allow a court to order a specific defendant that dissipates assets in order to avoid payment of a judgment to increase the surety for that defendant.

(4) It is further the intent of the Legislature that s. 569.23, Florida Statutes, expire on December 31, 2012.

And the title is amended as follows:

Delete lines 3-14 and insert: expressing legislative intent to amend s. 569.23, F.S., relating to appeal bond requirements for certain cigarette manufacturers; expressing legislative intent relating to security necessary to stay execution of judgments in actions by certain former class action members, the form of the security, the level of appeals to which the security is applicable, the amount of the security based on the number of appeals, changes in the amount of security based on changes in the number of appeals, claims against the security, and maintenance of the security by the clerk of the Supreme Court; expressing legislative intent to authorize a court to increase the security if assets are dissipated; expressing the legislative intent to provide for the future expiration of s. 569.23, F.S.;

Pursuant to Rule 4.19, **CS for SB 2198** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for CS for SB 2482—A bill to be entitled An act relating to school improvement and accountability; amending s. 1003.413, F.S.; redefining the term "secondary school" to no longer include an elementary school serving students through grade 6 only; repealing s. 1003.413(5), F.S., relating to a requirement that the Commissioner of Education create and implement the Secondary School Improvement Award Program; amending s. 1003.4156, F.S.; correcting a cross-reference; amending s. 1003.429, F.S.; revising provisions relating to accelerated high school graduation; revising the credits for certain courses required under the 3-year standard college preparatory program beginning with students who enter grade 9 in the 2009-2010 school year; amending s. 1003.621, F.S.; requiring that the State Board of Education annually designate school districts as academically high-performing school districts if certain criteria are met; requiring that such designation occur at the next meeting of the State Board of Education on or after a specified date each year; providing that the designation is effective beginning the following school year; revising the information that an academically high-performing school district must include in its annual report to the State Board of Education and the Legislature; amending s. 1008.25, F.S.; requiring that each district school board annually post certain information on its Internet website; revising the date that each district school board is required to report certain information to the State Board of Education; amending s. 1008.36, F.S.; revising the date that school staff and the school advisory council are required to reach an agreement regarding the distribution of financial awards under the Florida School Recognition Program; providing an effective date.

—was read the second time by title.

Senator Wise moved the following amendment which was adopted:

Amendment 1 (194438) (with title amendment)—Between lines 296 and 297 insert:

Section 8. Section 1012.985, Florida Statutes, is amended to read:

1012.985 *Regional* ~~Statewide system for inservice~~ professional development *academies*.—

(1) The intent of this section is to *facilitate* ~~establish~~ a ~~statewide~~ system of professional development that provides a wide range of ~~targeted~~ inservice training to teachers, managers, and administrative personnel *which is* designed to upgrade skills and knowledge needed to *attain* ~~reach~~ world class standards in education. The system shall consist of a network of professional development academies *that* ~~in each region of the state which~~ are operated in partnership with area business partners to develop and deliver high-quality training programs *for* ~~purchased by~~ school districts. *Each regional professional development academy* ~~The academies~~ shall ~~be established to~~ meet the human resource development needs of professional educators, schools, and school districts *and shall* ~~. Funds appropriated for the initiation of professional development academies shall be allocated by the Commissioner of Education, unless otherwise provided in an appropriations act. To be eligible for startup funds, the academy must~~:

(a) *Support* ~~Be established by~~ the collaborative efforts of one or more district school boards, members of the business community, and the postsecondary educational institutions which may award college credits for courses taught at the academy.

~~(b) Demonstrate the capacity to provide effective training to improve teaching skills in the areas of elementary reading and mathematics, the use of instructional technology, high school algebra, and classroom management, and to deliver such training using face-to-face, distance learning, and individualized computer based delivery systems.~~

~~(c) Propose a plan for responding in an effective and timely manner to the professional development needs of teachers, managers, administrative personnel, schools, and school districts relating to improving student achievement and meeting state and local education goals.~~

(b) ~~(d)~~ ~~Demonstrate the ability to~~ Provide high-quality trainers and training *and*~~,~~ appropriate followup and coaching for all participants~~,~~ and support school personnel *in increasing student achievement* ~~in positively impacting student performance~~.

(c) ~~(e)~~ Be operated under contract with its public partners. *Contracts between district school boards and each regional professional development academy shall require:*

1. The academy's independent board of directors to be responsible for the prudent use of all public and private funds and to ensure that such funds are used in accordance with applicable laws, bylaws, and contractual agreements.

2. The academy to retain proper documentation evidencing that district school board funds provided to the academy are expended for authorized purposes as prescribed in the contract and that services to district school boards are commensurate to the funds paid to the academy for such services. The academy's records shall be available for inspection by the district school board's internal auditor and the Auditor General.

3. Each district school board to approve any participation by the academy in the district's programs or services, including use of the district's facilities, furnishings, equipment, other chattels, personnel, or services.

4. The academy to provide an annual report of its activities and expenditures to its independent board of directors and each party to the contract.

5. The academy to be annually audited by an independent certified public accountant retained and paid for by the academy and to provide a copy of the audit report to each party to the contract.

(d) Be ~~and~~ governed by an independent board of directors, which should include at least one district school superintendent and one district school board chair from the participating school districts, the president of the collective bargaining unit that represents the majority of the region's teachers, and at least three individuals who are not employees or elected or appointed officials of the participating school districts. Regional educational consortia as defined in s. 1001.451 satisfy the requirements of this paragraph.

~~(f) Be financed during the first year of operation by an equal or greater match from private funding sources and demonstrate the ability to be self-supporting within 1 year after opening through fees for services, grants, or private contributions. Regional educational consortia as defined in s. 1001.451 which serve rural areas of critical economic concern are exempt from the funding match required by this paragraph.~~

~~(g) Own or lease a facility that can be used to deliver training onsite and through distance learning and other technology-based delivery systems. The participating district school boards may lease a site or facility to the academy for a nominal fee and may pay all or part of the costs of renovating a facility to accommodate the academy. The academy is responsible for all operational, maintenance, and repair costs.~~

(e) ~~(h)~~ Provide professional development services for the participating school districts as specified in the contract and may provide professional development services to other school districts, private schools, and individuals on a fee-for-services basis.

(2) ~~Upon compliance with the requirements for the first year of operation in paragraph (1)(f),~~ A regional professional development academy *may*:

(a) ~~May~~ Receive funds from the Department of Education or as provided in the General Appropriations Act for the purpose of developing programs, expanding services, assessing inservice training and professional development, or other programs that are consistent with the mission of the academy and the needs of the state and region; and

(b) Receive, hold, invest, and administer property and any moneys acquired from private, local, state, and federal sources, as well as technical and professional income generated or derived from activities of the academy, for the benefit of the academy and the fulfillment of its mission. Income generated by school district personnel at the academy from trademarks, copyrights, and patents shall be shared between the academy and the district school board as outlined in the contract.

~~(b) Is not, by virtue of providing services to one or more school districts, a component of any school district or any governmental unit to which the regional professional development academy provides services.~~

And the title is amended as follows:

Delete line 35 and insert: the Florida School Recognition Program; amending s. 1012.985, F.S.; providing for regional academies rather than a statewide system of organization; providing duties of regional professional development academies; deleting provisions that require academies to meet certain criteria in order to receive start-up funds; specifying requirements for contracts between district school boards and academies; deleting requirements relating to first-year funding and academy financial self-sufficiency in future years; authorizing the academies to administer property and moneys received from various sources; requiring that income generated from certain activities be shared between the academy and the district school board; providing an

Senator Wise moved the following amendment:

Amendment 2 (382092) (with title amendment)—Between lines 296 and 297 insert:

Section 8. *Paragraph (b) of subsection (10) of section 1008.22, Florida Statutes, is repealed.*

And the title is amended as follows:

Delete line 35 and insert: the Florida School Recognition Program; repealing s. 1008.22(10)(b), F.S.; relating to concordance scores for the Florida Comprehensive Assessment Test; providing an

On motion by Senator Wise, further consideration of **CS for CS for SB 2482** as amended with pending **Amendment 2 (382092)** by Senator Wise was deferred.

RECONSIDERATION OF BILL

On motion by Senator Fasano, the Senate recalled for further consideration—

CS for CS for HB 479—A bill to be entitled An act relating to retirement; amending s. 121.021, F.S.; redefining the terms "employer," "officer or employee," "past service," "normal retirement date," "termination," "regularly established position," and "temporary position"; defining the terms "state board" and "trustees"; amending s. 121.031, F.S.; requiring promotional materials that refer to the Florida Retirement System to include a disclaimer unless approval is obtained from the Department of Management Services or the State Board of Administration; amending s. 121.051, F.S.; conforming a cross-reference; clarifying when a State Community College System Optional Retirement Program participant is considered a retiree; revising provisions relating to participation in the Florida Retirement System by certain employers; excluding the participation of certain entities under a lease agreement; amending s. 121.052, F.S.; revising membership criteria for members of the Elected Officers' Class; revising the dates for when a governing body of a municipality or special district may elect to designate its elected positions for inclusion in the Elected Officers' Class; amending s. 121.053, F.S.; revising provisions relating to participation in the Elected Officers' Class for retired members; amending s. 121.055, F.S.; revising provisions relating to participation in the Senior Management Service Class; revising benefit payment procedures for the Senior Management Service Optional Annuity Program; clarifying when a participant is considered retired; amending s. 121.071, F.S.; providing an additional mechanism for the payment of employee contributions to the system; amending s. 121.081, F.S.; providing for receipt of credit for past or prior service by charter school and charter technical career center employees; prohibiting a member from receiving credit for service covered and reported by both a public employer and a private employer; amending s. 121.091, F.S.; revising and clarifying provisions relating to retirement benefits; deleting a restriction on the reemployment of certain personnel by the Florida School for the Deaf and the Blind; authorizing developmental research schools and charter schools to reemploy certain retired members under specified conditions; revising limitations on the payment of retirement benefits for certain retired persons who are reemployed by an employer participating in a state-administered retirement program; prohibiting certain persons holding public office from enrolling in the Florida Retirement System; deleting a provision authorizing an employing agency to reemploy a retired member as a firefighter or paramedic after a specified period; providing applicability; revising provisions relating to reemployment of retirees of the Public Employee Optional Retirement Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; clarifying that DROP participation cannot be canceled; clarifying maximum DROP participation; providing for the suspension of DROP benefits to a participant who is reemployed; deleting obsolete provisions; revising employer contribution requirements; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members may not be eligible to purchase service credit; amending s. 121.122, F.S.; providing that certain retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; revising conditions under which a retiree is entitled to certain additional retirement benefits; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; requiring the State Retirement Commission to use certain requirements used by the Secretary of Management Services before approving a disability retirement benefit; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the commission; amending s. 121.35, F.S.; revising a compulsory membership exception for certain members failing to elect membership in the optional retirement program; providing a cross-reference; defining the term "retiree" for purposes of the State University System Optional Retirement Program; amending s. 121.4501, F.S.; revising the definition of "eligible employee" for purposes of the Public Employee Optional Retirement Program; amending s. 121.591, F.S.; providing a cross-reference; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing s. 121.093, F.S., relating to instructional personnel reemployment after retirement from a developmental research school or the Florida School for the Deaf and the Blind; repealing s. 121.094, F.S., relating to instructional personnel reemployment after retirement from a charter school; repealing s. 121.45, F.S., relating to interstate compacts relating to pension portability; providing a declaration of important state interest; providing an effective date.

—which was previously considered and amended this day.

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senators Lawson, King, and Haridopolos offered the following amendment which was moved by Senator Lawson and adopted:

Amendment 4 (559986) (with title amendment)—Delete lines 1388-2347 and insert:

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to ~~the provisions of~~ this section, the Deferred Retirement Option Program, hereinafter referred to as ~~the~~ DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the *Florida Retirement* System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP. Participation in ~~the~~ DROP by an eligible member beyond the initial 60-month period as authorized in this subsection shall be on an annual contractual basis for all participants.

(a) Eligibility of member to participate in ~~the~~ DROP.—All active Florida Retirement System members in a regularly established position, and all active members of ~~either~~ the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122, which ~~systems~~

are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in ~~the~~ DROP *if* ~~provided that~~:

1. The member is not a renewed member ~~of the Florida Retirement System~~ under s. 121.122~~,~~ or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains 57, or age 52 for Special Risk Class members. *A member who delays DROP participation during the 12-month period immediately following his or her maximum DROP deferral date, except as provided in subparagraph 6., loses a month of DROP participation for each month delayed.* ~~For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 12 months after the effective date of this section.~~ A member who fails to make an election within *the* ~~such~~ 12-month limitation period *forfeits* ~~shall forfeit~~ all rights to participate in ~~the~~ DROP. The member shall advise his or her employer and the division in writing of the date ~~on which the~~ DROP *begins* ~~shall begin~~. *The* ~~Such~~ beginning date may be subsequent to the 12-month election period~~,~~ but must be within the *original* 60-month *participation* ~~or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month limitation~~ period ~~as~~ provided in subparagraph (b)1. When establishing eligibility of the member to participate in ~~the~~ DROP ~~for the 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum participation period~~, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member *who has* ~~with~~ dual normal retirement dates *is* ~~shall be~~ eligible to elect to participate in DROP ~~within 12 months~~ after attaining normal retirement date in either class.

3. The employer of a member electing to participate in ~~the~~ DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in ~~the~~ DROP begins and the date the member's employment and DROP participation will terminate.

4. Simultaneous employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in ~~the~~ DROP *is* ~~shall be~~ permissible *if* ~~provided~~ such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the *maximum participation* ~~60-month limitation~~ period ~~as~~ provided in subparagraph (b)1.

5. A DROP participant may change employers while participating in ~~the~~ DROP, subject to the following:

a. A change of employment must take place without a break in service so that the member receives salary for each month of continuous DROP participation. If a member receives no salary during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division *of the identity of the new employer* on forms required by the division ~~as to the identity of the new employer~~.

c. The new employer shall acknowledge, in writing, the participant's DROP termination date, which may be extended but not beyond the *maximum participation* ~~original 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month~~ period provided in subparagraph (b)1., shall acknowledge liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment, and *is* ~~shall be~~ subject to the adjustment required in sub-subparagraph (c)5.d.

6. Effective July 1, 2001, for instructional personnel as defined in s. 1012.01(2), election to participate in ~~the~~ DROP *may* ~~shall~~ be made at any time following the date on which the member first reaches normal retirement date. The member shall advise his or her employer and the division in writing of the date on which *DROP begins* ~~the Deferred Retirement Option Program shall begin~~. When establishing eligibility of the member to participate in ~~the~~ DROP for the 60-month ~~or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum~~ participation period~~, as~~ provided in subparagraph (b)1., the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member *who has* ~~with~~ dual normal retirement dates *is* ~~shall be~~ eligible to elect to participate in either class.

(b) Participation in ~~the~~ DROP.—

1. An eligible member may elect to participate in ~~the~~ DROP for a period not to exceed a maximum of 60 calendar months. *However,* ~~or, with respect to~~ members who are instructional personnel employed by the Florida School for the Deaf and the Blind and *authorized* ~~who have received authorization~~ by the Board of Trustees of the Florida School for the Deaf and the Blind ~~to participate in the DROP beyond 60 months~~, ~~or~~ who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and *authorized* ~~who have received authorization~~ by the district school superintendent ~~to participate in the DROP beyond 60 calendar months~~, *or who are instructional personnel as defined in s. 1012.01(2)(a) employed by a developmental research school and authorized by the school's director, or if the school has no director, by the school's principal, may participate in DROP for up to 36 calendar months beyond the 60-month period.* ~~96 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 calendar months, 96 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of the DROP.~~

2. Upon deciding to participate in ~~the~~ DROP, the member shall submit, on forms required by the division:

a. A written election to participate in ~~the~~ DROP;

b. Selection of ~~the~~ DROP participation and termination dates *that*~~,~~ ~~which~~ satisfy the limitations stated in paragraph (a) and subparagraph

1. *The* ~~Such~~ termination date *must* ~~shall~~ be in a binding letter of resignation *to* ~~with~~ the employer~~,~~ establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of *the* ~~his or her~~ employer;

c. A properly completed DROP application for service retirement as provided in this section; and

d. Any other information required by the division.

3. The DROP participant *is* ~~shall be~~ a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122. *DROP participation is final and may not be canceled by the participant after the first payment is credited during the DROP participation period.* However, participation in ~~the~~ DROP does not alter the participant's employment status, and *the member is* ~~such employee shall~~ not ~~be~~ deemed retired from employment until his or her deferred resignation is effective and termination occurs as *defined* ~~provided~~ in s. 121.021~~(39)~~.

4. Elected officers *are* ~~shall be~~ eligible to participate in ~~the~~ DROP subject to the following:

a. An elected officer who reaches normal retirement date during a term of office may defer the election to participate ~~in the DROP~~ until the next succeeding term in that office. *An* ~~Such~~ elected officer who exercises this option may participate in ~~the~~ DROP for up to 60 calendar months or ~~a period of~~ no longer than *the* ~~such~~ succeeding term of office, whichever is less.

b. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly*;*~~, except,~~ however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP *is* ~~shall be~~ null and void as provided in sub-subparagraph (c)5.d.

c. An elected officer who is dually employed and elects to participate in DROP *must terminate all employment relationships as provided in s. 121.021(39) for the nonelected position* ~~shall be required to satisfy the definition of termination~~ within the *original* 60-month *period or maximum participation* ~~or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month limitation~~ period as provided in subparagraph 1. *For DROP participation ending:* ~~for the nonelected position and~~

(I) Before July 1, 2010, the officer may continue employment as an elected officer as provided in s. 121.053. The elected officer *shall* ~~will~~ be enrolled as a renewed member in the Elected Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.122, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

(II) On or after July 1, 2010, the officer may continue employment as an elected officer but must defer termination as provided in s. 121.053.

(c) Benefits payable under ~~the~~ DROP.—

1. Effective *on* ~~with~~ the date of DROP participation, the member's initial normal monthly benefit, including creditable service, optional form of payment, and average final compensation, and the effective date of retirement *are* ~~shall be~~ fixed. The beneficiary established under the Florida Retirement System *is* ~~shall be~~ the beneficiary eligible to receive any DROP benefits payable if the DROP participant dies *before completing* ~~prior to the completion of~~ the period of DROP participation. *If* ~~In the event~~ a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable. *The* ~~Such~~ retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest ~~shall~~ accrue monthly in the *Florida Retirement* System Trust Fund. *The* ~~Such~~ interest *accrues* ~~shall accrue~~ at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death*, except as provided in s. 121.053(7).*

2. Each employee who elects to participate in ~~the~~ DROP *may* ~~shall be allowed to~~ elect to receive a lump-sum payment for accrued annual leave earned in accordance with agency policy upon beginning participation in ~~the~~ DROP. *The* ~~Such~~ accumulated leave payment certified to the division upon commencement of DROP shall be included in the calculation of the member's average final compensation. The employee electing *the* ~~such~~ lump-sum payment *is* ~~upon beginning participation in DROP will~~ not ~~be~~ eligible to receive a second lump-sum payment upon termination, except to the extent the employee has earned additional annual leave which*,* combined with the original payment*,* does not exceed the maximum lump-sum payment allowed by the employing agency's policy or rules. *An* ~~Such~~ early lump-sum payment shall be based on the hourly wage of the employee at the time he or she begins participation in ~~the~~ DROP. If the member elects to wait and receive *a* ~~such~~ lump-sum payment upon termination of DROP and termination of employment with the employer, any accumulated leave payment made at that time *may not* ~~cannot~~ be included in the member's retirement benefit, which was determined and fixed by law when the employee elected to participate in ~~the~~ DROP.

3. The effective date of DROP participation and the effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in ~~the~~ DROP, provided such date is properly established, with the written confirmation of the employer, and the approval of the division, on forms required by the division.

4. Normal retirement benefits and *any* interest ~~thereon~~ shall continue to accrue in ~~the~~ DROP until the established termination date of ~~the~~ DROP~~,~~ or until the participant terminates employment or dies prior to such date*, except as provided in s. 121.053(7).* Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under ~~the~~ DROP shall be calculated and provided to participants.

5. At the conclusion of the participant's DROP, the division shall distribute the participant's total accumulated DROP benefits, subject to the following ~~provisions~~:

a. The division shall receive verification by the participant's employer or employers that *the* ~~such~~ participant has terminated *all* employment *relationships* as provided in s. 121.021(39)~~(b)~~.

b. The terminated DROP participant or, if deceased, *the* ~~such~~ participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed below. *If* ~~For~~ a participant or beneficiary ~~who~~ fails to elect a method of payment within 60 days *after* ~~of~~ termination of ~~the~~ DROP, the division *shall* ~~will~~ pay a lump sum as provided in sub-sub-subparagraph (I).

(I) Lump sum.—All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover.—All accrued DROP benefits, plus interest, shall be paid from ~~the~~ DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum.—A portion of the accrued DROP benefits shall be paid to ~~the~~ DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits *must* ~~shall~~ be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions *must* ~~shall~~ be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary *must comply* ~~complies~~ with the minimum distribution requirements of the Internal Revenue Code.

d. A DROP participant who fails to terminate *all* employment *relationships* as *provided* ~~defined~~ in s. 121.021(39)~~(b)~~ shall be deemed *as* not ~~to be~~ retired, and the DROP election *is* ~~shall be~~ null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of ~~the~~ DROP, and each employer with whom the participant continues employment *must* ~~shall be required to~~ pay to the *Florida Retirement* System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for the applicable Florida Retirement System class of membership during the period the member participated in ~~the~~ DROP, plus 6.5 percent interest compounded annually.

6. The retirement benefits of any DROP participant who terminates all employment relationships as provided in s. 121.021(39) but is reemployed in violation of the reemployment provisions of subsection (9) shall be suspended during those months in which the retiree is in violation. Any retiree in violation of this subparagraph and any employer that employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits are jointly and severally liable for any benefits paid during the reemployment limitation period. The employer must have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retiree while employed in violation of the reemployment limitations must be repaid to the Florida Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the reemployment limitation period apply toward repayment of benefits received in violation of the reemployment limitation.

7. ~~6.~~ The accrued benefits of any DROP participant, and any contributions accumulated under *the* ~~such~~ program, *are* ~~shall~~ not ~~be~~ subject to assignment, execution, attachment, or ~~to~~ any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, and federal income tax levies.

8. ~~7.~~ DROP participants *are* ~~shall~~ not ~~be~~ eligible for disability retirement benefits as provided in subsection (4).

(d) Death benefits under ~~the~~ DROP.—

1. Upon the death of a DROP participant, the named beneficiary *is* ~~shall be~~ entitled to apply for and receive the accrued benefits in ~~the~~ DROP as provided in sub-subparagraph (c)5.b.

2. The normal retirement benefit accrued to ~~the~~ DROP during the month of a participant's death *is* ~~shall be~~ the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in ~~the~~ DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in ~~the~~ DROP, but *before* ~~prior to~~ the first monthly benefit *is* ~~being~~ credited to ~~the~~ DROP, Florida Retirement System benefits *are* ~~shall be~~ paid in accordance with subparagraph (7)(c)1. or subparagraph 2.

4. A DROP *participant's* ~~participants'~~ survivors *are* ~~shall~~ not ~~be~~ eligible to receive Florida Retirement System death benefits as provided in paragraph (7)(d).

(e) Cost-of-living adjustment.—On each July 1, the *participant's* ~~participants'~~ normal retirement benefit shall be increased as provided in s. 121.101.

(f) Retiree health insurance subsidy.—DROP participants are not eligible to apply for the retiree health insurance subsidy payments as provided in s. 112.363 until such participants have terminated employment and participation in ~~the~~ DROP.

(g) Renewed membership.—DROP participants *are* ~~shall~~ not ~~be~~ eligible for renewed membership in the Florida Retirement System under ss. 121.053 and 121.122 until *all employment relationships are terminated* ~~termination of employment is effectuated~~ as provided in s. 121.021(39)~~(b)~~.

(h) Employment limitation after DROP participation.— Upon ~~satisfying the definition of~~ termination ~~of employment~~ as *defined* ~~provided~~ in s. 121.021~~(39)(b)~~, DROP participants *are* ~~shall be~~ subject to *the same* ~~such~~ reemployment limitations as other retirees. Reemployment restrictions applicable to retirees as provided in subsection (9) *do* ~~shall~~ not apply to DROP participants until their employment and participation in ~~the~~ DROP are terminated.

(i) Contributions.—

1. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 8.0 percent of such participant's gross compensation for the period of July 1, 2002, through June 30, 2003, and *the percentage* ~~11.56 percent~~ of such compensation *required by s. 121.71* thereafter, which shall constitute the entire employer DROP contribution with respect to such participant. Such contributions, payable to the *Florida Retirement* System Trust Fund in the same manner as required in s. 121.071, *must* ~~shall~~ be made as appropriate for each pay period and are in addition to contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. Such employer, social security, and health insurance subsidy contributions are not included in ~~the~~ DROP.

2. The employer shall, in addition to subparagraph 1., also withhold one-half of the entire social security contribution required for the participant. Contributions for social security by each participant and each employer, in the amount required for social security coverage as ~~now or hereafter~~ provided by the federal Social Security Act, *are* ~~shall be~~ in addition to contributions specified in subparagraph 1.

3. All employers paying the salary of a DROP participant filling a regularly established position shall contribute the percent of such participant's gross compensation required in s. 121.071(4), which ~~shall~~ constitute the employer's health insurance subsidy contribution with respect to such participant. Such contributions *must* ~~shall~~ be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(j) Forfeiture of retirement benefits.— ~~Nothing in~~ This section *does not* ~~shall be construed to~~ remove DROP participants from the scope of s. 8(d), Art. II of the State Constitution, s. 112.3173, and paragraph (5)(f). DROP participants who commit a specified felony offense while employed *are* ~~will be~~ subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(k) Administration of program.—The division shall *adopt* ~~make such~~ rules as ~~are~~ necessary for the effective and efficient administration of this subsection. The division *is* ~~shall~~ not ~~be~~ required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

(14) PAYMENT OF BENEFITS.—This subsection applies to the payment of benefits to a payee (retiree or beneficiary) under the Florida Retirement System:

(a) Federal income tax shall be withheld in accordance with federal law, unless the payee elects otherwise on Form W-4P. The division shall prepare and distribute to each recipient of monthly retirement benefits an appropriate income tax form that reflects the recipient's income and federal income tax withheld for the calendar year just ended.

(b) Subject to approval by the division in accordance with rule 60S-4.015, Florida Administrative Code, a payee receiving retirement benefits under the ~~Florida Retirement~~ system may also have the following payments deducted from his or her monthly benefit:

1. Premiums for life and health-related insurance policies from approved companies.

2. Life insurance premiums for the State Group Life Insurance Plan, if authorized in writing by the payee and by the department ~~of Management Services~~.

3. Repayment of overpayments from the Florida Retirement System Trust Fund, the State Employees' Health Insurance Trust Fund, or the State Employees' Life Insurance Trust Fund, upon notification of the payee.

4. Payments to an alternate payee for alimony *or* ~~,~~ child support *pursuant to an income deduction order under s. 61.1301*, or division of marital assets pursuant to a qualified domestic relations order under s. 222.21 ~~or an income deduction order under s. 61.1301~~.

5. Payments to the Internal Revenue Service for federal income tax levies, upon notification of the division by the Internal Revenue Service.

(c) A payee *must* ~~shall~~ notify the division of any change in his or her address. The division may suspend benefit payments to a payee if correspondence sent to the payee's mailing address is returned due to an incorrect address. Benefit payments shall be resumed upon notification to the division of the payee's new address.

(d) A payee whose retirement benefits are reduced by the application of maximum benefit limits under s. 415(b) of the Internal Revenue Code, as specified in s. 121.30(5), shall have the portion of his or her calculated benefit in the Florida Retirement System defined benefit plan which exceeds such federal limitation paid through the Florida Retirement System Preservation of Benefits Plan, as provided in s. 121.1001.

(e) The Division of Retirement may issue retirement benefits payable for division of marital assets pursuant to a qualified domestic relations order directly to the alternate payee, any court order to the contrary notwithstanding, in order to meet Internal Revenue Code requirements.

(f) ~~(e)~~ *A* ~~No~~ benefit may *not* be reduced for the purpose of preserving the member's eligibility for a federal program.

(g) ~~(f)~~ The division shall adopt rules establishing procedures for determining that ~~the~~ persons to whom benefits are being paid are still living. The division shall suspend the benefits being paid to any payee *if* ~~when~~ it is unable to contact such payee and to confirm that he or she is still living.

Section 10. Section 121.1115, Florida Statutes, is amended to read:

121.1115 Purchase of retirement credit for out-of-state *or* ~~and~~ federal service.—Effective January 1, 1995, a member ~~of the Florida Retirement System~~ may purchase creditable service for periods of public employment in another state and receive creditable service for such periods of employment. Service with the Federal Government, including any *active* military service, may be claimed. Upon completion of each year of service earned under the Florida Retirement System, a member may purchase up to 1 year of retirement credit for his or her out-of-state service, subject to the following provisions:

(1) LIMITATIONS AND CONDITIONS.—To receive credit for the out-of-state service:

(a) The out-of-state service ~~being claimed~~ must have been:

1. Performed in a position of employment with the state or a political subdivision thereof or with the Federal Government;

2. Covered by a retirement or pension plan provided by the state or political subdivision, or by the Federal Government, as appropriate; and

3. Performed prior to a period of membership in the Florida Retirement System.

(b) The member must have completed a minimum of 6 years of creditable service under the Florida Retirement System, excluding out-of-state service and in-state service claimed and purchased under s. 121.1122.

(c) Not more than 5 years of creditable service may be claimed for creditable service aggregated under ~~the provisions of~~ this section and s. 121.1122.

(d) The out-of-state service credit ~~claimed under this section~~ shall be credited only as service in the Regular Class ~~of membership~~, and any benefit or pension based thereon *is* ~~shall be~~ subject to the limitations and restrictions of s. 112.65.

(e) The member is not eligible for and may not receive a pension or benefit from a retirement or pension plan based on or including the out-of-state service. Eligibility for or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.

(f) ~~(e) A member shall be eligible~~ To receive service credit for out-of-state service performed after leaving the Florida Retirement System*, the member must complete* ~~only upon return to membership and completion of~~ at least 1 year of creditable service in the Florida Retirement System following the out-of-state service.

(2) COST.—For each year claimed, the member must pay into the *Florida Retirement* System Trust Fund an amount equal to 20 percent of the member's annual compensation for the first full work year of creditable service earned under the Florida Retirement System, but not less than $12,000, plus interest at 6.5 percent compounded annually from the date of first annual salary earned until full payment is made. The employer may pay all or a portion of the cost of this service credit.

Section 11. Subsection (2) of section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic schools and colleges, including charter schools and charter technical career centers.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic employment performed in this state, as provided in this section.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 6 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under ~~the provisions of~~ this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class ~~of membership~~ and *is* ~~shall be~~ subject to ~~the provisions of~~ s. 112.65.

(d) Service credit may not be purchased under this section if the member is eligible to receive or is receiving a pension or benefit from a retirement or pension plan based on or including the service. Eligibility for or the receipt of contributions to a retirement plan made by the employer on behalf of the employee is considered a benefit.

(e) ~~(d)~~ A member *is* ~~shall be~~ eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only *after* ~~upon returning to membership and~~ completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

(f) ~~(e)~~ The service claimed must have been service covered by a retirement or pension plan provided by the employer.

Section 12. Section 121.122, Florida Statutes, is amended to read:

121.122 Renewed membership in system.—

(1) Except as provided in s. 121.053, effective July 1, 1991, *through June 30, 2010* any retiree of a state-administered retirement system who is *initially reemployed* ~~employed~~ in a regularly established position with a covered employer*, including an elective public office that does not qualify for the Elected Officer's Class,* shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System. ~~or,~~ Effective July 1, 1997, *through June 30, 2010,* any retiree of a state-administered retirement system who is *initially reemployed* ~~employed~~ in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055. *A retiree is*~~,~~ ~~and shall be~~ entitled to receive an additional retirement benefit, subject to the following conditions:

~~(1)~~(a) Such member *must* ~~shall~~ resatisfy the age and service requirements as provided in this chapter for initial membership under the system, unless such member elects to participate in the Senior Man-

agement Service Optional Annuity Program in lieu of the Senior Management Service Class, as provided in s. 121.055(6).

(b) Such member *is* ~~shall~~ not ~~be~~ entitled to disability benefits as provided in s. 121.091(4).

(c) Such member must meet the reemployment after retirement limitations as provided in s. 121.091(9), as applicable.

(d) ~~(2)~~ Upon renewed membership *or reemployment of a retiree*, the employer of such member shall pay the applicable employer contributions as required by ss. *121.71, 121.74, 121.76, and 112.363* ~~121.055(3) and 121.071(1)(a) and (4)~~.

(e) ~~(3)~~ Such member *is* ~~shall be~~ entitled to purchase additional retirement credit in the Regular Class or the Senior Management Service Class, as applicable, for any postretirement service performed in a regularly established position as follows:

1. ~~(a)~~ For regular class service prior to July 1, 1991, by paying the Regular Class applicable employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund; or

2. ~~(b)~~ For Senior Management Service Class prior to June 1, 1997, as provided in s. 121.055(1)(j).

The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

(f) ~~(4)~~ No creditable service for which credit was received, or which remained unclaimed, at retirement may be claimed or applied toward service credit earned following renewed membership. However, service earned as an elected officer with renewed membership in the Elected Officers' Class may be used in conjunction with creditable service earned under this section, provided the applicable vesting requirements and other existing statutory conditions required by this chapter are met.

(g) ~~(5)~~ Notwithstanding any other limitations provided in this section, a participant of the State University System Optional Retirement Program*, the State Community College Optional Retirement Program,* or the Senior Management Service Optional Annuity Program who terminated employment and commenced receiving *a distribution* ~~an annuity~~ under ~~the provisions of~~ the optional program, who *initially* renews membership ~~in the Regular Class~~ as required by this section upon reemployment after retirement, and who had previously earned creditable Florida Retirement System service that was not included in any retirement benefit may include such previous service toward vesting and service credit in the second career benefit provided under renewed membership.

(h) ~~(6)~~ *A* ~~Any~~ renewed member who is not receiving the maximum health insurance subsidy provided in s. 112.363 *is* ~~shall be~~ entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit *may* ~~shall~~ be received only at the time of payment of the second career retirement benefit. ~~In no case shall~~ The total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership *may not* exceed the maximum allowed in s. 112.363.

(2) A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, is not eligible for renewed membership.

Section 13. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—*Each year* ~~Beginning January 1, 1993, and each January thereafter,~~ the department shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits *that provides* ~~. Such statement should provide~~ the member with basic data about the member's retirement account. *At a minimum* ~~Minimally~~, it *must* ~~shall~~ include the member's retirement plan, *accrued service credit* ~~the amount of funds on deposit in the retirement account~~, and an estimate of retirement benefits.

Section 14. Section 121.1905, Florida Statutes, is amended to read:

121.1905 Division of Retirement; creation.—

~~(1)~~ There is created the Division of Retirement within the Department of Management Services.

~~(2) The mission of the Division of Retirement is to provide quality and cost effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.~~

Section 15. Paragraph (a) of subsection (2) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(2) A member shall be entitled to a hearing before the State Retirement Commission pursuant to ss. 120.569 and 120.57(1) on the merits of any written adverse decision of the administrator, if he or she files with the commission a written request for such hearing within 21 days after receipt of such written decision from the administrator. For the purpose of such hearings, the commission shall be an "agency head" as defined by s. 120.52.

(a) The commission *may* ~~shall have the authority to~~ issue orders as a result of *the* ~~a~~ hearing that *are* ~~shall be~~ binding on all parties to the dispute *and* ~~. The commission~~ may order any action that it deems appropriate. Any disability retirement order of the commission *that* ~~issued pursuant to this subsection which~~ sustains the application of the member may include an amount, to be determined by the commission, for reasonable attorney's fees and taxable costs, which shall be calculated in accordance with the statewide uniform guidelines for taxation of costs in civil actions. The amount of the attorney's *fees* ~~fee~~ may not exceed 50 percent of the initial yearly benefit awarded under s. 121.091(4). In cases involving disability retirement, the ~~State Retirement~~ commission shall require the member to present *substantial* competent medical evidence *that meets the requirements of s. 121.091(4)(c)2. and 3.,* and may require vocational evidence*,* before awarding disability retirement benefits.

Section 16. Paragraph (a) of subsection (1) of section 121.24, Florida Statutes, is amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(1) The commission shall conduct its business within the following guidelines:

(a) For purposes of hearing appeals under s. 121.23, the commission may meet in panels ~~consisting~~ of *no* ~~not~~ fewer than three members. ~~For the purpose of meeting in these panels, a quorum shall be not fewer than two members. For all other purposes,~~ A quorum shall consist of three members. The concurring vote of a majority of the members present *is* ~~shall be~~ required to reach a decision, issue orders, and conduct the business of the commission.

Section 17. Paragraph (h) of subsection (3) and paragraphs (a) and (e) of subsection (5) of section 121.35, Florida Statutes, are amended, and paragraph (g) is added to subsection (5) of that section, to read:

121.35 Optional retirement program for the State University System.—

(3) ELECTION OF OPTIONAL PROGRAM.—

(h) A participant in the optional retirement program may not participate in more than one state-administered retirement system, plan, or class simultaneously. Except as provided in s. 121.052(6)(d), a participant who is or becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for the optional program and one of which is not, may remain a member of the optional program and contributions shall be paid as required only on the salary earned in the position eligible for the optional program during *the* ~~such~~ period of dual employment; or, within 90 days after becoming dually employed, he or she may elect membership in the Regular Class of the Florida Retirement System in lieu of the optional program and contributions shall be paid as required on the total salary received for all employment. At retirement, the average final compensation used to calculate any benefits for which the member becomes eligible under the Florida Retirement System *must* ~~shall~~ be based on all salary reported for both positions during such period of dual employment. *If the* ~~When such~~ member ceases to be dually employed, he or she may, within 90 days, elect to remain in the Florida Retirement System class for which he or she is eligible or to again become a participant in the optional retirement program. Failure to elect membership in the optional program within 90 days shall result in compulsory membership in the Florida Retirement System, except that a member filling a faculty position *at* ~~under~~ a *college that has a* faculty practice plan at the University of Florida*, at* ~~or~~ the Medical Center at the University of South Florida*, or other state university* shall again participate in the optional retirement program as required in s. 121.051(1)(a).

(5) BENEFITS.—

(a) Benefits *are* ~~shall be~~ payable under the optional retirement program only to vested participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with s. 403(b) of the Internal Revenue Code and ~~in accordance with~~ the terms of the annuity contract or contracts applicable to the participant. Benefits ~~shall~~ accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and the earnings thereon. The participant must be terminated from all employment *relationships* with all Florida Retirement System employers, as provided in s. 121.021(39), to begin receiving the employer-funded benefit. Benefits funded by employer contributions *are* ~~shall be~~ payable in accordance with the following terms and conditions:

1. Benefits shall be *paid* ~~payable~~ only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable *department* ~~board~~ rule or policy.

3. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the participant's designated beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death, as provided in paragraph (c). No other death benefits *are* ~~shall be~~ available *to* ~~for~~ survivors of participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer, at the employer's discretion.

(e) A participant who chooses to receive his or her benefits upon termination *as defined in s. 121.021 must* ~~of employment shall have responsibility to~~ notify the provider company of the date ~~on which~~ he or she wishes benefits funded by employer contributions to begin. Benefits may be deferred until ~~such time as~~ the participant chooses to make such application.

(g) For purposes of this section, "retiree" means a former participant of the optional retirement program who has terminated employment and has taken a distribution as provided in this subsection, except for a mandatory distribution of a de minimis account authorized by the department.

Section 18. Paragraph (f) of subsection (2) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Public Employee Optional Retirement Program.—

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

(f) "Eligible employee" means an officer or employee, as defined in s. 121.021~~(11)~~, who:

1. Is a member of, or is eligible for membership in, the Florida Retirement System, including any renewed member of the Florida Retirement System *initially enrolled before July 1, 2010*; or

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6), the State Community College System Optional Retirement Program as established under s. 121.051(2)(c), or the State University System Optional Retirement Program established under s. 121.35.

The term does not include any member participating in the Deferred Retirement Option Program established under s. 121.091(13)*, a retiree of a state-administered retirement system initially reemployed on or after July 1, 2010,* or a mandatory participant of the State University System Optional Retirement Program established under s. 121.35.

Section 19. Paragraphs (a) and (b) of subsection (1) of section 121.591, Florida Statutes, is amended to read:

121.591 Benefits payable under the Public Employee Optional Retirement Program of the Florida Retirement System.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed in the manner prescribed by the state board or the department. The state board or department, as appropriate, may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the rules of the state board and department. In accordance with their respective responsibilities as provided herein, the State Board of Administration and the Department of Management Services shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received. The State Board of Administration and the Department of Management Services, as appropriate, are authorized to cash out a de minimis account of a participant who has been terminated from Florida Retirement System covered employment for a minimum of 6 calendar months. A de minimis account is an account containing employer contributions and accumulated earnings of not more than $5,000 made under the provisions of this chapter. Such cash-out must either be a complete lump-sum liquidation of the account balance, subject to the provisions of the Internal Revenue Code, or a lump-sum direct rollover distribution paid directly to the custodian of an eligible retirement plan, as defined by the Internal Revenue Code, on behalf of the participant. If any financial instrument issued for the payment of retirement benefits under this section is not presented for payment within 180 days after the last day of the month in which it was originally issued, the third-party administrator or other duly authorized agent of the State Board of Administration shall cancel the instrument and credit the amount of the instrument to the suspense account of the Public Employee Optional Retirement Program Trust Fund authorized under s. 121.4501(6). Any such amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings thereon shall be forfeited. Any such forfeited amounts are assets of the Public Employee Optional Retirement Program Trust Fund and are not subject to the provisions of chapter 717.

(1) NORMAL BENEFITS.—Under the Public Employee Optional Retirement Program:

(a) Benefits in the form of vested accumulations as described in s. 121.4501(6) shall be payable under this subsection in accordance with the following terms and conditions:

1. To the extent vested, benefits shall be payable only to a participant.

2. Benefits shall be paid by the third-party administrator or designated approved providers in accordance with the law, the contracts, and any applicable board rule or policy.

3. To receive benefits under this subsection, the participant must be terminated from all employment with all Florida Retirement System employers, as provided in s. 121.021(39).

4. Benefit payments may not be made until the participant has been terminated for 3 calendar months, except that the board may authorize by rule for the distribution of up to 10 percent of the participant's account after being terminated for 1 calendar month if a participant has reached the normal retirement *date as defined in s. 121.021* ~~requirements~~ of the defined benefit plan~~, as provided in s. 121.021(29)~~.

5. If a member or former member of the Florida Retirement System receives an invalid distribution from the Public Employee Optional Retirement Program Trust Fund, such person shall repay the full invalid distribution to the trust fund within 90 days after receipt of final notification by the State Board of Administration or the third-party administrator that the distribution was invalid. If such person fails to repay the full invalid distribution within 90 days after receipt of final notification, the person may be deemed retired from the Public Employee Optional Retirement Program by the state board, as provided pursuant to s. 121.4501(2)(j), and shall be subject to the provisions of s. 121.122. If such person is deemed retired by the state board, any joint and several liability set out in *s. 121.091(9)(d)2.* ~~s. 121.091(9)(c)2.~~ becomes null and void, and the state board, the Department of Management Services, or the employing agency is not liable for gains on payroll contributions that have not been deposited to the person's account in the Public Employee Optional Retirement Program, pending resolution of the invalid distribution. The member or former member who has been deemed retired or who has been determined by the board to have taken an invalid distribution may appeal the agency decision through the complaint process as provided under s. 121.4501(9)(f)3. As used in this subparagraph, the term "invalid distribution" means any distribution from an account in the Public Employee Optional Retirement Program which is taken in violation of the provisions of this section, s. 121.091(9), or s. 121.4501.

(b) If a participant elects to receive his or her benefits upon termination of employment *as defined in s. 121.021*, the participant must submit a written application or an equivalent form to the third-party administrator indicating his or her preferred distribution date and selecting an authorized method of distribution as provided in paragraph (c). The participant may defer receipt of benefits until he or she chooses to make such application, subject to federal requirements.

Section 20. Subsection (1) of section 238.183, Florida Statutes, is amended to read:

238.183 Developmental research school and Florida School for the Deaf and the Blind instructional personnel; reemployment after retirement.—

(1) Notwithstanding any other law, instructional personnel, as defined in s. 1012.01(2), employed by a developmental research school or the Florida School for the Deaf and the Blind are eligible for reemployment after retirement in the same manner as classroom teachers who are employed by the district school boards, as described in ss. 121.091(9)(b)~~3.~~ and 238.181(2)(c).

Section 21. Paragraph (g) of subsection (3) and subsection (8) of section 1012.33, Florida Statutes, are amended to read:

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

(3)

(g) Beginning July 1, 2001, for each employee who enters into a written contract, pursuant to this section, in a school district in which the employee was not employed as of June 30, 2001, or was employed as of June 30, 2001, but has since broken employment with that district for 1 school year or more, for purposes of pay, a district school board must recognize and accept each year of full-time public school teaching service earned in the State of Florida or outside the state and for which the employee received a satisfactory performance evaluation. Instructional personnel employed pursuant to s. 121.091(9)(b)~~3.~~ are exempt from the provisions of this paragraph.

(8) Notwithstanding any other provision of law, *a retired* ~~any~~ member ~~who has retired~~ may interrupt retirement and be reemployed in any public school. *A* ~~Any~~ member ~~so~~ reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)~~; however, no regular retirement employee shall be eligible to renew membership under a retirement system created by chapter 121 or chapter 238~~.

And the title is amended as follows:

Delete lines 51-96 and insert: provisions relating to reemployment of participants in the Deferred Retirement Option Program; providing that certain members who delay DROP participation lose a month of DROP participation for each month delayed; increasing the maximum period of participation for instructional personnel in a developmental research school; deleting obsolete provisions; clarifying that DROP participation may not be canceled; providing for the suspension of DROP participation of an elected officer who is reemployed; providing that the retirement benefits of a participant who is reemployed within a certin time after retirement are suspended and must be paid back; authorizing the Division of Retirement to issue benefits pursuant to a qualified domestic relations order directly to the alternate payee; amending s. 121.1115, F.S.; revising provisions relating to receiving retirement credit for out-of-state service; providing that a member is not eligible for and may not receive a benefit based on such service; amending s. 121.1122, F.S.; revising provisions relating to receiving retirement credit for in-state service; providing that certain members are not eligible to purchase service credit; amending s. 121.122, F.S.; revising provisions relating to renewed membership in retirement system; providing that retirees initially reemployed on or after a specified date are ineligible for renewed membership in the system; amending s. 121.136, F.S.; revising provisions relating to the annual statement of benefits provided to certain active members of the system; amending s. 121.1905, F.S.; deleting a provision describing the mission of the Division of Retirement; amending s. 121.23, F.S.; clarifying the criteria for medical evidence that a member must submit to the Retirement Commission for before awarding disability retirement benefits; amending s. 121.24, F.S.; requiring a quorum of three members for all appeal hearings held by the retirement commission; amending s. 121.35, F.S.; revising provisions relating to membership in the State University Optional Retirement Program; defining the term "retiree" for purposes of the program; amending s. 121.4501, F.S.; revising the definition of "eligible employee" for purposes of the Public Employee Optional Retirement Program; amending ss. 121.591 and 238.183, F.S.; providing and conforming cross-references; amending s. 1012.33, F.S.; deleting a provision preventing persons who have retired from the public school system from renewing membership in the Florida Retirement System or Teachers' Retirement System upon reemployment by the school system; repealing

Pursuant to Rule 4.19, **CS for CS for HB 479** as further amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Gaetz—

CS for CS for SB 1978—A bill to be entitled An act relating to classroom expenditures; creating s. 1010.2155, F.S.; requiring that school districts spend a minimum percentage of the district general fund on expenditures in the classroom; requiring that the Department of Education develop a uniform calculation and a common format for district reporting; requiring that school districts publish information regarding classroom expenditures; requiring that the department analyze the expenditures of school districts that fail to meet required classroom expenditure levels; authorizing the department to provide technical assistance upon request by a school district; requiring that the Commissioner of Education make written recommendations to the superintendent of schools and the school board; authorizing the State Board of Education to adopt rules; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 1978** was placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for CS for SB 2482—A bill to be entitled An act relating to school improvement and accountability; amending s. 1003.413, F.S.; redefining the term "secondary school" to no longer include an elementary school serving students through grade 6 only; repealing s. 1003.413(5), F.S., relating to a requirement that the Commissioner of Education create and implement the Secondary School Improvement Award Program; amending s. 1003.4156, F.S.; correcting a cross-reference; amending s. 1003.429, F.S.; revising provisions relating to accelerated high school graduation; revising the credits for certain courses required under the 3-year standard college preparatory program beginning with students who enter grade 9 in the 2009-2010 school year; amending s. 1003.621, F.S.; requiring that the State Board of Education annually designate school districts as academically high-performing school districts if certain criteria are met; requiring that such designation occur at the next meeting of the State Board of Education on or after a specified date each year; providing that the designation is effective beginning the following school year; revising the information that an academically high-performing school district must include in its annual report to the State Board of Education and the Legislature; amending s. 1008.25, F.S.; requiring that each district school board annually post certain information on its Internet website; revising the date that each district school board is required to report certain information to the State Board of Education; amending s. 1008.36, F.S.; revising the date that school staff and the school advisory council are required to reach an agreement regarding the distribution of financial awards under the Florida School Recognition Program; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 2 (382092)** by Senator Wise was adopted.

MOTION

On motion by Senator Wise, the rules were waived to allow the following amendment to be considered:

Senator Wise moved the following amendment which was adopted:

Amendment 3 (192966) (with title amendment)—Between lines 39 and 40 insert:

Section 1. Paragraph (a) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

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

(3) DESIGNATION OF SCHOOL GRADES.—

(a) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of its students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under s. 1002.22 or 20 U.S.C. s. 1232g.

2. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341. *For a charter school that meets the definition of an alternative school pursuant to State Board of Education rule, the decision to receive a school grade is the decision of the charter school's governing board.*

3. A school that serves any combination of students in kindergarten through grade 3 which does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

And the title is amended as follows:

Delete line 3 and insert: accountability; amending s.1008.34, F.S.; revising provisions relating to schools receiving a school grade; amending s. 1003.413, F.S.; redefining

MOTION

On motion by Senator Wise, the rules were waived to allow the following amendment to be considered:

Senator Wise moved the following amendment:

Amendment 4 (725638) (with title amendment)—Delete lines 55-97 and insert:

Section 3. *Sections 4-6 of this act may be cited as the "Justice Sandra Day O'Connor Civics Education Act."*

Section 4. Paragraph (a) of subsection (1) of section 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) Beginning with students entering grade 6 in the 2006-2007 school year, promotion from a school composed of middle grades 6, 7, and 8 requires that:

(a) The student must successfully complete academic courses as follows:

1. Three middle school or higher courses in English. These courses shall emphasize literature, composition, and technical text.

2. Three middle school or higher courses in mathematics. Each middle school must offer at least one high school level mathematics course for which students may earn high school credit.

3. Three middle school or higher courses in social studies, one semester of which must include the study of state and federal government and civics education. *Beginning with students entering grade 6 in the 2011-2012 school year, one of these courses must be a one-semester civics education course that a student successfully completes in accordance with s. 1008.22(3)(c) and that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States.*

4. Three middle school or higher courses in science.

5. One course in career and education planning to be completed in 7th or 8th grade. The course may be taught by any member of the instructional staff; must include career exploration using *Florida* CHOICES ~~for the 21st Century~~ or a comparable cost-effective program; must include educational planning using the online student advising system known as Florida Academic Counseling and Tracking for Students at the Internet website FACTS.org; and shall result in the completion of a personalized academic and career plan.

Each school must hold a parent meeting either in the evening or on a weekend to inform parents about the course curriculum and activities. Each student shall complete an electronic personal education plan that must be signed by the student; the student's instructor, guidance counselor, or academic advisor; and the student's parent. ~~By January 1, 2007,~~ The Department of Education shall develop course frameworks and professional development materials for the career exploration and education planning course. The course may be implemented as a stand-alone course or integrated into another course or courses. The Commissioner of Education shall collect longitudinal high school course enrollment data by student ethnicity in order to analyze course-taking patterns.

Section 5. Paragraph (c) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation

and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program to measure a student's content knowledge and skills in reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10. Comprehensive assessments of writing and science shall be administered at least once at the elementary, middle, and high school levels. End-of-course assessments for a subject may be administered in addition to the comprehensive assessments required for that subject under this paragraph. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by comprehensive and end-of-course assessments must be aligned to the core curricular content established in the Sunshine State Standards. *During the 2011-2012 school year, an end-of-course assessment in civics education shall be administered as a field test at the middle school level. During the 2012-2013 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education shall constitute 30 percent of the student's final course grade. Beginning with the 2013-2014 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.* The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course or industry-approved examinations to earn national industry certifications as defined in s. 1003.492, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards. The testing program must be designed as follows:

1. The tests shall measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

2. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

3. Beginning with the 2008-2009 school year, the commissioner shall discontinue administration of the selected-response test items on the comprehensive assessments of writing. Beginning with the 2012-2013 school year, the comprehensive assessments of writing shall be composed of a combination of selected-response test items, short-response performance tasks, and extended-response performance tasks, which shall measure a student's content knowledge of writing, including, but not limited to, paragraph and sentence structure, sentence construction, grammar and usage, punctuation, capitalization, spelling, parts of speech, verb tense, irregular verbs, subject-verb agreement, and noun-pronoun agreement.

4. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described in this paragraph or attain concordant scores as described in subsection (10) in reading, writing, and mathematics to qualify for a standard high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall apply only to students taking the grade 10 FCAT for the first time after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT may have the FCAT requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels in reading, writing, and mathematics. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

9. District school boards must provide opportunities for students to demonstrate an acceptable level of performance on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

10. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Sunshine State Standards.

11. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Sunshine State Standards for students with disabilities under s. 1003.438.

12. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student

test results. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results must be made available no later than the final day of the regular school year for students.

b. Beginning with the 2010-2011 school year, a comprehensive statewide assessment of writing is not administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject is not administered earlier than the week of April 15.

c. A statewide standardized end-of-course assessment is administered within the last 2 weeks of the course.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

Section 6. Paragraph (c) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

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

(3) DESIGNATION OF SCHOOL GRADES.—

(c) Student assessment data used in determining school grades shall include:

1. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT *and, beginning with the 2012-2013 school year, the statewide, standardized end-of-course assessment in civics education at the middle school level*.

2. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and who have scored at or in the lowest 25th percentile of students in the school in reading, mathematics, or writing, unless these students are exhibiting satisfactory performance.

3. Effective with the 2005-2006 school year, the achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. The student performance data for eligible students identified in this subparagraph shall be included in the calculation of the home school's grade. As used in this section and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign the FCAT scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for 1 fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

4. Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the data listed in subparagraphs 1.-3. and the following data as the Department of Education determines such data are valid and available:

a. The high school graduation rate of the school as calculated by the Department of Education;

b. The participation rate of all eligible students enrolled in the school and enrolled in College Board Advanced Placement courses; International Baccalaureate courses; dual enrollment courses; Advanced International Certificate of Education courses; and courses or sequence of courses leading to industry certification, as determined by the Agency for Workforce Innovation under s. 1003.492(2) in a career and professional academy, as described in s. 1003.493;

c. The aggregate scores of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, and Advanced International Certificate of Education courses;

d. Earning of college credit by all eligible students enrolled in the school in dual enrollment programs under s. 1007.271;

e. Earning of an industry certification, as determined by the Agency for Workforce Innovation under s. 1003.492(2) in a career and professional academy, as described in s. 1003.493;

f. The aggregate scores of all eligible students enrolled in the school in reading, mathematics, and other subjects as measured by the SAT, the ACT, and the common placement test for postsecondary readiness;

g. The high school graduation rate of all eligible at-risk students enrolled in the school who scored at Level 2 or lower on the grade 8 FCAT Reading and Mathematics examinations;

h. The performance of the school's students on statewide standardized end-of-course assessments administered under s. 1008.22; and

i. The growth or decline in the data components listed in sub-subparagraphs a.-h. from year to year.

The State Board of Education shall adopt appropriate criteria for each school grade. The criteria must also give added weight to student achievement in reading. Schools designated with a grade of "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading, mathematics, or writing on the FCAT, unless these students are exhibiting satisfactory performance. Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the criteria for school grades must also give added weight to the graduation rate of all eligible at-risk students, as defined in this paragraph. Beginning in the 2009-2010 school year, in order for a high school to be designated as having a grade of "A," making excellent progress, the school must demonstrate that at-risk students, as defined in this paragraph, in the school are making adequate progress.

And the title is amended as follows:

Delete lines 9-10 and insert: Program; providing a short title; amending s. 1003.4156, F.S.; providing requirements for a civics education course that a student must successfully complete for middle grades promotion beginning with students entering grade 6 in the 2011-2012 school year; amending s. 1008.22, F.S.; requiring the administration of an end-of-course assessment in civics education as a field test at the middle school level during the 2011-2012 school year; providing requirements for course grade and course credit for subsequent school years; amending s. 1008.34, F.S.; requiring the inclusion of civics education end-of-course assessment data in determining school grades beginning with the 2012-2013 school year; amending s. 1003.429, F.S.; revising

On motion by Senator Wise, further consideration of **CS for CS for SB 2482** with pending **Amendment 4 (725638)** was deferred.

By direction of the President, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has passed SB 216, with amendment(s), and requests the concurrence of the Senate.

Robert L. "Bob" Ward, Clerk

SB 216—A bill to be entitled An act relating to campaign financing; creating s. 106.113, F.S.; defining the terms "local government" and "public funds"; prohibiting a local government from expending, and a person or group from accepting, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment that is subject to the vote of the electors; providing an exception for certain electioneering communications; clarifying restrictions with respect to local officials; providing an effective date.

House Amendment 1 (563947)—Remove line 33 and insert: *concerning an issue, referendum, or amendment, including any state question, that is subject to*

Senator Wise moved the following amendment which failed:

Senate Amendment 1 (301400) (with title amendment) to House Amendment 1—Delete lines 4-6 of House Amendment 1 and insert:

Delete everything after the enacting clause and insert:

Section 1. Section 106.113, Florida Statutes, is created to read:

106.113 Expenditures by local governments.—

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

(a) "Local government" means:

1. A county, municipality, school district, or other political subdivision in this state; and

2. Any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of this state.

(b) "Public funds" means all moneys under the jurisdiction or control of the local government.

(2) A local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

(3) With the exception of the prohibitions specified in subsection (2), this section does not preclude an elected official of the local government from expressing an opinion on any issue at any time.

Section 2. Section 106.295, Florida Statutes, is amended to read:

106.295 *Caucus accountability* ~~Leadership~~ fund.—

(1) For purposes of this section:

(a) "*Caucus accountability* ~~Leadership~~ fund" means accounts comprised of any moneys contributed to a political party, directly or indirectly, which are designated to be used at the partial or total discretion of a leader.

(b) "Leader" means the President of the Senate, the Speaker of the House of Representatives, the majority leader and the minority leader of each house, and any person designated by a political caucus of members of either house to succeed to any such position.

(2) *Notwithstanding any other provision of law, caucus accountability* ~~leadership~~ funds are *authorized* ~~prohibited~~ in this state. ~~No leader shall accept any leadership funds.~~

~~(3) This section applies to leadership funds in existence on or after January 1, 1990~~.

Section 3. This act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to campaign financing; creating s. 106.113, F.S.; defining the terms "local government" and "public funds"; prohibiting a local government from expending, and a person or group from accepting, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment that is subject to the vote of the electors; providing an exception for certain electioneering communications; clarifying restrictions with respect to local officials; amending s. 106.295, F.S.; defining the term "caucus accountability fund"; authorizing the use of caucus accountability funds; providing an effective date.

On motion by Senator Justice, the Senate concurred in the House amendment.

SB 216 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Alexander	Fasano	Peaden
Altman	Gaetz	Pruitt
Aronberg	Gardiner	Rich
Baker	Gelber	Richter
Bennett	Haridopolos	Ring
Bullard	Hill	Siplin
Constantine	Jones	Smith
Crist	Joyner	Sobel
Dean	Justice	Storms
Detert	King	Villalobos
Deutch	Lawson	Wilson
Diaz de la Portilla	Lynn	Wise
Dockery	Oelrich	

Nays—None

MOTION

On motion by Senator Villalobos, the rules were waived and time of recess was extended until 7:00 p.m.

THE PRESIDENT PRESIDING

SPECIAL ORDER CALENDAR, continued

CS for CS for SB 424—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; providing that the executive director of the Florida Transportation Commission is in the Senior Management Service; amending s. 120.52, F.S.; redefining the term "agency" for purposes of ch. 120, F.S., to include certain regional transportation and transit authorities; amending s. 125.42, F.S.; providing for counties to incur certain costs related to the relocation or removal of certain utility facilities under specified circumstances; amending s. 163.3177, F.S.; revising requirements for comprehensive plans; providing a timeframe for submission of certain information to the state land planning agency; providing for airports, land adjacent to airports, and

certain interlocal agreements relating thereto in certain elements of the plan; amending s. 163.3178, F.S.; providing that certain port-related facilities may not be designated as developments of regional impact under certain circumstances; amending s. 163.3182, F.S., relating to transportation concurrency backlog authorities; providing legislative findings and declarations; expanding the power of authorities to borrow money to include issuing certain debt obligations; providing a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects; authorizing authorities to continue operations and administer certain trust funds for the period of the remaining outstanding debt; requiring local transportation concurrency backlog trust funds to continue to be funded for certain purposes; providing for increased ad valorem tax increment funding for such trust funds under certain circumstances; revising provisions for dissolution of an authority; amending s. 337.11, F.S.; providing for the department to pay a portion of certain proposal development costs; requiring the department to advertise certain contracts as design-build contracts; amending s. 337.18, F.S.; requiring the contractor to maintain a copy of the required payment and performance bond at certain locations and provide a copy upon request; providing that a copy may be obtained directly from the department; removing a provision requiring that a copy be recorded in the public records of the county; amending s. 337.185, F.S.; providing for the State Arbitration Board to arbitrate certain claims relating to maintenance contracts; providing for a member of the board to be elected by maintenance companies as well as construction companies; amending s. 337.403, F.S.; providing for the department or local governmental entity to pay certain costs of removal or relocation of a utility facility that is found to be interfering with the use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor under described circumstances; amending s. 337.408, F.S.; providing for public pay telephones and advertising thereon to be installed within the right-of-way limits of any municipal, county, or state road; amending s. 338.01, F.S.; requiring new and replacement electronic toll collection systems to be interoperable with the department's system; amending s. 338.165, F.S.; providing that provisions requiring the continuation of tolls following the discharge of bond indebtedness does not apply to high-occupancy toll lanes or express lanes; creating s. 338.166, F.S.; authorizing the department to request that bonds be issued which are secured by toll revenues from high-occupancy toll or express lanes in a specified location; providing for the department to continue to collect tolls after discharge of indebtedness; authorizing the use of excess toll revenues for improvements to the State Highway System; authorizing the implementation of variable rate tolls on high-occupancy toll lanes or express lanes; amending s. 338.2216, F.S.; directing the Florida Turnpike Enterprise to implement new technologies and processes in its operations and collection of tolls and other amounts; amending s. 338.231, F.S.; revising provisions for establishing and collecting tolls; authorizing the collection of amounts to cover costs of toll collection and payment methods; requiring public notice and hearing; amending s. 339.12, F.S.; revising requirements for aid and contributions by governmental entities for transportation projects; revising limits under which the department may enter into an agreement with a county for a project or project phase not in the adopted work program; authorizing the department to enter into certain long-term repayment agreements; amending s. 339.135, F.S.; revising certain notice provisions that require the Department of Transportation to notify local governments regarding amendments to an adopted 5-year work program; amending s. 339.2816, F.S., relating to the small county road assistance program; providing for resumption of certain funding for the program; revising the criteria for counties eligible to participate in the program; amending s. 348.0003, F.S.; requiring transportation, bridge, and toll authorities to comply with the financial disclosure requirements of the State Constitution; amending s. 479.01, F.S.; revising provisions for outdoor advertising; revising the definition of the term "automatic changeable facing"; amending s. 479.07, F.S.; revising a prohibition against signs on the State Highway System; revising requirements for display of the sign permit tag; directing the department to establish by rule a fee for furnishing a replacement permit tag; revising the pilot project for permitted signs to include Hillsborough County and areas within the boundaries of the City of Miami; amending s. 479.08, F.S.; revising provisions for denial or revocation of a sign permit; amending s. 479.156, F.S.; clarifying that a municipality or county is authorized to make a determination of customary use with respect to regulations governing commercial wall murals and that such determination must be accepted in lieu of any agreement between the state and the United States Department of Transportation; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; deleting provisions providing for permits to be awarded to the highest bidders; requiring the department to implement a rotation-based logo program; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for sign locations inside and outside an urban area; requiring the department to conduct a study of transportation alternatives for the Interstate 95 corridor and report to the Governor, the Legislature, and the affected metropolitan planning organizations; repealing part III of ch. 343 F.S., relating to the Tampa Bay Commuter Transit Authority; transferring any assets to the Tampa Bay Area Regional Transportation Authority; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for CS for SB 424** to **HB 1021**.

Pending further consideration of **CS for CS for SB 424** as amended, on motion by Senator Gardiner, by two-thirds vote **HB 1021** was withdrawn from the Committees on Transportation; Community Affairs; Finance and Tax; and Transportation and Economic Development Appropriations.

On motion by Senator Gardiner—

HB 1021—A bill to be entitled An act relating to the Department of Transportation; requiring the department to conduct a study of transportation alternatives for the Interstate 95 corridor; requiring a report to the Governor, Legislature, and affected metropolitan planning organizations by a certain date; amending s. 125.42, F.S.; providing for counties to incur certain costs related to relocation or removal of certain utility facilities under specified circumstances; amending s. 163.3177, F.S.; revising requirements for comprehensive plans; providing a timeframe for submission of certain information to the state land planning agency; providing for airports, land adjacent to airports, and certain interlocal agreements relating thereto in certain elements of the plan; amending s. 163.3178, F.S.; providing that certain port-related facilities are not developments of regional impact under certain circumstances; amending s. 163.3180, F.S.; defining the term "backlog"; amending s. 163.3182, F.S., relating to transportation concurrency backlog authorities; providing legislative findings and declarations; expanding the power of authorities to borrow money to include issuing certain debt obligations; providing a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects; authorizing authorities to continue operations and administer certain trust funds for the period of the remaining outstanding debt; requiring local transportation concurrency backlog trust funds to continue to be funded for certain purposes; providing for increased ad valorem tax increment funding for such trust funds under certain circumstances; revising provisions for dissolution of an authority; amending s. 287.055, F.S.; conforming a cross-reference; amending s. 334.044, F.S.; clarifying the department's authority to establish and collect variable rate tolls; amending s. 337.11, F.S.; providing for the department to pay a portion of certain proposal development costs; providing that the department shall retain the right to use ideas from unsuccessful firms that accept the stipend; establishing a goal for the department to procure certain contracts as design-build contracts; authorizing the department to adopt rules; amending ss. 337.14 and 337.16, F.S.; conforming cross-references; amending s. 337.18, F.S.; requiring the contractor to maintain a copy of the required payment and performance bond at certain locations and provide a copy upon request; providing that a copy may be obtained directly from the department; removing a provision requiring a copy to be recorded in the public records of the county; amending s. 337.185, F.S.; providing for the State Arbitration Board to arbitrate certain claims relating to maintenance contracts; providing for a member of the board to be elected by maintenance companies or construction companies; amending s. 337.403, F.S.; providing for the department or local governmental entity to pay certain costs of removal or relocation of a utility facility that is found to be interfering with the use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor under described circumstances; amending s. 337.408, F.S.; providing for public pay telephones and advertising thereon to be installed within the right-of-way limits of any municipal, county, or state road; providing exceptions; amending s. 338.01, F.S.; requiring new and replacement electronic toll collection systems to be interoperable with the department's system; amending s. 338.165, F.S.; authorizing the department to use excess toll revenues for public transit;

exempting toll rates on high-occupancy toll lanes or express lanes from consumer price indexing provisions; removing specific identification of certain state-owned toll facilities in the department's authority to request issuance of bonds to fund transportation projects located within the county or counties in which the project is located; amending s. 338.2216, F.S.; directing the Florida Turnpike Enterprise to implement new technologies and processes in its operations and collection of tolls and other amounts; amending s. 338.223, F.S.; conforming a cross-reference; amending s. 338.231, F.S.; revising provisions for establishing and collecting tolls; authorizing collection of amounts to cover costs of toll collection and payment methods; requiring public notice and hearing; amending s. 339.12, F.S.; revising requirements for aid and contributions by governmental entities for transportation projects; revising limits under which the department may enter into an agreement with a county for a project or project phase not in the adopted work program; authorizing the department to enter into certain long-term repayment agreements; amending s. 339.135, F.S.; revising certain notice provisions that require the department to notify local governments regarding amendments to an adopted 5-year work program; amending s. 339.155, F.S.; revising provisions for development of the Florida Transportation Plan; removing provisions for a short-range component and an annual performance report; amending s. 339.2816, F.S., relating to the Small County Road Assistance Program; providing for resumption of certain funding for the program; revising the criteria for counties eligible to participate in the program; amending ss. 339.2819 and 339.285, F.S.; conforming cross-references; repealing part III of ch. 343 F.S.; abolishing the Tampa Bay Commuter Transit Authority; amending s. 348.0003, F.S.; providing for financial disclosure for expressway, transportation, bridge, and toll authorities; amending s. 348.0004, F.S.; providing for certain expressway authorities to index toll rate increases; amending s. 479.01, F.S.; revising provisions for outdoor advertising; revising the definition of the term "automatic changeable facing"; amending s. 479.07, F.S.; revising a prohibition against signs on the State Highway System; revising requirements for display of the sign permit tag; directing the department to establish by rule a fee for furnishing a replacement permit tag; revising the pilot project for permitted signs to include Hillsborough County and areas within the boundaries of the City of Miami; amending s. 479.08, F.S.; revising provisions for denial or revocation of a sign permit; amending s. 479.156, F.S.; modifying provisions for local government control of the regulation of wall murals adjacent to certain federal highways; providing for notification to the Federal Highway Administration; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; deleting provisions for permits to be awarded to the highest bidders; authorizing the department to implement a rotation-based logo program; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for sign locations inside and outside an urban area; creating a business partnership pilot program; authorizing the Palm Beach County School District to display names of business partners on district property in unincorporated areas; exempting the program from specified provisions; authorizing the expenditure of public funds for certain alterations of Old Cutler Road in the Village of Palmetto Bay; requiring the official approval of the Department of State before any alterations may begin; amending s. 120.52, F.S.; revising the definition of the term "agency"; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 424** as amended and read the second time by title.

Senator Gardiner moved the following amendment:

Amendment 1 (728458) (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each:

1. State officer and state department, and each departmental unit described in s. 20.04.

2. Authority, including a regional water supply authority.

3. Board, including the Board of Governors of the State University System and a state university board of trustees when acting pursuant to statutory authority derived from the Legislature.

4. Commission, including the Commission on Ethics and the Fish and Wildlife Conservation Commission when acting pursuant to statutory authority derived from the Legislature.

5. Regional planning agency.

6. Multicounty special district with a majority of its governing board comprised of nonelected persons.

7. Educational units.

8. Entity described in chapters 163, 373, 380, and 582 and s. 186.504.

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

This definition does not include any legal entity or agency created in whole or in part pursuant to chapter 361, part II, any metropolitan planning organization created pursuant to s. 339.175, any separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member, an expressway authority pursuant to chapter 348 or *any* transportation authority under *chapter 343 or* chapter 349, any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection, or any multicounty special district with a majority of its governing board comprised of elected persons; however, this definition shall include a regional water supply authority.

Section 2. Subsection (5) of section 125.42, Florida Statutes, is amended to read:

125.42 Water, sewage, gas, power, telephone, other utility, and television lines along county roads and highways.—

(5) In the event of widening, repair, or reconstruction of any such road, the licensee shall move or remove such water, sewage, gas, power, telephone, and other utility lines and television lines at no cost to the county*, except as provided in s. 337.403(1)(e)*.

Section 3. Paragraphs (a), (h), and (j) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to ~~the provisions of~~ paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; *lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02;* the discouragement of urban sprawl; energy-efficient land use

patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of *lands* adjacent or closely proximate *to* ~~lands with~~ military installations*, and lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02*. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and *may* ~~shall~~ not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category *is* ~~shall be~~ eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of *lands* adjacent or closely proximate *to* ~~lands with~~ existing military installations*, or lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02,* in their future land use plan element shall transmit the update or amendment to the *state land planning agency* ~~department~~ by June 30, *2012* ~~2006~~.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide ~~for~~ procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30 *and airport master plans under paragraph (k)*.

c. The intergovernmental coordination element may provide for a voluntary dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. A local government may develop and use an alternative local dispute resolution process for this purpose.

d. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.a. Local governments *shall* ~~must~~ execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted

pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

(j) For each unit of local government within an urbanized area designated for purposes of s. 339.175, a transportation element, which *must* ~~shall~~ be prepared and adopted in lieu of the requirements of paragraph (b) and paragraphs (7)(a), (b), (c), and (d) and which shall address the following issues:

1. Traffic circulation, including major thoroughfares and other routes, including bicycle and pedestrian ways.

2. All alternative modes of travel, such as public transportation, pedestrian, and bicycle travel.

3. Parking facilities.

4. Aviation, rail, seaport facilities, access to those facilities, and intermodal terminals.

5. The availability of facilities and services to serve existing land uses and the compatibility between future land use and transportation elements.

6. The capability to evacuate the coastal population prior to an impending natural disaster.

7. Airports, projected airport and aviation development, and land use compatibility around airports*, which includes areas defined in ss. 333.01 and 333.02*.

8. An identification of land use densities, building intensities, and transportation management programs to promote public transportation systems in designated public transportation corridors so as to encourage population densities sufficient to support such systems.

9. May include transportation corridors, as defined in s. 334.03, intended for future transportation facilities designated pursuant to s. 337.273. If transportation corridors are designated, the local government may adopt a transportation corridor management ordinance.

10. The incorporation of transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.

Section 4. Subsection (3) of section 163.3178, Florida Statutes, is amended to read:

163.3178 Coastal management.—

(3) Expansions to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9); port transportation facilities and projects listed in s. 311.07(3)(b); ~~and~~ intermodal transportation facilities identified pursuant to s. 311.09(3)*; and facilities determined by the Department of Community Affairs and applicable general-purpose local government to be port-related industrial or commercial projects located within 3 miles of or in a port master plan area which rely upon the use of port and intermodal transportation facilities* shall not be *designated as* developments of regional impact *if* ~~where~~ such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section.

Section 5. Paragraph (c) is added to subsection (2) of section 163.3182, Florida Statutes, and paragraph (d) of subsection (3) and subsections (4), (5), and (8) of that section are amended, to read:

163.3182 Transportation concurrency backlogs.—

(2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG AUTHORITIES.—

(c) The Legislature finds and declares that there exists in many counties and municipalities areas that have significant transportation deficiencies and inadequate transportation facilities; that many insufficiencies and inadequacies severely limit or prohibit the satisfaction of transportation concurrency standards; that the transportation insufficiencies and inadequacies affect the health, safety, and welfare of the residents of these counties and municipalities; that the transportation insufficiencies and inadequacies adversely affect economic development and growth of the tax base for the areas in which these insufficiencies and inadequacies exist; and that the elimination of transportation deficiencies and inadequacies and the satisfaction of transportation concurrency standards are paramount public purposes for the state and its counties and municipalities.

(3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG AUTHORITY.—Each transportation concurrency backlog authority has the powers necessary or convenient to carry out the purposes of this section, including the following powers in addition to others granted in this section:

(d) To borrow money*, including, but not limited to, issuing debt obligations such as, but not limited to, bonds, notes, certificates, and similar debt instruments*; to apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the Federal Government or the state, county, or any other public body or from any sources, public or private, for the purposes of this part; to give such security as may be required; to enter into and carry out contracts or agreements; and to include in any contracts for financial assistance with the Federal Government for or with respect to a transportation concurrency backlog project and related activities such conditions imposed *under* ~~pursuant to~~ federal laws as the transportation concurrency backlog authority considers reasonable and appropriate and which are not inconsistent with the purposes of this section.

(4) TRANSPORTATION CONCURRENCY BACKLOG PLANS.—

(a) Each transportation concurrency backlog authority shall adopt a transportation concurrency backlog plan as a part of the local government comprehensive plan within 6 months after the creation of the authority. The plan *must* ~~shall~~:

1. Identify all transportation facilities that have been designated as deficient and require the expenditure of moneys to upgrade, modify, or mitigate the deficiency.

2. Include a priority listing of all transportation facilities that have been designated as deficient and do not satisfy concurrency requirements pursuant to s. 163.3180, and the applicable local government comprehensive plan.

3. Establish a schedule for financing and construction of transportation concurrency backlog projects that will eliminate transportation concurrency backlogs within the jurisdiction of the authority within 10 years after the transportation concurrency backlog plan adoption. The schedule shall be adopted as part of the local government comprehensive plan.

(b) The adoption of the transportation concurrency backlog plan shall be exempt from the provisions of s. 163.3187(1).

Notwithstanding such schedule requirements, as long as the schedule provides for the elimination of all transportation concurrency backlogs within 10 years after the adoption of the concurrency backlog plan, the final maturity date of any debt incurred to finance or refinance the related projects may be no later than 40 years after the date the debt is incurred and the authority may continue operations and administer the trust fund established as provided in subsection (5) for as long as the debt remains outstanding.

(5) ESTABLISHMENT OF LOCAL TRUST FUND.—The transportation concurrency backlog authority shall establish a local transportation concurrency backlog trust fund upon creation of the authority. Each local trust fund shall be administered by the transportation concurrency backlog authority within which a transportation concurrency backlog has been identified. *Each local trust fund must continue to be funded under this section for as long as the projects set forth in the related transportation concurrency backlog plan remain to be completed or until any debt incurred to finance or refinance the related projects are no longer outstanding, whichever occurs later.* Beginning in the first fiscal year after the creation of the authority, each local trust fund shall be funded by the proceeds of an ad valorem tax increment collected within each transportation concurrency backlog area to be determined annually and shall be *a minimum of* 25 percent of the difference between *the amounts set forth in paragraphs (a) and (b), except that if all of the affected taxing authorities agree under an interlocal agreement, a particular local trust fund may be funded by the proceeds of an ad valorem tax increment*

greater than 25 percent of the difference between the amounts set forth in paragraphs (a) and (b):

(a) The amount of ad valorem tax levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the jurisdiction of the transportation concurrency backlog authority and within the transportation backlog area; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property within the transportation concurrency backlog area as shown on the most recent assessment roll used in connection with the taxation of such property of each taxing authority prior to the effective date of the ordinance funding the trust fund.

(8) DISSOLUTION.—Upon completion of all transportation concurrency backlog projects *and repayment or defeasance of all debt issued to finance or refinance such projects*, a transportation concurrency backlog authority shall be dissolved, and its assets and liabilities ~~shall be~~ transferred to the county or municipality within which the authority is located. All remaining assets of the authority must be used for implementation of transportation projects within the jurisdiction of the authority. The local government comprehensive plan shall be amended to remove the transportation concurrency backlog plan.

Section 6. Subsection (7) of section 337.11, Florida Statutes, is amended, present subsections (8) through (15) of that section are renumbered as subsections (9) through (16), respectively, and a new subsection (8) is added to that section, to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)(a) If ~~the head of~~ the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a building, a major bridge, a limited access facility, or a rail corridor project into a single contract. Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects for which the department has not yet obtained title to the necessary rights-of-way and easements for the construction of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested in the state when the title has been dedicated to the public or acquired by prescription.

(b) The department shall adopt by rule procedures for administering design-build contracts. Such procedures shall include, but not be limited to:

1. Prequalification requirements.

2. Public announcement procedures.

3. Scope of service requirements.

4. Letters of interest requirements.

5. Short-listing criteria and procedures.

6. Bid proposal requirements.

7. Technical review committee.

8. Selection and award processes.

9. Stipend requirements.

(c) The department must receive at least three letters of interest in order to proceed with a request for proposals. The department shall request proposals from no fewer than three of the design-build firms submitting letters of interest. If a design-build firm withdraws from consideration after the department requests proposals, the department may continue if at least two proposals are received.

(8) If the department determines that it is in the best interest of the public, the department may pay a stipend to nonselected design-build firms that have submitted responsive proposals for construction contracts. The decision and amount of a stipend shall be based upon department analysis of the estimated proposal development costs and the anticipated degree of engineering design during the procurement process. The department retains the right to use those designs from responsive nonselected design-build firms that accept a stipend.

Section 7. Paragraph (b) of subsection (1) of section 337.18, Florida Statutes, is amended to read:

337.18 Surety bonds for construction or maintenance contracts; requirement with respect to contract award; bond requirements; defaults; damage assessments.—

(1)

(b) *Before beginning any work under the contract, the contractor shall maintain a copy of the payment and performance bond required under this section at its principal place of business and at the jobsite office, if one is established, and the contractor shall provide a copy of the payment and performance bond within 5 days after receiving a written request for the bond. A copy of the payment and performance bond required under this section may also be obtained directly from the department by making a request pursuant to chapter 119.* ~~Upon execution of the contract, and prior to beginning any work under the contract, the contractor shall record in the public records of the county where the improvement is located the payment and performance bond required under this section.~~ A claimant *has* ~~shall have~~ a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. *The* ~~Such~~ action *may* ~~shall~~ not involve the department in any expense.

Section 8. Subsections (1), (2), and (7) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction *and maintenance* contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." For the purpose of this section, *the term* "claim" *means* ~~shall mean~~ the aggregate of all outstanding claims by a party arising out of a construction *or maintenance* contract. Every contractual claim in an amount up to $250,000 per contract or, at the claimant's option, up to $500,000 per contract or, upon agreement of the parties, up to $1 million per contract that cannot be resolved by negotiation between the department and the contractor shall be arbitrated by the board after acceptance of the project by the department. As an exception, either party to the dispute may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction *or maintenance* companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. The head of the department may select an alternative or substitute to serve as the department member for any hearing or term. Each member shall serve a 2-year term. The board shall elect a chair, each term, who shall be the administrator of the board and custodian of its records.

(7) The members of the board may receive compensation for the performance of their duties hereunder, from administrative fees received by the board, except that no employee of the department may receive compensation from the board. The compensation amount shall be determined by the board, but *may* ~~shall~~ not exceed $125 per hour, up to a maximum of $1,000 per day for each member authorized to receive compensation. ~~Nothing in~~ This section *does not* ~~shall~~ prevent the mem-

ber elected by construction *or maintenance* companies from being an employee of an association affiliated with the industry, even if the sole responsibility of that member is service on the board. Travel expenses for the industry member may be paid by an industry association, if necessary. The board may allocate funds annually for clerical and other administrative services.

Section 9. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road or publicly owned rail corridor that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs *(a)-(f)* ~~(a), (b), and (c)~~.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627 of the 84th Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of *the* ~~such~~ project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate *the* ~~such~~ facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of *the* ~~such~~ work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and utility is executed for utility improvement, relocation, or removal work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

(d) If the utility facility being removed or relocated was initially installed to exclusively serve the department, its tenants, or both, the department shall bear the costs of removing or relocating that utility facility. However, the department is not responsible for bearing the cost of removing or relocating any subsequent additions to that facility for the purpose of serving others.

(e) If, under an agreement between a utility and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of removing or relocating the utility, the authority shall bear the cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009.

(f) If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past 5 years, the department shall incur all costs of the relocation.

Section 10. Subsections (4) and (5) of section 337.408, Florida Statutes, are amended, present subsection (7) of that section is renumbered as subsection (8), and a new subsection (7) is added to that section, to read:

337.408 Regulation of benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.—

(4) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, waste disposal receptacle, *public pay telephone,* or modular news rack *that* ~~which~~ endangers life or property, except that transit bus benches *that were* ~~which have been~~ placed in service *before* ~~prior to~~ April 1, 1992, are not required to comply with bench size and advertising display size requirements ~~which have been~~ established by the department *before* ~~prior to~~ March 1, 1992. Any transit bus bench that was in service *before* ~~prior to~~ April 1, 1992, may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable. The department *may* ~~is authorized to~~ adopt rules relating to the regulation of bench size and advertising display size requirements. If a municipality or county within which a bench is to be located has adopted an ordinance or other applicable regulation that establishes bench size or advertising display sign requirements different from requirements specified in department rule, the local government requirement *applies* ~~shall be applicable~~ within the respective municipality or county. Placement of any bench or advertising display on the National Highway System under a local ordinance or regulation adopted *under* ~~pursuant to~~ this subsection *is* ~~shall be~~ subject to approval of the Federal Highway Administration.

(5) *A* ~~No~~ bench, transit shelter, waste disposal receptacle, *public pay telephone,* or modular news rack, or advertising thereon, *may not* ~~shall~~ be erected or ~~so~~ placed on the right-of-way of any road *in a manner that* ~~which~~ conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, waste disposal receptacle, *public pay telephone,* or modular news rack services or advertising on such benches, shelters, receptacles, *public pay telephone,* or news racks may be regulated, restricted, or denied by the appropriate local government entity consistent with ~~the provisions of~~ this section.

(7) A public pay telephone, including advertising displayed thereon, may be installed within the right-of-way limits of any municipal, county, or state road, except on a limited access highway, if the pay telephone is installed by a provider duly authorized and regulated by the Public Service Commission under s. 364.3375, if the pay telephone is operated in accordance with all applicable state and federal telecommunications regulations, and if written authorization has been given to a public pay telephone provider by the appropriate municipal or county government. Each advertisement must be limited to a size no greater than 8 square feet and a public pay telephone booth may not display more than three advertisements at any given time. An advertisement is not allowed on public pay telephones located in rest areas, welcome centers, or other such facilities located on an interstate highway.

Section 11. Subsection (6) is added to section 338.01, Florida Statutes, to read:

338.01 Authority to establish and regulate limited access facilities.—

(6) All new limited access facilities and existing transportation facilities on which new or replacement electronic toll collection systems are installed shall be interoperable with the department's electronic toll-collection system.

Section 12. Present subsections (7) and (8) of section 338.165, Florida Statutes, are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

338.165 Continuation of tolls.—

(7) This section does not apply to high-occupancy toll lanes or express lanes.

Section 13. Section 338.166, Florida Statutes, is created to read:

338.166 High-occupancy toll lanes or express lanes.—

(1) Under s. 11, Art. VII of the State Constitution, the department may request the Division of Bond Finance to issue bonds secured by toll rev-

enues collected on high-occupancy toll lanes or express lanes located on Interstate 95 in Miami-Dade and Broward Counties.

(2) The department may continue to collect the toll on the high-occupancy toll lanes or express lanes after the discharge of any bond indebtedness related to such project. All tolls so collected shall first be used to pay the annual cost of the operation, maintenance, and improvement of the high-occupancy toll lanes or express lanes project or associated transportation system.

(3) Any remaining toll revenue from the high-occupancy toll lanes or express lanes shall be used by the department for the construction, maintenance, or improvement of any road on the State Highway System.

(4) The department may implement variable-rate tolls on high-occupancy toll lanes or express lanes.

(5) Except for high-occupancy toll lanes or express lanes, tolls may not be charged for use of an interstate highway where tolls were not charged as of July 1, 1997.

(6) This section does not apply to the turnpike system as defined under the Florida Turnpike Enterprise Law.

Section 14. Paragraph (d) is added to subsection (1) of section 338.2216, Florida Statutes, to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(1)

(d) The Florida Turnpike Enterprise shall pursue and implement new technologies and processes in its operations and collection of tolls and the collection of other amounts associated with road and infrastructure usage. Such technologies and processes must include, without limitation, video billing and variable pricing.

Section 15. Section 338.231, Florida Statutes, is amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls *and amounts* for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

~~(1) In the process of effectuating toll rate increases over the period 1988 through 1992, the department shall, to the maximum extent feasible, equalize the toll structure, within each vehicle classification, so that the per mile toll rate will be approximately the same throughout the turnpike system. New turnpike projects may have toll rates higher than the uniform system rate where such higher toll rates are necessary to qualify the project in accordance with the financial criteria in the turnpike law. Such higher rates may be reduced to the uniform system rate when the project is generating sufficient revenues to pay the full amount of debt service and operating and maintenance costs at the uniform system rate. If, after 15 years of opening to traffic, the annual revenue of a turnpike project does not meet or exceed the annual debt service requirements and operating and maintenance costs attributable to such project, the department shall, to the maximum extent feasible, establish a toll rate for the project which is higher than the uniform system rate as necessary to meet such annual debt service requirements and operating and maintenance costs. The department may, to the extent feasible, establish a temporary toll rate at less than the uniform system rate for the purpose of building patronage for the ultimate benefit of the turnpike system. In no case shall the temporary rate be established for more than 1 year. The requirements of this subsection shall not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds.~~

(1) ~~(2)~~ Notwithstanding any other ~~provision of~~ law, the department may defer the scheduled July 1, 1993, toll rate increase on the Homestead Extension of the Florida Turnpike until July 1, 1995. The department may also advance funds to the Turnpike General Reserve Trust Fund to replace estimated lost revenues resulting from this deferral. The amount advanced must be repaid within 12 years from the date of advance; however, the repayment is subordinate to all other debt financing of the turnpike system outstanding at the time repayment is due.

(2) ~~(3)~~ The department shall publish a proposed change in the toll rate for the use of an existing toll facility, in the manner provided for in s. 120.54, which will provide for public notice and the opportunity for a public hearing before the adoption of the proposed rate change. When the department is evaluating a proposed turnpike toll project under s. 338.223 and has determined that there is a high probability that the project will pass the test of economic feasibility predicated on proposed toll rates, the toll rate that is proposed to be charged after the project is constructed must be adopted during the planning and project development phase of the project, in the manner provided for in s. 120.54, including public notice and the opportunity for a public hearing. For such a new project, the toll rate becomes effective upon the opening of the project to traffic.

(3)(a) ~~(4)~~ For the period July 1, 1998, through June 30, 2017, the department shall, to the maximum extent feasible, program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade County, Broward County, and Palm Beach County as compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system. ~~The requirements of~~ This subsection *does* ~~do~~ not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds. *The department may at any time for economic considerations establish lower temporary toll rates for a new or existing toll facility for a period not to exceed 1 year, after which the toll rates adopted pursuant to s. 120.54 shall become effective.*

(b) The department shall also fix, adjust, charge, and collect such amounts needed to cover the costs of administering the different toll-collection and payment methods, and types of accounts being offered and used, in the manner provided for in s. 120.54 which will provide for public notice and the opportunity for a public hearing before adoption. Such amounts may stand alone, be incorporated in a toll rate structure, or be a combination of the two.

(4) ~~(5)~~ When bonds are outstanding which have been issued to finance or refinance any turnpike project, the tolls and all other revenues derived from the turnpike system and pledged to such bonds shall be set aside as may be provided in the resolution authorizing the issuance of such bonds or the trust agreement securing the same. The tolls or other revenues or other moneys so pledged and thereafter received by the department are immediately subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge is valid and binding as against all parties having claims of any kind in tort or contract or otherwise against the department irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the department.

(5) ~~(6)~~ In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement *must* ~~shall~~ establish that the Sawgrass Expressway *is* ~~shall be~~ subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues *is* ~~shall be~~ subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to ~~provisions of~~ any

subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.

(6) ~~(7)~~ The use and disposition of revenues pledged to bonds are subject to ~~the provisions of~~ ss. 338.22-338.241 and such regulations as the resolution authorizing the issuance of *the* ~~such~~ bonds or such trust agreement may provide.

Section 16. Subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess of the actual cost of the project or project phase. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases that are not revenue producing and are contained in the department's adopted work program, or any public transportation project contained in the adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases. Reimbursement to the governmental entity for such a project or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.01401(19).

(b) Prior to entering an agreement to advance a project or project phase pursuant to this subsection and subsection (5), the department shall first update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in s. 339.135(7). The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program *authorized by this paragraph* may not at any time exceed *$250* ~~$100~~ million. However, notwithstanding such *$250* ~~$100~~ million limit and any similar limit in s. 334.30, project advances for any inland county with a population greater than 500,000 dedicating amounts equal to $500 million or more of its Local Government Infrastructure Surtax pursuant to s. 212.055(2) for improvements to the State Highway System which are included in the local metropolitan planning organization's or the department's long-range transportation plans shall be excluded from the calculation of the statewide limit of project advances.

(d) The department may enter into agreements under this subsection with any county that has a population of 150,000 or fewer as determined by the most recent official estimate under s. 186.901 for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature under s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program authorized by this paragraph may not at any time exceed $200 million. The project must be included in the local government's adopted comprehensive plan. The department may enter into long-term repayment agreements of up to 30 years.

Section 17. Paragraph (d) of subsection (7) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(d)1. *Whenever the department proposes any amendment to the adopted work program, as defined in subparagraph (c)1. or subparagraph (c)3., which deletes or defers a construction phase on a capacity project, it shall notify each county affected by the amendment and each municipality within the county. The notification shall be issued in writing to the chief elected official of each affected county, each municipality within the county, and the chair of each affected metropolitan planning organization. Each affected county and each municipality in the county is encouraged to coordinate with each other in order to determine how the amendment affects local concurrency management and regional transportation planning efforts. Each affected county, and each municipality within the county, shall have 14 days to provide written comments to the department regarding how the amendment will affect its respective concurrency management systems, including whether any development permits were issued contingent upon the capacity improvement, if applicable. After receipt of written comments from the affected local governments, the department shall include any written comments submitted by such local governments in its preparation of the proposed amendment.*

2. Following the 14-day comment period in subparagraph 1., if applicable, whenever the department proposes any amendment to the adopted work program, which amendment is defined in subparagraph (c)1., subparagraph (c)2., subparagraph (c)3., or subparagraph (c)4., it shall submit the proposed amendment to the Governor for approval and shall immediately notify the chairs of the legislative appropriations committees, the chairs of the legislative transportation committees, *and* each member of the Legislature who represents a district affected by the proposed amendment*. It shall also notify* ~~,~~ each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment*, unless it provided to each the notification required by subparagraph 1.* Such proposed amendment shall provide a complete justification of the need for the proposed amendment.

3. ~~2.~~ The Governor *may* ~~shall~~ not approve a proposed amendment until 14 days following the notification required in subparagraph *2.* ~~1.~~

4. ~~3.~~ If either of the chairs of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives objects in writing to a proposed amendment within 14 days following notification and specifies the reasons for such objection, the Governor shall disapprove the proposed amendment.

Section 18. Subsection (3) and paragraphs (b) and (c) of subsection (4) of section 339.2816, Florida Statutes, are amended to read:

339.2816 Small County Road Assistance Program.—

(3) Beginning with fiscal year 1999-2000 until fiscal year 2009-2010*, and beginning again with fiscal year 2012-2013,* up to $25 million annually from the State Transportation Trust Fund may be used for the purposes of funding the Small County Road Assistance Program as described in this section.

(4)

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, including the

amount of local option fuel tax ~~and ad valorem millage rate~~ imposed by the county. The department may also consider the extent to which the county has offered to provide a match of local funds with state funds provided under the program. At a minimum, small counties shall be eligible only if~~:~~

~~1.~~ the county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a)~~, and has imposed an ad valorem millage rate of at least 8 mills; or~~

~~2. The county has imposed an ad valorem millage rate of 10 mills~~.

(c) The following criteria *must* ~~shall~~ be used to prioritize road projects for funding under the program:

1. The primary criterion is the physical condition of the road as measured by the department.

2. As secondary criteria the department may consider:

a. Whether a road is used as an evacuation route.

b. Whether a road has high levels of agricultural travel.

c. Whether a road is considered a major arterial route.

d. Whether a road is considered a feeder road.

e. Whether a road is located in a fiscally constrained county, as defined in s. 218.67(1).

f. ~~e.~~ Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the department.

Section 19. Paragraph (c) of subsection (4) of section 348.0003, Florida Statutes, is amended to read:

348.0003 Expressway authority; formation; membership.—

(4)

(c) Members of *each expressway* ~~an~~ authority*, transportation authority, bridge authority, or toll authority, created pursuant to this chapter, chapter 343, or chapter 349 or any other legislative enactment* shall ~~be required to~~ comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. *This paragraph does not subject any statutorily created authority, other than an expressway authority created under this part, to any other requirement of this part except the requirement of this paragraph.*

Section 20. Subsection (1) of section 479.01, Florida Statutes, is amended to read:

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

(1) "Automatic changeable facing" means a facing *that* ~~which through a mechanical system~~ is capable of delivering two or more advertising messages *through an automated or remotely controlled process* ~~and shall not rotate so rapidly as to cause distraction to a motorist~~.

Section 21. Subsections (1), (5), and (9) of section 479.07, Florida Statutes, are amended to read:

479.07 Sign permits.—

(1) Except as provided in ss. 479.105(1)(e) and 479.16, a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System outside an *urban* ~~incorporated~~ area*, as defined in s. 334.03(32),* or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from the department and paying the annual fee as provided in this section. *As used in* ~~For purposes of~~ this section, *the term* "on any portion of the State Highway System, interstate, or federal-aid primary system" *means* ~~shall mean~~ a sign located within the controlled area which is visible from any portion of the main-traveled way of such system.

(5)(a) For each permit issued, the department shall furnish to the applicant a serially numbered permanent metal permit tag. The permittee is responsible for maintaining a valid permit tag on each permitted sign facing at all times. The tag shall be securely attached to the sign facing or, if there is no facing, on the pole nearest the highway; and it shall be attached in such a manner as to be plainly visible from the main-traveled way. *Effective July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main-traveled way.* The permit *becomes* ~~will become~~ void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance. If the permittee fails to erect a completed sign on the permitted site within 270 days after the date on which the permit was issued, the permit will be void, and the department may not issue a new permit to that permittee for the same location for 270 days after the date on which the permit became void.

(b) If a permit tag is lost, stolen, or destroyed, the permittee to whom the tag was issued must apply to the department for a replacement tag. *The department shall adopt a rule establishing a service fee for replacement tags in an amount that will recover the actual cost of providing the replacement tag.* Upon receipt of the application accompanied by *the* ~~a~~ service fee ~~of $3~~, the department shall issue a replacement permit tag. *Alternatively, the permittee may provide its own replacement tag pursuant to department specifications that the department shall adopt by rule at the time it establishes the service fee for replacement tags.*

(9)(a) A permit shall not be granted for any sign for which a permit had not been granted by the effective date of this act unless such sign is located at least:

1. One thousand five hundred feet from any other permitted sign on the same side of the highway, if on an interstate highway.

2. One thousand feet from any other permitted sign on the same side of the highway, if on a federal-aid primary highway.

The minimum spacing provided in this paragraph does not preclude the permitting of V-type, back-to-back, side-to-side, stacked, or double-faced signs at the permitted sign site. *If a sign is visible from the controlled area of more than one highway subject to the jurisdiction of the department, the sign shall meet the permitting requirements of, and, if the sign meets the applicable permitting requirements, be permitted to, the highway having the more stringent permitting requirements.*

(b) A permit shall not be granted for a sign pursuant to this chapter to locate such sign on any portion of the interstate or federal-aid primary highway system, which sign:

1. Exceeds 50 feet in sign structure height above the crown of the main-traveled way, if outside an incorporated area;

2. Exceeds 65 feet in sign structure height above the crown of the main-traveled way, if inside an incorporated area; or

3. Exceeds 950 square feet of sign facing including all embellishments.

(c) Notwithstanding subparagraph (a)1., there is established a pilot program in Orange*, Hillsborough,* and Osceola Counties*, and within the boundaries of the City of Miami,* under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet if all other requirements of this chapter are met and if:

1. The local government has adopted a plan, program, resolution, ordinance, or other policy encouraging the voluntary removal of signs in a downtown, historic, redevelopment, infill, or other designated area which also provides for a new or replacement sign to be erected on an interstate highway within that jurisdiction if a sign in the designated area is removed;

2. The sign owner and the local government mutually agree to the terms of the removal and replacement; and

3. The local government notifies the department of its intention to allow such removal and replacement as agreed upon pursuant to subparagraph 2.

The department shall maintain statistics tracking the use of the provisions of this pilot program based on the notifications received by the department from local governments under this paragraph.

(d) ~~Nothing in~~ This subsection *does not* ~~shall be construed so as to~~ cause a sign *that* ~~which~~ was conforming on October 1, 1984, to become nonconforming.

Section 22. Section 479.08, Florida Statutes, is amended to read:

479.08 Denial or revocation of permit.—The department *may* ~~has the authority to~~ deny or revoke any permit requested or granted under this chapter in any case in which it determines that the application for the permit contains knowingly false or misleading information*. The department may revoke any permit granted under this chapter in any case in which* ~~or that~~ the permittee has violated any of the provisions of this chapter, unless such permittee, within 30 days after the receipt of notice by the department, ~~corrects such false or misleading information and~~ complies with the provisions of this chapter. *For the purpose of this section, the notice of violation issued by the department must describe in detail the alleged violation.* Any person aggrieved by any action of the department in denying or revoking a permit under this chapter may, within 30 days after receipt of the notice, apply to the department for an administrative hearing pursuant to chapter 120. If a timely request for hearing has been filed and the department issues a final order revoking a permit, such revocation shall be effective 30 days after the date of rendition. Except for department action pursuant to s. 479.107(1), the filing of a timely and proper notice of appeal shall operate to stay the revocation until the department's action is upheld.

Section 23. Section 479.156, Florida Statutes, is amended to read:

479.156 Wall murals.—Notwithstanding any other provision of this chapter, a municipality or county may permit and regulate wall murals within areas designated by such government. If a municipality or county permits wall murals, a wall mural that displays a commercial message and is within 660 feet of the nearest edge of the right-of-way within an area adjacent to the interstate highway system or the federal-aid primary highway system shall be located in an area that is zoned for industrial or commercial use and the municipality or county shall establish and enforce regulations for such areas that, at a minimum, set forth criteria governing the size, lighting, and spacing of wall murals consistent with the intent of the Highway Beautification Act of 1965 and with customary use. *Whenever a municipality or county exercises such control and makes a determination of customary use pursuant to 23 U.S.C. s. 131(d), such determination shall be accepted in lieu of controls in the agreement between the state and the United States Department of Transportation, and the department shall notify the Federal Highway Administration pursuant to the agreement, 23 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c).* A wall mural that is subject to municipal or county regulation and the Highway Beautification Act of 1965 must be approved by the Department of Transportation and the Federal Highway Administration *when required by federal law and federal regulation under* ~~and may not violate~~ the agreement between the state and the United States Department of Transportation *and* ~~or violate~~ federal regulations enforced by the Department of Transportation under s. 479.02(1). The existence of a wall mural as defined in s. 479.01(27) shall not be considered in determining whether a sign as defined in s. 479.01(17), either existing or new, is in compliance with s. 479.07(9)(a).

Section 24. Subsections (1), (3), (4), and (5) of section 479.261, Florida Statutes, are amended to read:

479.261 Logo sign program.—

(1) The department shall establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, ~~and~~ camping*, attractions, and other* services*, as approved by the Federal Highway Administration,* at interchanges, through the use of business logos, and may include additional interchanges under the program. ~~A logo sign for nearby attractions may be added to this program if allowed by federal rules.~~

(a) An attraction as used in this chapter is defined as an establishment, site, facility, or landmark *that* ~~which~~ is open a minimum of 5 days a week for 52 weeks a year; *that* ~~which charges an admission for entry; which~~ has as its principal focus family-oriented entertainment, cultural, educational, recreational, scientific, or historical activities; and *that* ~~which~~ is publicly recognized as a bona fide tourist attraction. ~~However, the permits for businesses seeking to participate in the attractions logo sign program shall be awarded by the department annually to the highest bidders, notwithstanding the limitation on fees in subsection (5), which are qualified for available space at each qualified location, but the fees therefor may not be less than the fees established for logo participants in other logo categories.~~

(b) The department shall incorporate the use of RV-friendly markers on specific information logo signs for establishments that cater to the needs of persons driving recreational vehicles. Establishments that qualify for participation in the specific information logo program and that also qualify as "RV-friendly" may request the RV-friendly marker on their specific information logo sign. An RV-friendly marker must consist of a design approved by the Federal Highway Administration. The department shall adopt rules in accordance with chapter 120 to administer this paragraph, including rules setting forth the minimum requirements that establishments must meet in order to qualify as RV-friendly. These requirements shall include large parking spaces, entrances, and exits that can easily accommodate recreational vehicles and facilities having appropriate overhead clearances, if applicable.

(c) The department may implement a 3-year rotation-based logo program providing for the removal and addition of participating businesses in the program.

(3) Logo signs may be installed upon the issuance of an annual permit by the department or its agent and payment of *a* ~~an application and~~ permit fee to the department or its agent.

(4) The department may contract pursuant to s. 287.057 for the provision of services related to the logo sign program, including recruitment and qualification of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of logo signs. The department may reject all proposals and seek another request for proposals or otherwise perform the work. ~~If the department contracts for the provision of services for the logo sign program, the contract must require, unless the business owner declines, that businesses that previously entered into agreements with the department to privately fund logo sign construction and installation be reimbursed by the contractor for the cost of the signs which has not been recovered through a previously agreed upon waiver of fees.~~ The contract also may allow the contractor to retain a portion of the annual fees as compensation for its services.

(5) Permit fees for businesses that participate in the program must be established in an amount sufficient to offset the total cost to the department for the program, including contract costs. The department shall provide the services in the most efficient and cost-effective manner through department staff or by contracting for some or all of the services. *The department shall adopt rules that set reasonable rates based upon factors such as population, traffic volume, market demand, and costs for annual permit fees. However, annual permit fees for sign locations inside an urban area, as defined in s. 334.03(32), may not exceed $5,000, and annual permit fees for sign locations outside an urban area, as defined in s. 334.03(32), may not exceed $2,500. After recovering program costs, the proceeds from the logo program shall be deposited into the State Transportation Trust Fund and used for transportation purposes.* ~~Such annual permit fee shall not exceed $1,250.~~

Section 25. *The Department of Transportation, in consultation with the Department of Law Enforcement, the Department of Environmental Protection, the Division of Emergency Management of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, affected metropolitan planning organizations, and regional planning councils within whose jurisdictional area the I-95 corridor lies, shall complete a study of transportation alternatives for the travel corridor parallel to Interstate 95 which takes into account the transportation, emergency management, homeland security, and economic development needs of the state. The report must include identification of cost-effective measures that may be implemented to alleviate congestion on Interstate 95, facilitate emergency and security responses, and foster economic development. The Department of Transportation shall send the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each affected metropolitan planning organization by June 30, 2010.*

Section 26. *(1) Part III of chapter 343, Florida Statutes, consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75, 343.76, and 343.77, is repealed.*

(2) Any assets or liabilities of the Tampa Bay Commuter Transit Authority are transferred to the Tampa Bay Area Regional Transportation Authority as created under s. 343.92, Florida Statutes.

Section 27. This act shall take effect July 1, 2009.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to transportation; amending s. 120.52, F.S.; redefining the term "agency" for purposes of ch. 120, F.S., to include certain regional transportation and transit authorities; amending s. 125.42, F.S.; providing for counties to incur certain costs related to the relocation or removal of certain utility facilities under specified circumstances; amending s. 163.3177, F.S.; revising requirements for comprehensive plans; providing a timeframe for submission of certain information to the state land planning agency; providing for airports, land adjacent to airports, and certain interlocal agreements relating thereto in certain elements of the plan; amending s. 163.3178, F.S.; providing that certain port-related facilities may not be designated as developments of regional impact under certain circumstances; amending s. 163.3182, F.S., relating to transportation concurrency backlog authorities; providing legislative findings and declarations; expanding the power of authorities to borrow money to include issuing certain debt obligations; providing a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects; authorizing authorities to continue operations and administer certain trust funds for the period of the remaining outstanding debt; requiring local transportation concurrency backlog trust funds to continue to be funded for certain purposes; providing for increased ad valorem tax increment funding for such trust funds under certain circumstances; revising provisions for dissolution of an authority; amending s. 337.11, F.S.; providing for the department to pay a portion of certain proposal development costs; requiring the department to advertise certain contracts as design-build contracts; amending s. 337.18, F.S.; requiring the contractor to maintain a copy of the required payment and performance bond at certain locations and provide a copy upon request; providing that a copy may be obtained directly from the department; removing a provision requiring that a copy be recorded in the public records of the county; amending s. 337.185, F.S.; providing for the State Arbitration Board to arbitrate certain claims relating to maintenance contracts; providing for a member of the board to be elected by maintenance companies as well as construction companies; amending s. 337.403, F.S.; providing for the department or local governmental entity to pay certain costs of removal or relocation of a utility facility that is found to be interfering with the use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor under described circumstances; amending s. 337.408, F.S.; providing for public pay telephones and advertising thereon to be installed within the right-of-way limits of any municipal, county, or state road; amending s. 338.01, F.S.; requiring new and replacement electronic toll collection systems to be interoperable with the department's system; amending s. 338.165, F.S.; providing that provisions requiring the continuation of tolls following the discharge of bond indebtedness does not apply to high-occupancy toll lanes or express lanes; creating s. 338.166, F.S.; authorizing the department to request that bonds be issued which are secured by toll revenues from high-occupancy toll or express lanes in a specified location; providing for the department to continue to collect tolls after discharge of indebtedness; authorizing the use of excess toll revenues for improvements to the State Highway System; authorizing the implementation of variable rate tolls on high-occupancy toll lanes or express lanes; amending s. 338.2216, F.S.; directing the Florida Turnpike Enterprise to implement new technologies and processes in its operations and collection of tolls and other amounts; amending s. 338.231, F.S.; revising provisions for establishing and collecting tolls; authorizing the collection of amounts to cover costs of toll collection and payment methods; requiring public notice and hearing; amending s. 339.12, F.S.; revising requirements for aid and contributions by governmental entities for transportation projects; revising limits under which the department may enter into an agreement with a county for a project or project phase not in the adopted work program; authorizing the department to enter into certain long-term repayment agreements; amending s. 339.135, F.S.; revising certain notice provisions that require the Department of Transportation to notify local governments regarding amendments to an adopted 5-year work program; amending s. 339.2816, F.S., relating to the small county road assistance program; providing for resumption of certain funding for the program; revising the criteria for counties eligible to participate in the program; amending s. 348.0003, F.S.; requiring transportation, bridge, and toll authorities to comply with the financial disclosure requirements of the State Constitution; amending s. 479.01, F.S.; revising provisions for outdoor advertising; revising the definition of the term "automatic changeable facing"; amending s. 479.07, F.S.; revising a prohibition against signs on the State Highway System; revising requirements for display of the sign permit tag; directing the department to establish by rule a fee for furnishing a replacement permit tag; revising the pilot project for permitted signs to include Hillsborough County and areas within the boundaries of the City of Miami; amending s. 479.08, F.S.; revising provisions for denial or revocation of a sign permit; amending s. 479.156, F.S.; clarifying that a municipality or county is authorized to make a determination of customary use with respect to regulations governing commercial wall murals and that such determination must be accepted in lieu of any agreement between the state and the United States Department of Transportation; amending s. 479.261, F.S.; revising requirements for the logo sign program of the interstate highway system; deleting provisions providing for permits to be awarded to the highest bidders; requiring the department to implement a rotation-based logo program; requiring the department to adopt rules that set reasonable rates based on certain factors for annual permit fees; requiring that such fees not exceed a certain amount for sign locations inside and outside an urban area; requiring the department to conduct a study of transportation alternatives for the Interstate 95 corridor and report to the Governor, the Legislature, and the affected metropolitan planning organizations; repealing part III of ch. 343 F.S., relating to the Tampa Bay Commuter Transit Authority; transferring any assets to the Tampa Bay Area Regional Transportation Authority; providing an effective date.

Senator Bennett offered the following amendment to **Amendment 1** which was moved by Senator Gardiner and adopted:

Amendment 1A (108518) (with title amendment)—Between lines 305 and 306 insert:

Section 5. Paragraphs (a) and (b) of subsection (12) and paragraph (i) of subsection (16) of section 163.3180, Florida Statutes, are created to read:

163.3180 Concurrency.—

(12)*(a)* A development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

1. ~~(a)~~ The development of regional impact which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;

2. ~~(b)~~ The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required mobility improvements that will benefit a regionally significant transportation facility;

3. ~~(c)~~ The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

4. ~~(d)~~ If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a

stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. This subsection also applies to Florida Quality Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

(b) As used in this subsection, the term "backlog" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(i) As used in this subsection, the term "backlog" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

And the title is amended as follows:

Delete line 1331 and insert: impact under certain circumstances; amending s. 163.3180, F.S.; providing a definition for "backlog"; amending s. 163.3182, F.S.,

MOTION

Senator Ring moved that the rules be waived to allow consideration of the late filed amendment **1B (626368)**. The motion failed, therefore the amendment was not considered.

The vote was:

Yeas—17

Mr. President	Bullard	Gardiner
Alexander	Constantine	Haridopolos
Altman	Detert	Peaden
Aronberg	Deutch	Pruitt
Baker	Diaz de la Portilla	Ring
Bennett	Fasano	

Nays—23

Crist	Joyner	Siplin
Dean	Justice	Smith
Dockery	King	Sobel
Gaetz	Lawson	Storms
Garcia	Lynn	Villalobos
Gelber	Oelrich	Wilson
Hill	Rich	Wise
Jones	Richter	

Vote after roll call:

Nay to Yea—Gaetz, Smith

Senator Constantine moved the following amendment to **Amendment 1**:

Amendment 1B (337392) (with title amendment)—Delete line 1311 and insert:

Section 27. Effective upon this act becoming a law, section 341.301, Florida Statutes, is amended to read:

341.301 Definitions; *ss. 341.302-341.303* ~~ss. 341.302 and 341.303~~.—As used in *ss. 341.302-341.303* ~~ss. 341.302 and 341.303~~, the term:

(1) "Branch line continuance project" means a project that involves branch line rehabilitation, new connecting track, rail banking, and other similar types of projects, including those specifically identified in the federal Railroad Revitalization and Regulatory Reform Act of 1976, and subsequent amendments to that act.

(2) "Intercity rail transportation system" means the network of railroad facilities used or available for interstate and intrastate passenger and freight operations by railroads, whether or not on a schedule or whether or not restricted.

(3) "Rail programs" means those programs administered by the state or other governmental entities which involve projects affecting the movement of people or goods by rail lines that have been or will be constructed to serve freight or passenger markets within a city or between cities.

(4) "Rail service development project" means a project undertaken by a public agency to determine whether a new or innovative technique or measure can be utilized to improve or expand rail service. The duration of the project funding shall be limited according to the type of project and in no case shall exceed 3 years. Rail service development projects include those projects and other actions undertaken to enhance railroad operating efficiency or increased rail service, including measures that result in improved speed profiles, operations, or technological applications that lead to reductions in operating costs and increases in productivity or service.

(5) "Railroad" or "rail system" means any common carrier fixed-guideway transportation system such as the conventional steel rail-supported, steel-wheeled system. The term does not include a high-speed rail line developed by the Department of Transportation pursuant to ss. 341.8201-341.842.

(6) "Railroad capital improvement project" means a project identified by the rail component of the Florida Transportation Plan, which project involves the leasing, acquisition, design, construction, reconstruction, or improvement to the existing intercity rail transportation system or future segments thereof, including such items as locomotives and other rolling stock, tracks, terminals, and rights-of-way for the continuance or expansion of rail service as necessary to ensure the continued effectiveness of the state's rail facilities and systems in meeting mobility and industrial development needs.

(7) "Train" means any locomotive engine that is powered by diesel fuel, electricity, or other means, with or without cars coupled thereto, and operated upon a railroad track or any other form of fixed guideway, except that the term does not include a light rail vehicle such as a streetcar or people mover.

(8) "Commuter rail passenger" or "passengers" means all persons, ticketed or unticketed, using the commuter rail service on a department-owned rail corridor:

(a) On board trains, locomotives, rail cars, or rail equipment employed in commuter rail service or entraining and detraining therefrom;

(b) On or about the rail corridor for any purpose related to the commuter rail service, including, parking, inquiring about commuter rail service, or purchasing tickets therefor, and coming to, waiting for, leaving from, or observing trains, locomotives, rail cars, or rail equipment; or

(c) Meeting, assisting, or in the company of any person described in paragraph (a) or paragraph (b).

(9) "Commuter rail service" means the transportation of commuter rail passengers and other passengers by rail pursuant to a rail program provided by the department or any other governmental entities.

(10) "Rail corridor invitee" means all persons who are on or about a department-owned rail corridor:

(a) For any purpose related to any ancillary development thereon; or

(b) Meeting, assisting, or in the company of any person described in paragraph (a).

(11) "Rail corridor" means a linear contiguous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

(12) "Railroad operations" means the use of the rail corridor to conduct commuter rail service, intercity rail passenger service, or freight rail service.

(13) "Ancillary development" includes any lessee or licensee of the department, including other governmental entities, vendors, retailers, restaurateurs, or contract service providers, within a department-owned rail corridor, except for providers of commuter rail service, intercity rail passenger service, or freight rail service.

(14) "Governmental entity" or "entities" has the same meaning as provided in s. 11.45, including a "public agency" as defined in s. 163.01.

Section 28. Effective upon this act becoming a law, section 341.302, Florida Statutes, is amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental *entities* ~~units~~ and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under *federal law* ~~Title 49 C.F.R. part 212~~, the department shall:

(1) Provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs.

(2) Promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems.

(3) Develop and periodically update the rail system plan, on the basis of an analysis of statewide transportation needs.

(a) The plan *may contain detailed regional components, consistent with regional transportation plans, as needed to ensure connectivity within the state's regions, and it* shall be consistent with the Florida Transportation Plan developed pursuant to s. 339.155. The rail system plan shall include an identification of priorities, programs, and funding levels required to meet statewide *and regional* needs. The rail system plan shall be developed in a manner that will assure the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. The rail system plan shall be updated at least every *5* ~~2~~ years and include plans for both passenger rail service and freight rail service*, accompanied by a report to the Legislature regarding the status of the plan*.

(b) In recognition of the department's role in the enhancement of the state's rail system to improve freight and passenger mobility, the department shall:

1. Continue to work closely with all affected communities, including, but not limited to, the City of Lakeland, the City of Plant City, and Polk County, to identify and address anticipated impacts associated with an increase in freight rail traffic;

2. In coordination with the affected local governments and CSX Transportation, Inc., finalize all viable alternatives from the department's Rail Traffic Evaluation Study to identify and develop an alternative route for through-freight rail traffic moving through Central Florida, including Polk and Hillsborough Counties. Following the completion of the department's alternative rail traffic evaluation, the department shall begin a project development and environmental study that must be reviewed and approved by appropriate federal agencies so that a preferred alternative can be identified which minimizes the impacts associated with freight rail movements along the corridor. This preferred alternative shall become the basis for future development of this freight rail corridor and, with a priority ranking from the Polk Transportation Planning Organization, or its successor, shall be programmed for funding in the department's work program in a fiscal year no later than 10 years from commencement of construction of the CSX Integrated Logistics Center; and

3. Provide technical assistance to a coalition of local governments in Central Florida, including the counties of Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole, Sumter, and Volusia, and the municipalities within those counties, to develop a regional rail system plan that addresses passenger and freight opportunities in the region, is consistent with the Florida Rail System Plan, and incorporates appropriate elements of the Tampa Bay Area Regional Authority Master Plan, the Metroplan Orlando Regional Transit System Concept Plan, including the Sunrail project, and the Florida Department of Transportation Alternate Rail Traffic Evaluation.

(4) As part of the work program of the department, formulate a specific program of projects and financing to respond to identified railroad needs.

(5) Provide technical and financial assistance to units of local government to address identified rail transportation needs.

(6) Secure and administer federal grants, loans, and apportionments for rail projects within this state when necessary to further the statewide program.

(7) Develop and administer state standards concerning the safety and performance of rail systems, hazardous material handling, and operations. Such standards shall be developed jointly with representatives of affected rail systems, with full consideration given to nationwide industry norms, and shall define the minimum acceptable standards for safety and performance.

(8) Conduct, at a minimum, inspections of track and rolling stock; train signals and related equipment; hazardous materials transportation, including the loading, unloading, and labeling of hazardous materials at shippers', receivers', and transfer points; and train operating practices to determine adherence to state and federal standards. Department personnel may enforce any safety regulation issued under the Federal Government's preemptive authority over interstate commerce.

(9) Assess penalties, in accordance with the applicable federal regulations, for the failure to adhere to the state standards.

(10) Administer rail operating and construction programs, which programs shall include the regulation of maximum train operating speeds, the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, the administering of the programs by the department including participation in the cost of the programs.

(11) Coordinate and facilitate the relocation of railroads from congested urban areas to nonurban areas when relocation has been determined feasible and desirable from the standpoint of safety, operational efficiency, and economics.

(12) Implement a program of branch line continuance projects when an analysis of the industrial and economic potential of the line indicates

that public involvement is required to preserve essential rail service and facilities.

(13) Provide new rail service and equipment when:

(a) Pursuant to the transportation planning process, a public need has been determined to exist;

(b) The cost of providing such service does not exceed the sum of revenues from fares charged to users, services purchased by other public agencies, local fund participation, and specific legislative appropriation for this purpose; and

(c) Service cannot be reasonably provided by other governmental or privately owned rail systems.

The department may own, lease, and otherwise encumber facilities, equipment, and appurtenances thereto, as necessary to provide new rail services; or the department may provide such service by contracts with privately owned service providers.

(14) Furnish required emergency rail transportation service if no other private or public rail transportation operation is available to supply the required service and such service is clearly in the best interest of the people in the communities being served. Such emergency service may be furnished through contractual arrangement, actual operation of state-owned equipment and facilities, or any other means determined appropriate by the secretary.

(15) Assist in the development and implementation of marketing programs for rail services and of information systems directed toward assisting rail systems users.

(16) Conduct research into innovative or potentially effective rail technologies and methods and maintain expertise in state-of-the-art rail developments.

(17) In conjunction with the acquisition, ownership, construction, operation, maintenance, and management of a rail corridor, have the authority to:

(a) Assume the obligation by contract to forever protect, defend, indemnify, and hold harmless the freight rail operator, or its successors, from whom the department has acquired a real property interest in the rail corridor, and that freight rail operator's officers, agents, and employees, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers, rail corridor invitees, and trespassers in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of such freight rail operator, its successors, or its officers, agents, and employees, or any other person or persons whomsoever, provided that such assumption of liability of the department by contract shall not in any instance exceed the following parameters of allocation of risk:

1. The department may be solely responsible for any loss, injury, or damage to commuter rail passengers, rail corridor invitees, or trespassers, regardless of circumstances or cause, subject to subparagraphs 2., 3., and 4.

2. When only one train is involved in an incident, the department may be solely responsible for any loss, injury, or damage if the train is a department train or other train pursuant to subparagraph 3., but only if in an instance when only a freight rail operator train is involved, the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers, rail corridor invitees, and trespassers, and the freight rail operator is solely responsible for its property and all of its people in any instance when its train is involved in an incident.

3. For the purposes of this subsection, any train involved in an incident that is neither the department's train nor the freight rail operator's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and the freight rail operator only, but only if the department and the freight rail operator share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a freight rail operator train, and the allocation as between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

4. When more than one train is involved in an incident:

a. If only a department train and freight rail operator's train, or only another train as described in subparagraph 3. and a freight rail operator's train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, rail corridor invitees, and trespassers, but only if the freight rail operator is responsible for its property and all of its people, and the department and the freight rail operator each share one-half responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

b. If a department train, a freight rail operator train, and any other train are involved in an incident, the allocation of liability between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, and, if the owner, operator, or insurer of the other train makes any payment to injured third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, the allocation of credit between the department and the freight rail operator as to such payment shall not in any case reduce the freight rail operator's third-party-sharing allocation of one-half under this paragraph to less than one-third of the total third-party liability.

5. Any such contractual duty to protect, defend, indemnify, and hold harmless such a freight rail operator shall expressly include a specific cap on the amount of the contractual duty, which amount shall not exceed $200 million without prior legislative approval, and the department shall purchase liability insurance and establish a self-insurance retention fund in the amount of the specific cap established under this subparagraph, provided that:

a. No such contractual duty shall in any case be effective or otherwise extend the department's liability in scope and effect beyond the contractual liability insurance and self-insurance retention fund required pursuant to this paragraph; and

b. The freight rail operator's compensation to the department for future use of the department's rail corridor shall include a monetary contribution to the cost of such liability coverage for the sole benefit of the freight rail operator.

(b) Purchase liability insurance, which amount shall not exceed $200 million, and establish a self-insurance retention fund for the purpose of paying the deductible limit established in the insurance policies it may obtain, including coverage for the department, any freight rail operator as described in paragraph (a), commuter rail service providers, governmental entities, or ancillary development. The insureds shall pay a reasonable monetary contribution to the cost of such liability coverage for the sole benefit of the insured. Such insurance and self-insurance retention fund may provide coverage for all damages, including, but not limited to, compensatory, special, and exemplary, and be maintained to provide an adequate fund to cover claims and liabilities for loss, injury, or damage arising out of or connected with the ownership, operation, maintenance, and management of a rail corridor.

(c) Incur expenses for the purchase of advertisements, marketing, and promotional items.

Neither the assumption by contract to protect, defend, indemnify, and hold harmless; the purchase of insurance; nor the establishment of a self-insurance retention fund shall be deemed to be a waiver of any defense of sovereign immunity for torts nor deemed to increase the limits of the department's or the governmental entity's liability for torts as provided in s. 768.28. The requirements of s. 287.022(1) shall not apply to the purchase of any insurance hereunder. The provisions of this subsection shall

apply and inure fully as to any other governmental entity providing commuter rail service and constructing, operating, maintaining, or managing a rail corridor on publicly owned right-of-way under contract by the governmental entity with the department or a governmental entity designated by the department.

(18) ~~(17)~~ Exercise such other functions, powers, and duties in connection with the rail system plan as are necessary to develop a safe, efficient, and effective statewide transportation system.

Section 29. *Effective upon this act becoming a law, the Department of Transportation may complete an escrowed closing on the pending Central Florida Rail Corridor acquisition; however, the drawdown of such escrowed closing shall not occur unless and until final Federal Transit Administration full-funding grant agreement approval is obtained for the proposed Central Florida Commuter Rail Transit Project Initial Operating Segment.*

Section 30. Effective upon this act becoming a law, subsection (1) of section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1)*(a)* A surcharge of $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 such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter.

(b) A county with a population of at least 1,250,000 and at least 25 municipalities may impose a county surcharge of $2 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry fewer than nine passengers, regardless of whether such motor vehicle is licensed in Florida. The county surcharge applies to only the first 30 days of the term of any lease or rental. The county surcharge is subject to all applicable taxes imposed by this chapter. The county surcharge is subject to the following conditions:

1. The county surcharge may be used solely to fund the transportation needs of the county as determined by the county commission.

2. The county surcharge may be imposed only by a super majority vote of the county commission.

3. The county commission shall, by a super majority vote at the same meeting at which the county surcharge was authorized, also designate the account or fund into which the proceeds from the county surcharge shall be deposited.

4. All funds collected from the county surcharge shall be deposited into the designated account or fund, subject to the applicable taxes imposed by this chapter.

5. Funds deposited into the account or fund must be used solely for the purpose of funding transportation needs as determined by the county commission.

6. After the county commission votes to impose a county surcharge, the county surcharge shall be applied on the first day of the month following the vote.

7. The authority to impose the county surcharge approved by the county commission is effective immediately after the vote and is valid until the next business day following the 2010 general election.

8. The county commission that approved the county surcharge shall cause the question to be placed on the ballot for a vote by the electors of that county on or before the 2010 general election.

9. If a majority of the voters of the county vote in favor of the referendum approving the continuation of the county surcharge, the surcharge continues to be valid.

10. If a majority of the voters of the county vote against the referendum approving the continuation of the county surcharge, the county surcharge shall cease to be effective on the next business day following the election.

11. Notwithstanding subparagraph 7., if a majority of the voters of the county vote against continuation of the surcharge as provided in subparagraph 10., the county commission may, within 6 months after the election and by a super majority vote of the commission, impose the surcharge authorized by this section without causing the question to be placed again on ballot for a vote by the electors.

Section 31. Except as otherwise expressly provided by this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2009.

And the title is amended as follows:

Delete line 1428 and insert: Regional Transportation Authority; amending s. 341.301, F.S.; providing definitions relating to commuter rail service, rail corridors, and railroad operation for purposes of the rail program within the Department of Transportation; amending s. 341.302, F.S.; revising certain citations; revising the time period within which the department must revise the rail system plan and requiring a report; providing additional duties for the department relating to a regional rail system plan; authorizing the department to assume certain liability on a rail corridor; authorizing the department to indemnify and hold harmless a railroad company when the department acquires a rail corridor from the company; providing allocation of risk; providing a specific cap on the amount of the contractual duty for such indemnification; authorizing the department to purchase and provide insurance in relation to rail corridors; authorizing marketing and promotional expenses; extending provisions to other governmental entities providing commuter rail service on public right-of-way; authorizing an escrowed closing of the pending Central Florida Rail Corridor acquisition; amending s. 212.0606, F.S.; authorizing a county to impose a county surcharge upon the lease or rental of a motor vehicle licensed for hire; requiring that the county surcharge may be used solely to fund the transportation needs of the county as determined by the county commission; requiring the county commission to place the county surcharge on the ballot for a vote by the electors; prescribing a process by which the county may impose the surcharge after the electors vote against continuation of the surcharge; providing effective dates.

MOTION

Senator Bullard moved that the rules be waived to allow consideration of the late filed amendment **1C (929938)**. The motion failed, therefore the amendment was not considered.

The question recurred on **Amendment 1B** which was withdrawn. **Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **HB 1021** as amended was placed on the calendar of Bills on Third Reading.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lawson, the rules were waived and by two-thirds vote **SB 338** and **CS for SB 906** were placed on the Special Order Calendar.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Villalobos, the rules were waived and the conference committee on Education Pre-K - 12 Appropriations was granted permission to meet this day at 7:15 p.m.; the conference committee on General Government Appropriations was granted permission to meet at 8:00 p.m.; the conference committee on Health and Human Services Appropriations was granted permission to meet at 7:15 p.m.; the conference committee on Higher Education Appropriations was granted permission to meet at 7:45 p.m.; the conference committee on Transportation and Economic Development Appropriations was granted permission to meet at 7:15 p.m.; and the conference committee on Criminal and Civil Justice Appropriations was granted permission to meet at 7:00 p.m.

MOTIONS

On motion by Senator Villalobos, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the next Special Order Calendar.

On motion by Senator Villalobos, the rules were waived and **CS for CS for HB 55** was retained on the Special Order Calendar.

On motion by Senator Villalobos, the rules were waived and a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Friday, May 1.

On motion by Senator Villalobos, the rules were waived and a deadline of 8:30 p.m. this day was set for filing amendments to **SB 338** and **CS for SB 906** to be considered Friday, May 1.

REPORTS OF COMMITTEES

Pursuant to Rule 4.18 the Chair of the Committee on Rules submits the following bills to be placed on the Local Bill Calendar for Thursday, April 30, 2009: CS for HB 775, HB 777, CS for HB 1095, CS for HB 1113, CS for HB 1169, CS for HB 1369, CS for CS for HB 1375.

Respectfully submitted,
J. Alex Villalobos, Chair

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for HB 521, HB 807, CS for HB 903 and requests the concurrence of the Senate.

Robert L. "Bob" Ward, Clerk

By Economic Development & Community Affairs Policy Council, Military & Local Affairs Policy Committee and Representative(s) Lopez-Cantera, Crisafulli, Holder, Van Zant—

CS for CS for HB 521—A bill to be entitled An act relating to ad valorem tax assessment challenges; amending s. 194.301, F.S.; revising burden of proof requirements in taxpayer challenges of ad valorem tax assessments of value; requiring property appraisers to prove compliance with certain laws and appraisal practices; providing a presumption of correctness under certain circumstances; providing taxpayer burden of proof requirements; deleting provisions relating to a presumption of correctness of an assessment by a property appraiser; authorizing value adjustment boards or courts to establish assessments under certain circumstances; specifying that a property appraiser's denial of exemption or assessment classification does not have a presumption of correctness in administrative or judicial actions; requiring a taxpayer to prove entitlement to an ad valorem tax exemption or classification by a preponderance of the evidence; providing legislative intent relating to taxpayer burden of proof; rejecting certain case law precedent; providing construction; providing for retroactive application; providing an effective date.

—was referred to the Committees on Community Affairs; Judiciary; and Finance and Tax; and the Policy and Steering Committee on Ways and Means.

By Representative(s) Clarke-Reed, Rogers, Zapata—

HB 807—A bill to be entitled An act relating to the Florida Kidcare program; requiring the Office of Program Policy Analysis and Government Accountability to perform a study of the outreach efforts of the Florida Kidcare program; providing requirements for the study; requiring a report to the Legislature by a specified date; providing an effective date.

—was referred to the Committees on Health Regulation; and Health and Human Services Appropriations; and the Policy and Steering Committee on Ways and Means.

By General Government Policy Council and Representative(s) Flores, McKeel, Murzin, Williams, T.—

CS for HB 903—A bill to be entitled An act relating to attorney's fees in workers' compensation cases; amending s. 440.34, F.S.; clarifying requirements for the payment of fees and costs under a retainer agreement; specifying the amount of attorney's fees which a claimant is entitled to recover from a carrier or employer; providing an effective date.

—was referred to the Committees on Banking and Insurance; Judiciary; and General Government Appropriations.

RETURNING MESSAGES — FINAL ACTION

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 168, CS for SB 258, CS for CS for SB 440, CS for CS for CS for CS for SB 462, CS for CS for CS for SB 494, CS for CS for SB 712, CS for CS for SB 1000, CS for SB 1580 and SB 2330.

Robert L. "Bob" Ward, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Jeff Atwater, President

I am directed to inform the Senate that the House of Representatives has concurred in House Amendment(s) and passed CS for CS for HB 227 and HB 331 as amended.

Robert L. "Bob" Ward, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 29 was corrected and approved.

CO-INTRODUCERS

Senators Altman—CS for SB 1006; Aronberg—CS for SB 1126; Bullard—CS for CS for CS for SB 904; Crist—CS for CS for SB 340, CS for CS for SB 440, CS for CS for CS for CS for SB 462, CS for SB 1126; Gaetz—SB 442; Gelber—CS for SM 152; Lynn—SB 234, CS for CS for CS for SB 236, CS for SB 270, CS for CS for SB 308, CS for CS for SB 456, CS for SB 502, CS for CS for SB 712, CS for CS for SB 762, CS for CS for SB 810, CS for CS for CS for SB 1022, CS for CS for CS for SB 1128; Smith—CS for SB 910

RECESS

On motion by Senator Villalobos, the Senate recessed at 6:55 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Friday, May 1 or upon call of the President.