

Military & Local Affairs Policy Committee

Wednesday, March 17, 2010

9:30 AM

Webster Hall (212 Knott)

MEETING PACKET

**Larry Cretul
Speaker**

**Dorothy Hukill
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Military & Local Affairs Policy Committee

Start Date and Time: Wednesday, March 17, 2010 09:30 am
End Date and Time: Wednesday, March 17, 2010 12:00 pm
Location: Webster Hall (212 Knott)
Duration: 2.50 hrs

Consideration of the following proposed committee substitute(s):

PCS for CS/HB 663 -- Building Safety

Consideration of the following bill(s):

HB 629 Firesafety Inspections by Burgin
HB 1095 Special Districts by Pafford
HB 1109 Water Supply by Williams, T.
HB 1157 Local Government Prompt Payment Act by Eisnaugle
HB 1485 Hillsborough County by Glorioso
HB 1625 Brevard County by Workman
HB 1627 Hardee County Economic Development Authority, Hardee County by Troutman



Pursuant to rule 7.13, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 pm, Tuesday, March 16, 2010.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted by 6:00 pm, Tuesday, March 16, 2010.

NOTICE FINALIZED on 03/15/2010 16:14 by Dickens.Mary

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 663 Building Safety
SPONSOR(S): Military & Local Affairs Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Military & Local Affairs Policy Committee		Rojas 	Hoagland 
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Proposed Committee Substitute (PCS) revises various laws regarding building safety.

Provides that the expiration, lapse, non-renewal, or revocation of a building permit issued to the property owner after a 3 year period provided to commence repair or rebuilding constitutes abandonment of the property as homestead.

As to elevator safety, the PCS:

- Limits requirements to retrofit elevators to comply with certain changes to the Florida Building Code.
- Permits the use of a lock box to provide regional emergency elevator access.
- Repeals emergency alternative power requirements for high-rise residential multi-family dwellings.

The bill delays applicability of home inspector and mold assessor licensure and regulation until July 1, 2011, amends licensure requirements, and provides guidelines for practicing home inspectors and mold assessors to be licensed under a grandfather provision.

Regarding the Florida Building Code, the PCS:

- Authorizes the Department of Community Affairs to contract for administration of the inspection and certification of manufactured buildings and reinstates local jurisdiction over prototype buildings.
- Amends authority of the Florida Building Commission to allow fees for nonbinding interpretations of the Building Code and amendments to the Florida Building Code addressing equivalency of standards, needs of state agencies facing federal mandates, and inconsistencies in federal and state law.
- Requires state agencies to contract for inspection services under the alternative plans review and inspection process or with a local governmental entity.
- Exempts certain mausoleums and prisoner housing from the Building Code.
- Revises requirements as to carbon monoxide alarms, pool pump motors, air conditioner installation, roof-mounted equipment and windstorm mitigation.

Relating to Fire Prevention and Safety, the PCS:

- Provides guidelines for the State Fire Marshal to follow when issuing expedited declaratory statements.
- Establishes a process for nonbinding interpretations of the Florida Fire Prevention Code.
- Requires continuing education reciprocity between the Division of the State Fire Marshall and the Building Code Administrators and Inspectors Board.
- Amends certification requirements for fire protection service contractors, fire equipment dealers and certain firefighters.
- Revises continuing education licensure requirements.

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

STORAGE NAME: pcs0663.MLA.doc
DATE: 3/15/2010

The PCS directs that public fire hydrants owned by a governmental entity to be inspected following standards adopted by the State Fire Marshal or equivalent standards. Additionally, the PCS provides that county, municipal, and special district utilities may perform fire hydrant inspections with employees that have not been certified by the State Fire Marshal. However, the fore mentioned utilities are responsible for ensuring that the designated employees are qualified to perform such inspections. As to condominiums, the bill repeals a 5-year inspection requirement concerning the maintenance, useful life, and replacement cost of common elements.

If provisions relating to emergency access to elevators are interpreted to require the state buy back distributed master keys, there would be an associated negative fiscal impact.

The PCS has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Abandonment of Property

Current Situation

Section 196.031(6), F.S., provides that when homestead property is damaged or destroyed by misfortune or calamity and the property is uninhabitable the homestead exemption may be granted if the property is otherwise qualified and if the property owner notifies the property appraiser that he or she intends to repair or rebuild the property and live in the property as his or her primary residence after the property is repaired or rebuilt and does not claim a homestead exemption on any other property.

Current law also provides that failure of the property owner to initiate the repair or rebuilding of the homestead property within 3 years following the property's damage or destruction constitutes abandonment of the property as a homestead.

Proposed Changes

The PCS adds language that after a 3 year period provided for repair or rebuilding, the expiration, lapse, non-renewal, or revocation of a building permit issued to the property owner will also constitute abandonment of the property as homestead.

Elevator Safety

The Elevator Safety Act, chapter 399, F.S., provides minimum safety standards for elevators and minimum training and/or experience for elevator personnel working under the Florida Building Code. The Act is enforced by the Bureau of Elevator Safety (bureau) of the Division of Hotels and Restaurants within the Department of Business and Professional Regulation.¹

¹ Section 399.02(6), F.S.

Florida Building Code Requirements

Current Situation

The Elevator Safety Code contained within the Florida Building Code (Building Code) must be based on the minimum model standards of the American Society of Mechanical Engineers (ASME).² ASME provides standards for elevator installation, operation and maintenance. ASME A17 serves as the basis for the Florida Elevator Safety Act and the Florida Elevator Safety Code.³ ASME A17.1 provides requirements applicable to the installation, alteration, maintenance, repair, inspection and safety testing of new and existing elevators. ASME A17.3 guides retroactive requirements for existing elevators.

Elevators must comply with the edition of the Building Code in effect when the application for elevator construction is submitted.⁴ Likewise, alterations, relocations and reclassifications of existing elevators must be in compliance with the edition of the Building Code in effect when the application for such permit is submitted. Recently the Division of Administrative Hearings held that the bureau could require elevator owners to retrofit their elevators to meet revisions of the Building Code.⁵

The number of elevators that failed inspections and the number of variance and waiver requests has increased. It is unclear whether this is due to the burden of retrofitting elevators to meet new requirements or other factors, such as improved enforcement.⁶

Representatives for elevator owners, including condominium associations, and the City of Miami Beach have expressed concerns regarding the expense of requiring elevator owners to retrofit or modify elevators to meet code revisions. According to the bureau, it has granted several requests from elevator owners for variances and waivers related to the expense of complying with revisions to the code.

Firefighter Elevator Service – There are elevator systems designed with safety features for firefighters to use during an emergency:

Phase I emergency recall systems are designed to automatically or manually recall the elevator to the lobby of a high rise building to prevent use of the elevator during a fire.

Phase II emergency in-call operation systems are designed to allow a firefighter exclusive operation and control of the elevator during a fire.

According to the bureau, no injuries or deaths have been attributed to the lack of these systems.

Proposed Changes

The PCS amends s. 399.02, F.S., to exempt elevators issued certificates of operation before July 1, 2009, from retroactive application of provisions of and any updates to the Elevator Safety Code (including A17.1 and A17.3) concerning modifications for Phase II Firefighter Services controls on existing elevators. The exemption does not apply once the elevator is replaced. The exemption does not apply to buildings issued a building permit on or after July 1, 2009.

² Section 399.02(1), F.S.

³ See Rule 61C-5.001, F.A.C.; Ch. 30, Florida Building Code.

⁴ Section 399.02(1), F.S.

⁵ *City of Miami Beach v. Dept. Business and Professional Regulation*, DOAH Case No. 03-5188RU, Final Order issued February 27, 2009.

⁶ See *Review of Elevator Safety and Regulation*, Interim Report 2010-128, Florida Senate Committee on Regulated Industries, October 2010.

Regional Emergency Elevator Access

Current Situation

In 2004, the Legislature provided for regional emergency elevator access, requiring public-access elevators (including service and freight elevators) in six-story or taller buildings constructed or substantially improved after June 2004 to be keyed, or retrofitted, with a master key to allow firefighters emergency access.⁷ A master key for each of the Department of Law Enforcement's seven emergency response regions would allow emergency access to all elevators within that region. The act also required that all existing buildings come into compliance by July 1, 2007.

In 2006, the Legislature limited the requirement to buildings issued a building permit after September 2006, and extended the period for existing buildings to come into compliance until October 1, 2009.

The act is enforced by Division of State Fire Marshal within the Department of Financial Services (DFS). Noncompliance subjects a property owner to administrative penalties. If it is technically, financially or physically impossible to bring a building into compliance, the local fire marshal may allow alternative measures to provide emergency access. The local fire marshal's decision may be appealed to the State Fire Marshal. The State Fire Marshal has determined by rule 69A-47.019, F.A.C., that a lock box that contains all elevator keys and is opened by the regional key is an acceptable alternative.

Proposed Changes

The PCS amends s. 399.15, F.S., to provide that a lock box containing all elevator keys and accessible by the master key of the relevant emergency response region may be an alternative to elevator emergency public access requirements. The DFS would select the provider of the uniform lock box installation.

Section 399.15(7), F.S., would permit only the fire department to be issued a master key to the lock box. This conflicts with s. 399.15(3), F.S., which permits elevator owners, owners' agents, elevator contractors, state-certified inspectors, and state agency representatives to be issued a master key.

The PCS lock box alternative differs from the rule 69A-47.019, F.A.C, provision in that the rule does not require the State Fire Marshal to select the provider, and master keys to existing lock boxes have been distributed to parties other than the local fire department.

Emergency Alternative Power Generators

Current Situation

Owners or operators of residential multi-family dwellings, including condominiums, reaching or exceeding 75 ft tall which contains a public elevator must have at least one elevator capable of operating on alternative generated power.⁸ Specific requirements include:

- The elevator must ensure access for an unspecified number of hours each day over the five-day period following a natural or manmade disaster, emergency or other civil disturbance.
- The elevator must be prewired and prepared to accept alternative generated power.
- A dwelling must have a generator and fuel source or proof of a current guaranteed service contract providing such equipment and fuel within 24 hours of a request. Proof of such a contract must be posted conspicuously.
- The alternative generated power source must be capable of powering the elevator, any connected fire alarm system, and emergency lighting in interior hallways, lobbies, and other public areas.

⁷ Ch. 2004-12, L.O.F.

⁸ Section 553.509(2)(a), F.S.

High-rise buildings existing or under construction before October 1, 1997, are exempt from the requirements, while new construction must meet the requirements before occupancy.

Proposed Changes

The PCS amends s. 553.509, F.S., to repeal the alternative power generator requirements for elevators in high-rise (75 ft or taller) residential multi-family dwellings.

Home Inspectors & Mold Services

Current Situation

A home inspection is often confused with a building inspection. A building inspection is legally required under the permitting process to ensure a structure complies with established standards and is performed by a local governmental inspector. By contrast, a home inspection is typically conducted under the discretion of a potential or current homeowner and is performed by private individuals.

"Home inspection" is defined as a limited visual examination of the following readily accessible installed systems and components of a home: the structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure, for the purposes of providing an opinion of the condition of the home.⁹

"Mold assessment" includes the sampling and evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of mold growth.¹⁰ "Mold remediation" is the removal, cleaning, sanitizing, or demolition of mold or mold-contaminated matter that was not purposely grown at that location.¹¹

Under current law, beginning July 1, 2010, home inspectors, mold assessors and mold remediators must be licensed and will be regulated by the Department of Business and Professional Regulation (DBPR) pursuant to legislation passed in 2007 that becomes effective on that date.¹² Additional regulations, including continued education requirements and certificates of authorization for corporations offering home inspections or mold services to the public, will also go into effect on July 1, 2010.

Proposed Changes

The PCS delays enforcement of home inspector and mold service licensure and regulation until July 1, 2011.

The PCS removes a requirement for businesses offering home inspections or mold services to attain a certificate of authorization.

As to home inspector licensure, the bill requires applicants pass examination requirements and submit fingerprints for background checks conducted by the Department of Law Enforcement (FDLE). It also provides that failure to meet any standard of practice adopted by rule constitutes grounds for departmental disciplinary action.

Under the PCS, mold assessor or remediator licensure requires applicants:

- Pass examination requirements and be of good moral character.
- Have at least an associate of arts or equivalent degree and have completed 30 semester hours in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related scientific field.

⁹ Section 468.8311(4), F.S.

¹⁰ Section 468.8411(3), F.S.

¹¹ Section 468.8411(5), F.S.

¹² Part XV and XVI, Ch. 468, F.S.

- Maintain liability insurance.

The PCS provides standards under which a practicing home inspector may acquire a license through a grandfather clause. The applicant must:

- Submit an application by March 1, 2011.
- Either have been certified as a home inspector by a state or national association requiring successful completion of an examination and have completed 14 hours of education, or
- Have at least 3 years of experience and have completed 14 hours of education. Such applicants must submit 120 home inspection reports to establish the required experience.
- Have not, within 5 years *after* the application, had a license revoked, suspended or assessed a fine greater than \$500 in the past 5 years.
- Pass a background check and be of good moral character.
- Maintain general liability insurance.

The PCS provides standards under which a practicing mold assessor or remediator may acquire a license through a grandfather clause. The applicant must:

- Submit an application by March 1, 2011.
- Either have been certified as a home inspector by a state or national association requiring successful completion of an examination and have completed the requisite education (60 hours for assessors; 30 hours for remediators), or
- Have at least 3 years of experience. Such applicants must submit 40 invoices for mold assessments or remediations to establish the required experience.
- Have not, within 5 years *after* the application, had a license revoked, suspended or assessed a fine greater than \$500 in the past 5 years.
- Pass a background check and be of good moral character.
- Maintain general liability insurance.

The PCS grants broad rule making authority of the DBPR to “adopt rules to administer this part.”

Florida Building Code

Manufactured Buildings

Current Situation

The Manufactured Building Act of 1979, s. 553.35, F.S., requires minimum construction standards for the “manufacture, design, construction, erection, alteration, modification, repair and demolition of manufactured buildings” to be adopted into the Florida Building Code (Building Code).¹³ The Department of Community Affairs (DCA) must adopt rules for the Act’s enforcement and administration.

According to the DCA, its jurisdiction over manufactured buildings has been limited to those which are to be repetitively built. One-of-a-kind prototype manufactured buildings were exempted from the DCA’s program in favor of local code enforcement,¹⁴ but that exemption was inadvertently deleted in 2008.¹⁵

Proposed Changes

The PCS amends s. 553.37, F.S., to authorize the DCA to enter into contracts for the performance of administrative duties relating to the inspection and certification of manufactured buildings and to adopt a rule requiring manufacturers pay fees directly to the administrator. The bill also reinstates local jurisdiction for one-of-a-kind prototype manufactured buildings inadvertently deleted in 2008.

¹³ Section 553.355, F.S.

¹⁴ See s. 553.37(11), F.S. (2007)

¹⁵ See s. 6, ch. 2008-191, L.O.F.

The PCS amends s. 553.375, F.S., to specify a relocated manufactured building previously approved by the DCA only requires recertification if the new location has a higher design wind speed than the previous location under the Building Code.

Florida Building Commission

Current Situation

The Florida Building Commission (Commission) within the DCA is comprised of 25 members, appointed by the Governor and confirmed by the Senate.¹⁶ The Commission adopts and enforces the Building Code uniformly to provide effective and reasonable protection for the public safety, health and welfare throughout the state. The Commission updates the Building Code triennially based on the development cycle of national model building codes. The Commission is also authorized to adopt internal administrative rules, impose fees for binding code interpretations and adopt amendments to the building code.¹⁷ The Commission may grant waivers from the Building Code's requirements in cases where literal application is found to be unnecessary or unreasonable or to impose an extreme hardship.

State agencies, including the Commission, authorized to enforce the Building Code may do so through delegation to other governmental units by agreement and may use public funds to pay permit and inspection fees as long as these fees are no greater than fees charged to others.¹⁸

The National Flood Insurance Program (NFIP) was created in 1968 to make federally-backed flood insurance available to property owners in eligible communities. The Community Rating System, within NFIP, is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. It offers incentives, including discounts to flood insurance premiums, to reflect reduced flood risk resulting from community actions meeting the program's goals of (1) Reducing flood losses; (2) Facilitating accurate insurance rating; and (3) Promoting the awareness of flood insurance.

Proposed Changes

The PCS amends s. 553.512, F.S., to require the Commission establish by rule a fee for requests for waivers from Building Code requirements.

The PCS amends s. 553.74, F.S., to provide that a member of any of the Commission's advisory committees or workgroups may represent clients before the commission or the commission's committees or workgroups. The bill provides that to do so is not a conflict of interest, but that no member, acting in his capacity as a member, may take part in discussions or actions in any matter in which he or she has a direct financial interest.

The PCS amends s. 553.73, F.S., to authorize the Commission to amend the Building Code using ch. 120, F.S., rule adoption procedures to address equivalency of standards, the needs of state agencies facing federal requirements on design criteria for public educational facilities, and inconsistencies with federal and state law. The bill also removes a requirement for model standards to have been available to the public for six months before adoption into the Building Code.

The PCS authorizes local governments to adopt administrative or technical amendments to the Building Code by ordinance in order to implement the National Flood Insurance Program or incentives. This provision, unlike other subsections of s. 553.73, F.S., is not limited to exclude the adoption of provisions relating to personnel management and professional qualification requirements.

The PCS amends s. 553.76, F.S., to authorize the Commission to adopt rules regulating its consensus-based decisionmaking process, including the adopting of supermajority voting requirements for amending or adopting the Building Code.

¹⁶ Ch. 553, F.S.

¹⁷ See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

¹⁸ Section 553.79(9), F.S.

The PCS amends s. 553.775, F.S., to permit the Commission to offer nonbinding interpretations of the Building Code capped at \$125. The rate for binding interpretations is currently capped at \$250.

The PCS amends s. 553.73, F.S., to exempt from the Building Code prefabricated family mausoleums not exceeding 250 square feet and temporary prisoner housing provided by the Department of Corrections.

The PCS also provides that the Building Code, and any agency or local government, may not require existing roof-mounted mechanical equipment be installed in compliance with the Building Code until the mechanical equipment is replaced.

The PCS amends s. 553.912, F.S., to require replacement air conditioning systems be installed using energy-saving quality installation procedures, including equipment sizing analysis and duct inspection.

Alternative Plans Review and Inspection

Current Situation

Regardless of any provisions of law, local ordinance or local policy, owners of buildings and structures may use a private building inspector, and pay such inspector directly, as long as a service contract is executed.¹⁹ Private providers are defined as licensed engineers or licensed architects. For residential additions or alterations of 1,000 square feet or less, private providers may also be a certified building code administrator, inspector or plans examiner.²⁰

Proposed Changes

The PCS amends s. 553.79, F.S., to provide that inspection services not requiring performance by a state agency, under federal delegation or the Building Code must be performed under the alternative plans review and inspection process (private inspectors) or by a local governmental entity with authority to enforce the Building Code. The bill re-enacts s. 553.80, F.S., to incorporate this change.

The PCS also provides that local building code enforcement agencies may not grant exemptions to single-family residences located in mapped flood hazard areas, unless the agency determines that the work does not constitute a substantial improvement.

Building Code Compliance and Mitigation Program

Current Situation

The DCA is required to maintain, update and develop a core curriculum to serve as a prerequisite for advanced module coursework to administer ongoing education under the Building Code Compliance and Mitigation Program.²¹ The core curriculum is designed to inform construction professionals of technical and administrative responsibilities under the Building Code.

In 2009, the Legislature deleted the requirement for completion of the core curriculum or the successful passing of an equivalency test as a condition for license renewal for building code administrators and inspector certificateholders, engineer licensees, architects and interior designers, landscape architects and construction contractor certificateholders and registrants.²²

Insurers are required to notify residential property insurance applicants or policyholders of premium insurance discounts, rates or credits available for windstorm mitigation fixtures or construction techniques.²³ In factoring such discounts, insurers must use the uniform mitigation verification

¹⁹ Section 553.791, F.S.

²⁰ Certification is under part XII of chapter 468, F.S.

²¹ Section 553.841(4), F.S.

²² Chapter 2009-195, L.O.F.

²³ Section 627.711, F.S.

inspection form adopted by the Financial Services Commission. Valid forms must either be certified by the DFS or signed by one of the enumerated certified individuals, including a licensed engineer who has completed the Building Code Compliance and Mitigation Program core curriculum or passed an equivalency test.

Professional boards have statutory authority for approval of continuing education courses, and the Commission has developed a voluntary accreditation system where courses submitted to the Commission are reviewed for consistency with the Building Code and related programs as appropriate. Section 553.841, F.S. mandates professional approval of advanced modules developed by the Commission, but the accreditation process has been voluntary for a few years.

Proposed Changes

The PCS amends s. 553.841, F.S., to eliminate the requirement for the DCA to develop a core curriculum to inform construction professionals of technical and administrative responsibilities under the Building Code. The bill also eliminates the requirement for professional board approval of advanced modules developed by the Commission.

The PCS amends s. 627.711, F.S., to remove the requirement for a licensed engineer to complete the core curriculum to be eligible to validate the uniform mitigation verification inspection form adopted by the Financial Services Commission for the calculation of insurance discounts related to windstorm mitigation. The PCS also adds home inspectors licensed under s. 468.9314, F.S., who have completed at least 2 hours of mitigation training as eligible to validate the uniform mitigation verification inspection form.

Product Evaluation and Approval

Current Situation

The Commission has the authority to adopt rules developing a statewide product evaluation and approval system (for products, methods or systems of construction) to operate in coordination with the Building Code.²⁴ Administration of the system may be provided by contract. The system must be based on national and international standards adopted by the Building Code, but may also include other standards that exceed state requirements.

As part of the system, the Commission maintains a list of state-approved evaluation entities. The Legislature has directed the Commission to add specified product evaluation entities created for the express purpose of evaluating products and their compliance with code to the list. The Commission has the authority to approve additional evaluation entities, but until recently had not used that authority. The Commission reports difficulty objectively creating criteria to approve the entities. Groups that seek to become evaluation entities are often approved as certification entities or test labs.

In 2008, the Legislature directed the Commission to review the list of product evaluation entities and recommend additions or report on the evaluation criteria to approve entities.²⁵ The Legislature also approved the International Association of Plumbing and Mechanical Officials Evaluation Services (IAPMO-ES) until October 1, 2009, and provided that if the Commission had not permanently approved the IAPMO-ES by that date, products approved on the basis of an IAPMO-ES evaluation must be substituted by an alternative, approved entity by December 31, 2009. On January 1, 2010, any product approval issued by the commission based on an IAPMO-ES evaluation is void.

In the 2009 Regular Legislative Session, the Commission recommended permanent statutory approval of IAPMO-ES and the elimination of rulemaking authority to prescribe criteria for evaluation entities. This did not become law. The Commission subsequently adopted the applicable rule providing approval criteria and approved IAPMO-ES by rule to prevent its expiration. The Commission continues to seek elimination of the rulemaking authority and statutory approval of IAPMO-ES.

²⁴ Section 553.842, F.S.; Rules are codified at ch. 9B-72, F.A.C.

²⁵ Chapter 2008-191, L.O.F.

Proposed Changes

The PCS amends s. 553.842, F.S., to authorize the Commission to allow, by rule or contract, for the direct payment of product evaluation and approval fees to the contracted program administrator, who shall remit to the DCA any portion of the fee necessary to cover its costs. The bill also provides that the commission may allow by rule editorial revisions to long-term product approvals and may charge a fee for such revisions.

The PCS requires the DCA to approve applications for product approval after commission staff (or its designate) verifies, within 10 days of receipt, the application's completeness. Upon approval, the product must be immediately added to the state-approved products list. Department approvals may be reviewed and ratified by the commission's program oversight committee, unless good cause is shown for review by the full commission.

The PCS amends the list of product evaluation entities the Commission must approve to add the International Association of Plumbing and Mechanical Officials Evaluation Services (IAPMO-ES) and remove entities that no longer exist

The PCS removes a requirement for the Commission to complete an annual review of the approved evaluation entity list to report, in its annual report to the Legislature, recommended entities to be added to the approved list or to report evaluation criteria used to approve the entities.

Windstorm Loss Mitigation

Current Situation

The Commission is required to implement windstorm loss mitigation techniques into the Building Code to combat property damage associated with hurricanes.²⁶ The Building Code requires buildings located in wind-borne debris regions be designed to withstand the minimum wind loads prescribed for that region. Wind-borne debris regions are those where the basic wind speed can reach 120 mph or greater or areas within a mile of the coast with a wind speed over 110 mph.²⁷ While the Commission may amend standards and criteria related to wind resistance or prevention of water intrusion to enhance the requirements, it may not amend such standards to diminish the requirements.²⁸

Proposed Changes

The PCS amends s. 553.844, F.S., to provide, notwithstanding other provisions of law, exposed mechanical equipment or appliances fastened to rated stands, platforms, curbs, slabs or fastened to the roof are deemed to comply with wind resistance requirements of the 2007 Florida Building Code. This provision will expire on the effective date of the 2010 Florida Building Code.

Carbon Monoxide Alarms

Current Situation

Buildings containing a fossil-fuel-burning²⁹ heater or appliance, a fireplace or a garage that were issued a permit for new construction on or after July 1, 2008, must also include an operational carbon monoxide alarm within 10 feet of each room used for sleeping.³⁰ The alarm must be approved by the Commission and meet all Building Code requirements.

²⁶ Section 553.844, F.S.

²⁷ See s.1609.12, ch. 16, Florida Building Code.

²⁸ Section 553.73(7), F.S.

²⁹ Section 553.885(2)(b), F.S., defines 'fossil fuel' as "coal, kerosene, oil, fuel gases, or other petroleum or hydrocarbon products that emit carbon monoxide as a by-product of combustion."

³⁰ Section 553.885, F.S.

According to the DCA, there is some uncertainty as to whether the requirement applies to existing buildings that undergo new construction activity. The DCA reports that it has reached consensus with stakeholders to exempt existing buildings undergoing construction, unless the construction was an addition extending or increasing the floor area, number of stories or height of the structure. An attempt to codify this in statute during the 2009 regular session failed.

Proposed Changes

The PCS amends s. 553.885, F.S., to extend the requirement for buildings to contain an operational carbon monoxide alarm to be applicable to both separate buildings and additions to existing buildings that contain any feature that emits carbon monoxide as a byproduct of combustion. The PCS provides the requirement does not apply to existing buildings undergoing alterations other than additions, defined as an extension or increase in floor area, number of stories or building height. The PCS also provides such alarms may be hard-wired battery-operated, and the Building Code may require alarms be placed in locations other than within 10 feet of the sleeping quarters in new buildings or additions.

Thermal Efficiency Standards

Current Situation

Florida's Thermal Efficiency Code, s. 553.900, F.S., requires the DCA to provide a statewide standard for buildings' energy efficiency in thermal design and operation. The Commission adopts the standard into the Code and updates it every three years to include the most cost-effective equipment and techniques available. Section 553.9061, F.S., provides a schedule of increases in thermal efficiency. The Commission is required to identify specific building options and elements available to meet the energy efficiency goals.

Proposed Changes

The PCS amends s. 553.9061, F.S., to expand the list of building options for meeting thermal efficiency standards to include:

- Energy-efficient water heating systems;
- Energy-saving devices and features installed within duct systems;
- Energy-saving quality installation procedures for replacement of air conditioners;
- Shading devices, sunscreening materials and overhangs;
- Weatherstripping, caulking and sealing of exterior openings and penetrations; and
- Energy-efficient centralized computer data centers in office buildings.

Pool Pump Motors

Current Situation

The Florida Energy Efficiency Code, s. 553.909, F.S., provides minimum energy requirements for appliances. Residential pool pumps and pool pump motors with a total horsepower of 1HP or more must operate at a minimum of two speeds, with a low speed operating at half the rotation rate of the motor's maximum rate. The default circulation speed of residential pool pumps must be the residential filtration speed, with override capability for a higher speed for periods not to exceed 120 minutes. Solar pool heating systems are permitted to run at higher speeds during periods of usable solar heat gain.

Proposed Changes

The PCS amends s. 553.909, F.S., to increase, from 120 minutes to 24 hours, the period that a residential pool pump motor's speed may be set higher than the default residential filtration speed.

Fire Prevention

The Chief Financial Officer is designated as the State Fire Marshal and carries out the duties of fire prevention, protection and control through the Division of State Fire Marshal.³¹

Florida Fire Prevention Code

Current Situation

The State Fire Marshal adopts the Florida Fire Prevention Code (Fire Code), which is updated every three years and covers all firesafety regulations relating to the construction and modification of buildings and structures.³² The State Fire Marshal notifies local fire departments no later than 180 days before adopting the Fire Code to consider local amendments. The State Fire Marshal may either adopt internal procedures or contract with experienced nonprofit organizations to provide nonbinding interpretations of the Fire Code.

Current law defines a “preengineered system” as a fire suppression system which:

- (a) Uses any of a variety of extinguishing agents.
- (b) Is designed to protect specific hazards.
- (c) Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards.
- (d) Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.
- (e) Must be listed by a nationally recognized testing laboratory.

Preengineered systems may incorporate special nozzles, flow rates, methods of application, pressurization levels, and quantities of agents designed by the manufacturer for specific hazards.

Section 633.061, F.S., regulates the licensure of fire equipment dealers and outlines four classes of licensure:

Class A, To service, recharge, repair, install, or inspect all types of fire extinguishers and to conduct hydrostatic tests on all types of fire extinguishers.

Class B, To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

Class C, To service, recharge, repair, install, or inspect all types of fire extinguishers, except recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

Class D, To service, repair, recharge, hydrotest, install, or inspect all types of preengineered fire extinguishing systems.

Proposed Changes

The PCS amends s. 633.021, F.S., to provide the definitions of Class A, B, C, and D fire equipment dealers and make them applicable throughout the chapter. The definitions mirror the descriptions currently in s. 633.061, F.S.

The PCS provides that a licensed fire equipment dealer may hold his or her license in an inactive status for 2 years, after which time the license is void. Biennial renewal of an inactive license is set at \$75 and reactivation would require the fulfillment of existing continuing education requirements. The PCS also

³¹ Section 633.01(1), F.S.

³² Section 633.0215(1), F.S.

requires applicants for a fire equipment dealer license submit proof of experience at the time of initial application.

The PCS amends continuing education requirements to coincide with the licensure renewal period. Rather than reporting 32 credits within a 4 year period, licensees will be required to report 16 credits within a 2 year period.

The PCS also amends the definition of 'preengineered system' to require installation according to only those NFPA standards pertaining to servicing, recharging, repairing, installing, hydrotesting or inspecting.

The PCS amends s. 633.0215, F.S., to provide a process by which the State Fire Marshal is to issue expedited declaratory statements interpreting the Fire Code, and provides the following guidelines:

- Petitions for a declaratory statement may only be filed by an owner (or his representative) of a disputed project.
- Petitions must be related to an active project under construction or submitted for a permit; cite a specific provision of the Fire Code in dispute; and be limited to a single question answerable by a 'yes' or 'no' response.
- Defective petitions must be denied without prejudice.
- A declaratory statement shall be issued in accordance with Florida's Administrative Procedures Act within 45 days of a petition's receipt.
- Notice is published in the next available Florida Administrative Weekly after the declaratory statement is issued.

The PCS exempts one- or two-story condominium units with an exterior means of egress from requirements to install manual fire alarm systems.

The PCS also amends s. 633.026, F.S., to provide a process for nonbinding interpretations of the Fire Code. The bill provides detailed guidelines, including the following:

- The Fire Code should be interpreted by fire officials and local enforcement agencies to protect public safety, health and welfare by ensuring uniform interpretation and expeditious dispute resolution.
- A Fire Code Interpretation Committee (Committee), comprised of seven members and seven alternates representing equal areas of the state, should offer nonbinding interpretations of the Fire Code.
- The Division may contract with a nonprofit organization to provide nonbinding interpretation.
- The Division of State Fire Marshal shall charge up to \$150 per interpretation request.
- The Committee must provide its interpretation to the petitioner within 10 business days of receiving a request for interpretation, unless the requesting party waives this requirement in writing.
- Interpretations shall be provided to the State Fire Marshal, and the Division shall publish them online and in the Florida Administrative Weekly.

Firesafety Inspectors

Current Situation

Buildings and structures in violation of the Florida Statutes or the minimum provisions of state or local firesafety codes are subject to the inspection of all equipment, vehicles and chemicals within the premises of any such building or structure. To enforce this requirement, each county, municipality, and special district with firesafety enforcement authority is required to employ or contract with a DFS-certified firesafety inspector who has met training requirements set by the State Fire Marshall.³³

³³ Section 633.081, F.S.

Proposed Changes

The PCS amends s. 633.081, F.S., to clarify that the State Fire Marshal, or his or her agents, may conduct inspections when *the State Fire Marshal* has reasonable cause to suspect a fire code violation. Current law refers to the Department of Financial Affairs.

The PCS directs the Division of State Fire Marshal (Division) and the Florida Building Code Administrators and Inspectors Board to enter into a reciprocity agreement jointly recognizing continuing education recertification hours for licensed building code inspectors, plan examiners or administrators and firesafety inspectors.

The PCS requires the Division to establish minimum training, education and experience levels for firesafety inspectors with fire code management responsibilities and to develop by rule an advanced training and certification program consistent with specified national standards for those firesafety inspectors.

Firefighter Certification

Current Situation

Firefighters must meet training and education requirements established by the Division of State Fire Marshal before receiving a certification of competency.³⁴ The current requirements³⁵ mandate firefighters receive 398 training hours in classroom and practical skills and achieve a passing score of 70 percent on written and practical examinations. At least twice a year, the State Fire Marshal administers the examinations, which are based on standards of the National Fire Protection Association and Florida and federal law.

Firefighter certificates must be renewed every two years by payment of a renewal fee. If a firefighter has been inactive for three or more years, he or she must retake the practical segment of the minimum standard course examination to be recertified.

Applicants for certification as a contractor of fire protection services must meet additional and are subject to additional qualifications. There are five classifications of fire protection system contractor:

- Contractor I** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems.
- Contractor II** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service water systems (such as sprinklers).
- Contractor III** executes contracts requiring ability to fabricate, install, inspect, alter, repair, and service CO2 systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems.
- Contractor IV** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding pre-engineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings.
- Contractor V** executes contracts requiring ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

³⁴ Section 633.35, F.S.

³⁵ See s. 69A-37.055, F.A.C.

Applicants for contractor (I, II, and III) certification must have 4 years experience employed with a contractor at any of those levels or a combination of equivalent education and experience. Thus, an employee of a Contractor II could qualify to be certified as a Contractor I, II or III.

Contractor IV applicants must have 2 years experience employed with a Contractor I, II, III, or IV or a combination of equivalent education and experience.

Persons employed by a Contractor I or II who will be inspecting water-based fire protection systems must be issued a permit by the State Fire Marshal.³⁶

Proposed Changes

The PCS amends s. 633.352, F.S., to provide that certified firefighters employed full-time as certified firesafety inspectors or firesafety instructors do not need to retake the practical examination to be recertified, regardless of whether they are active as firefighters. The PCS also corrects a cross-reference.

The PCS amends s. 633.521, F.S., regarding certification requirements for contractors of fire protection services, as follows:

- Applicants passing the required examination who do not complete the remaining qualifications within one year must reapply, pay the relevant fees, retake the examination and successfully complete prescribed training.
- Applicants for each of the Contractor levels I through III must have employment experience relevant to the level of certification sought:
 - Contractor I applicants must have worked for a Contractor I
 - Contractor II applicants must have worked for a Contractor I or II
 - Contractor III applicants must have worked for a Contractor I or II
 - Contractor I, II, III and IV applicants may substitute education and experience in water-based fire suppression systems for employment.
- Contractor IV applicants must be licensed as a certified plumbing contractor and successfully complete approved training of at least 40 contact hours in the applicable installation standard. The 2-year employment experience requirement is removed.
- Section 633.537, F.S., is amended to authorize the Division to develop an alternative training program for employees of certified contractors seeking a provisional permit. The program must be equivalent to the currently required National Institute for Certification in Engineering Technologies subfield of Inspection and Testing of Fire Protection Systems (NICET).

The PCS amends s. 633.524, F.S., to authorize the Division to contract with any public entity or private company to provide any examination administered under the Division's jurisdiction. The PCS also authorizes the Division to direct applicant payments be made directly to such contracted entity or company.

Fire Hydrant Inspection

Current Situation

Under ch. 633, F.S., the State Fire Marshal Division is authorized to regulate, train and certify fire service personnel; investigate the causes of fires; enforce the arson laws; regulate the installation of fire equipment; conduct fire safety inspections of state property; develop fire safety standards; provide facilities for the analysis of fire debris; and operate the Florida State Fire College.

Section 633.025(1), F.S., provides that the Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshal shall be deemed adopted by each municipality, county, and special

³⁶ Section 633.521(8), F.S.

district with firesafety responsibilities. Subsection (2) states that each such municipality, county, and special district shall enforce the Florida Fire Prevention Code and the Life Safety Code as the minimum firesafety code required by this section. Because, the code incorporates the National Fire Prevention Association annual inspection requirements for fire hydrants, the municipality, county, and special district may enforce the provisions of the code, including the annual inspection of fire hydrants.

Section 633.081, F.S., authorizes the State Fire Marshal and his agents to inspect buildings and structures and further provides: "Each county, municipality, and special district that has firesafety enforcement responsibilities shall employ or contract with a firesafety inspector. The firesafety inspector must conduct all firesafety inspections that are required by law." Furthermore, every firesafety inspection conducted must be by a person certified by the State Fire Marshal.

Section 633.082(3), F.S., provides that restrictions relating to the inspection of fire protection systems are not intended to limit the inspection and enforcement authority of government entities.

Proposed Changes

The PCS directs that public fire hydrants owned by a governmental entity be inspected following standards adopted by the State Fire Marshal or equivalent standards. Additionally, the PCS provides that county, municipal, and special district utilities may perform fire hydrant inspections with employees that have not been certified by the State Fire Marshal. However, the fore mentioned utilities are responsible for ensuring that the designated employees are qualified to perform such inspections.

Florida Fire Code Advisory Council

Current Situation

The Florida Fire Code Advisory Council within the DFS is comprised of 11 members appointed by the State Fire Marshal for 4-year terms. Council members may not serve more than one term. The Council provides advice and recommendations to the State Fire Marshal on changes and interpretations of the Fire Code.

Proposed Changes

The PCS amends s. 633.72, F.S., to provide that members of the Florida Fire Code Advisory Council may serve no more than two consecutive terms.

Condominiums

Maintenance of Common Elements

Current Situation

Condominium buildings taller than three stories must be inspected every five years by an architect or engineer to assess the maintenance, useful life, and replacement costs of the common elements.³⁷ If a majority of the voting interests present at a condominium association meeting approves, the requirement may be waived. This waiver must be approved before the end of the five-year period and is only effective for that period.

Proposed Changes

The PCS repeals s. 718.113(6), F.S, which requires condominium buildings taller than three stories to be inspected at least every five years.

The PCS requires the Florida Building Commission to revise the Building Code to make it consistent with changes the bill makes to elevator requirements.

³⁷ Section 718.113(6), F.S.

The PCS provides an effective date of July 1, 2010, except as otherwise provided.

B. SECTION DIRECTORY:

Section 1 amends s. 196.031, F.S., revising limitations related to homestead property.

- Section 2 amends s. 399.02, F.S., to exempt certain elevators from certain retrofitting requirements.
- Section 3 amends s. 399.15, F.S., to provide an alternative method for emergency access to elevators.
- Section 4 amends s. 468.8311, F.S., to redefine 'home inspection services'.
- Section 5 amends s. 468.8312, F.S., to remove fee for certificate of authorization.
- Section 6 amends s. 468.8313, F.S., to amend examination and background check requirements for home inspector license applicants.
- Section 7 amends s. 468.8318, F.S., to remove a requirement for businesses offering home inspection services to acquire a certificate of authorization.
- Section 8 delays the effective date of changes to home inspector regulations passed in 2007 until July 1, 2011.
- Section 9 amends s. 468.8319, F.S., to prohibit unlicensed home inspection services.
- Section 10 amends s. 468.832, F.S., to authorize the Department of Business and Professional Regulation to impose penalties against a licensee failing to meet any standards adopted by rule.
- Section 11 amends s. 468.8324, F.S., to provide a grandfather clause to allow for certain unlicensed home inspectors to be gain licensure.
- Section 12 amends s. 468.8325, F.S., giving the Department of Business and Professional Regulation rulemaking authority to administer licensure of home inspectors.
- Section 13 amends s. 468.8412, F.S., to remove fee for certificate of authorization.
- Section 14 amends s. 468.8413, F.S., to amend education requirements for mold service license applicants.
- Section 15 amends s. 468.8414, F.S., to require mold service licensees maintain liability insurance.
- Section 16 amends s. 468.8418, F.S., to remove a requirement for businesses offering mold services to acquire a certificate of authorization.
- Section 17 amends s. 468.842, F.S., to authorize the Department of Business and Professional Regulation to impose penalties against a licensee failing to meet any standards adopted by rule.
- Section 18 amends s. 468.8421, F.S., to amend insurance requirements for mold assessors.
- Section 19 amends s. 468.8423, F.S., to provide a grandfather clause to allow for certain unlicensed mold assessors and remediators to be gain licensure.

- Section 20 amends s. 468.8424, F.S., giving the Department of Business and Professional Regulation rulemaking authority to administer licensure of home inspectors.
- Section 21 amends s. 489.103, F.S., to correct a cross reference.
- Section 22 amends s. 553.37, F.S., relating to rules governing the Department of Community Affairs' regulation of manufactured buildings.
- Section 23 amends s. 553.375, F.S., to limit requirements for relocated manufactured buildings.
- Section 24 amends s. 553.509, F.S., to delete emergency alternative power requirements for elevators.
- Section 25 amends s. 553.512, F.S., to direct the Florida Building Commission to adopt a fee for waiver requests.
- Section 26 amends s. 553.73, F.S., to modify the authority of the Florida Building Commission and local governments, exempt certain buildings from the Building Code, and modify requirements for roof-mounted equipment.
- Section 27 amends s. 553.74, F.S., to provide certain activities of members of Florida Building Commission committees are not conflicts of interest.
- Section 28 amends s. 553.76, F.S., regarding the Florida Building Commission's rulemaking authority.
- Section 29 amends s. 553.775, F.S., to authorize the Florida Building Commission to charge a fee for nonbinding interpretations.
- Section 30 amends s. 553.79, F.S., to require state agencies contract for inspection services under the alternative plans review and inspection process or with a local governmental entity.
- Section 31 reenacts and amends s. 553.80, F.S., to incorporate amendments made to s. 553.79, F.S., and to amend the authority of enforcement districts.
- Section 32 amends s. 553.841, F.S., to delete requirements for the Department of Community Affairs to develop a core curriculum for persons who enforce the Florida Building Code.
- Section 33 amends s. 553.842, F.S., relating to product evaluation and approval.
- Section 34 amends s. 553.844, F.S., to temporarily exempt certain equipment or appliances from windstorm requirements.
- Section 35 amends s. 553.885, F.S., to revise carbon monoxide alarm requirements.
- Section 36 amends s. 553.9061, F.S., to expand the list of energy efficiency options and elements.
- Section 37 amends s. 553.909, F.S., to modify energy efficiency requirements for pool pump motors.

- Section 38 amends s. 553.912, F.S., to add requirements for replacement air conditioner installation.
- Section 39 amends s. 627.711, F.S., to conform to changes to core curriculum requirements relating to the Florida Building Code.
- Section 40 amends s. 633.021, F.S., to provide definitions of certain fire equipment dealer licenses and pre-engineered systems.
- Section 41 amends s. 633.0215, F.S., to provide guidelines for the State Fire Marshal when issuing expedited declaratory statements and to exempt certain condominiums from manual fire alarm requirements.
- Section 42 amends s. 633.0245, F.S., to correct cross references.
- Section 43 amends s. 633.026, F.S., to establish the Fire Code Interpretation Committee to make nonbinding interpretations of the Florida Fire Prevention Code.
- Section 44 amends s. 633.061, F.S., to allow for inactive fire equipment dealer licenses and revises licensure renewal requirements.
- Section 45 amends s. 633.081, F.S., to require a reciprocity agreement to recertify code enforcers between the Division of State Fire Marshal and Building Code Administrators and Inspectors Board.
- Section 46 amends s. 633.082, F.S., to provide an exception for certain local government fire safety requirements.
- Section 47 amends s. 633.352, F.S., to exempt full-time certified firesafety inspectors or firesafety instructors from examination requirements for recertification as a firefighter.
- Section 48 amends s. 633.521, F.S., to revise certification requirements for certain contractors.
- Section 49 amends s. 633.524, F.S., to authorize the State Fire Marshal to contract for exam services.
- Section 50 amends s. 633.537, F.S., as to continuing education requirements for certain contractors.
- Section 51 amends s. 633.72, F.S., increasing the Fire Code Advisory Council term limit.
- Section 52 repeals s. 718.113(6), F.S., relating to required 5-year inspections of certain condominium improvements.
- Section 53 directs the Florida Building Commission to conform provisions of the Florida Building Code with revisions made by the act relating to the operation of elevators.
- Section 54 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes the Florida Building Commission to collect the following fees:

- Fees, capped at \$125, for nonbinding interpretations of the Florida Building Code.
- Fees, of an unspecified amount, for requests for waivers from Florida Building Code requirements.
- Fees, of an unspecified amount, for editorial revisions to long-term product approvals.

The bill also authorizes a \$75 fee to biennially renew an inactive fire equipment dealer license, charged by the State Fire Marshal.

Any increase in revenue based on these fees is indeterminate at this time.

2. Expenditures:

The DBPR expects a fiscal impact from the requirement for continuing education reciprocity between the Division of the State Fire Marshall and the Building Code Administrators and Inspectors Board, but reports any such impact is indeterminate at this time.

The State Fire Marshal reports that if existing regional emergency elevator access lock boxes, approved under the State Fire Marshal rule, must be replaced with lock boxes meeting the bill's requirements, there could be a significant fiscal impact to state government, which could be required to buy back master keys already distributed. The State Fire Marshal suggests the following:

The State of Florida has addressed the fire fighter service issue through the adoption of a regional elevator key provision adopted into law in 2004. The statute s. 399.15, F.S., as it exists fully addresses this issue. This bill places in statute the alternative provision for a lock box which is similar to the provision that the State Fire Marshal has included within its rule chapter 69A-47, F.A.C. The role of the State Fire Marshal should be limited to the selection of a "key" and not a lock box as many local governments have programs for lock boxes which have already been implemented..

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Building owners will experience a decrease in the cost to comply with requirements concerning elevator alternate power, retrofitting, and emergency regional access. The industry estimates that complying with the emergency generated power requirement for elevators would entail approximately \$4,000 to \$6,000 in engineering costs per location and tens of thousands more for purchase of a generator.

The Building Industry may benefit from expedited product approvals, possibly resulting in more available approved products.

The State Fire Marshal reports that if existing regional emergency elevator access lock boxes, approved under the State Fire Marshal rule, must be replaced with lock boxes meeting the bill's requirements, there could be a significant fiscal impact to building owners:

The Fire Marshal is not able to determine the actual fiscal impact. The State Fire Marshal's Office does not have any reliable data as to how many departments already have lock box agreements and how many of their buildings are in compliance with existing local ordinances, the exchange of existing lock boxes to revised standard lock boxes could estimate into the 10's of thousands. There is a wide selection of lock box designs and types on the market. Prices vary from the basic at \$40 to several hundred for lock boxes electronically interconnected to fire alarm systems. Significant cost will be incurred to invalidate the continued use of these existing lock boxes.

Condominium associations may experience a cost savings associated with the repeal of a 5-year inspection requirement.

D. FISCAL COMMENTS:

If provisions relating to emergency elevator access are interpreted to require the state buy back distributed master keys, there would be an associated negative fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Community Affairs is authorized to adopt a rule requiring that manufacturers pay fees directly to the administrator through the Building Code Information System.

The Florida Building Commission is authorized to amend the Florida Building Code using only the rule adoption procedures in ch. 120, F.S., to permit amendments necessary to equivalency of standards, needs of state agencies facing federal mandates, and inconsistencies in federal and state law.

The Commission is also authorized to adopt rules related to its consensus-based decision-making process to permit super majority voting for actions related to the adoption of the code or amendments to the code; rules related to fees for nonbinding interpretations of the building code; and rules providing for the direct payment of fees to the commission's contract administrator.

The Division of the State Fire Marshal is required to adopt by rule a uniform petition for nonbinding interpretations of the Florida Fire Prevention Code; and to develop by rule an advanced training and certification program for fire-safety inspectors with fire code management responsibilities.

The Department of Business and Professional Regulation is given rulemaking authority to implement changes to background and examination requirements for home inspector and mold service license applicants, and to implement the licensure and regulation of home inspectors and mold service licensees.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010, the Insurance, Business and Financial Affairs Policy Committee met, adopted a strike-all amendment, and passed the bill as a Committee Substitute. The strike-all differed from the bill as filed in the following areas:

- Corrects language in elevator retrofitting exception to mirror terms used in industry and rules.
- Conforms changes to home inspector licensure to the Senate companion
 - Removes previously proposed fee increases
 - Requires fingerprints and background checks
 - Removes a requirement, and associated fee, for certificates of authorization for business entities offering home inspector services
 - Amends the requirements for licensure under a grandfather provision for currently practicing home inspectors
 - Delays the effective date of home inspector licensing enacted in 2007 until July 1, 2011 (currently effective July 1, 2010)
- Amends regulations and delays the effective date of regulation concerning mold assessors (current and proposed law parallels that of home inspectors)

- Removes a previously proposed requirement for fees paid by manufacturers to be used for funding the product approval system only.
- Requires the Florida Building Commission establish a fee for waivers of Building Code requirements
- Allows localities to adopt by ordinance amendments to the Florida Building Code to implement the National Flood Insurance Program or other incentives
- Defines conflicts of interest for members of the Florida Building Commission
- Requires new air conditioning systems be installed using energy-saving methods
- Provides definitions for fire equipment dealer licenses and pre-engineered (fire suppression) systems.

On March 15, 2010 the Military and Local Affairs Policy Committee will meet and consider a Proposed Committee Substitute. The PCS departs from CS/HB 663 in the following areas:

Deletes sections relevant to Classroom Illumination

The bill amended s. 553.73, F.S., to decrease the required artificial illumination in classrooms to provide an average maintained illumination of 40 foot-candles of light at each desk and require public educational facilities to give priority to the use of light-emitting diode lighting.

Deletes sections relevant to Alternative Plans Review and Inspection

Language previously included amending s. 553.73, F.S., provided for commission approval for amendments to address building code conflicts.

The proposed language had the unintended effect that if a state agency was authorized to perform inspection services by statute, it would not be able to perform those services under this provision. The Agency for Health Care Administration conducts plans reviews and construction inspections of intermediate care facilities for developmentally disabled persons under s. 400.967(4) and (5), and has reported it would lose this authority under the proposed language.

Other agencies that may have been similarly affected included, the Department of Health and its regulation of public swimming pools and some interaction with potable water supply and plumbing requirements; Department of Business and Professional Regulation and its regulation of hotels, restaurants and elevators; and possibly water management districts and/or the Department of Environmental Protection on water issues including reuse systems.

Amends sections relevant to the Florida Building Commission

The PCS reduces the fee for non-binding interpretations of the Building Code from \$250 to \$125.

Amends sections relevant to the Building Code Compliance and Mitigation Program

The PCS also adds home inspectors licensed under s. 468.9314, F.S. who have completed at least 2 hours of mitigation training as eligible to validate the uniform mitigation verification inspection form.

Amends sections relevant to Windstorm Loss Mitigation

Exposed mechanical equipment or appliances fastened to the roof are deemed to comply with the wind resistance requirements of the 2007 Florida Building Code. Deletes requirements that the aforementioned equipment meet wind resistance requirements for wind-borne debris regions as defined in s.1609.2, Buildings Volume, Florida Building Code.

Amends sections relevant to Florida Fire Prevention Code

The PSC amends continuing education requirements to coincide with the licensure renewal period. Rather than reporting 32 credits within a 4 year period, licensees will be required to report 16 credits within a 2 year period.

Adds sections relevant to Fire Hydrant Inspection

The PCS directs that public fire hydrants owned by a governmental entity to be inspected following standards adopted by the State Fire Marshal or equivalent standards. Additionally, the PCS provides that county, municipal, and special district utilities may perform fire hydrant inspections with employees that have not been certified by the State Fire Marshal. However, the fore mentioned utilities are responsible for ensuring that the designated employees are qualified to perform such inspections.

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to building safety; amending s. 196.031
 3 F.S.; revising limitations related to homestead property;
 4 amending s. 399.02, F.S.; exempting certain elevators from
 5 provisions requiring modifications to certain elevator
 6 controls; amending s. 399.15, F.S.; providing an
 7 alternative method to allow access to regional emergency
 8 elevators; providing for a uniform lock box; providing for
 9 a master key; providing the Division of State Fire Marshal
 10 with enforcement authority; directing the Department of
 11 Financial Services to select the provider of the uniform
 12 lock box; amending s. 468.8311, F.S.; revising the term
 13 "home inspection services"; amending s. 468.8312, F.S.;
 14 deleting a fee provision for certain certificates of
 15 authorization; amending s. 468.8313, F.S.; revising
 16 examination requirements for licensure as a home
 17 inspector; providing application fingerprinting
 18 requirements and procedures; providing for applicant
 19 responsibility for certain costs; amending s. 468.8318,
 20 F.S.; revising requirements and procedures for
 21 certification of corporations and partnerships offering
 22 home inspection services to the public; deleting
 23 provisions relating to required certificates of
 24 authorization; specifying application and prospective
 25 operation of certain provisions; amending s. 468.8319,
 26 F.S.; revising certain prohibitions with respect to
 27 providers of home inspection services; amending s.
 28 468.832, F.S.; providing an additional ground for taking

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL ORIGINAL YEAR

29 certain disciplinary actions; amending s. 468.8324, F.S.;

30 specifying additional requirements for licensure as a home

31 inspector; creating s. 468.8325, F.S.; requiring the

32 department to adopt rules to administer pt. XV, ch. 468,

33 F.S., relating to home inspectors; amending s. 468.8412,

34 F.S.; deleting a fee provision for certain biennial

35 certificates of authorization renewal; amending s.

36 468.8413, F.S.; revising examination requirements and

37 procedures for licensure as a mold assessor or mold

38 remediator; amending s. 468.8414, F.S.; specifying an

39 additional applicant qualification criterion for licensure

40 by endorsement; amending s. 468.8418, F.S.; revising

41 requirements and procedures for certification of

42 corporations and partnerships offering mold assessment or

43 mold remediation services to the public; deleting

44 provisions relating to required certificates of

45 authorization; specifying application and prospective

46 operation of certain provisions; amending s. 468.842,

47 F.S.; providing an additional ground for taking certain

48 disciplinary actions; amending s. 468.8421, F.S.;

49 specifying an insurance coverage requirement for mold

50 assessors; amending s. 468.8423, F.S.; specifying

51 additional requirements for licensure as a mold assessor

52 or mold remediator; creating s. 468.8424, F.S.; requiring

53 the department to adopt rules to administer pt. XVI, ch.

54 468, F.S., relating to mold-related services; amending s.

55 489.103, F.S.; conforming a cross-reference; amending s.

56 553.37, F.S.; authorizing manufacturers to pay inspection

BILL

ORIGINAL

YEAR

57 fees directly to the provider of inspection services;
 58 providing requirements for department rules regarding the
 59 schedule of fees; authorizing the department to enter into
 60 contracts for the performance of certain administrative
 61 duties; revising inspection requirements for certain
 62 custom manufactured buildings; amending s. 553.375, F.S.;
 63 revising the requirement for recertification of
 64 manufactured buildings prior to relocation; amending s.
 65 553.509, F.S.; deleting certain requirements for alternate
 66 power sources for elevators for purposes of operating
 67 during an emergency; amending s. 553.512, F.S.; requiring
 68 the Florida Building Commission to establish by rule a fee
 69 for certain waiver requests; amending s. 553.73, F.S.;
 70 conforming cross-references; authorizing counties and
 71 municipalities to adopt by ordinance administrative or
 72 technical amendments to the Florida Building Code for
 73 certain flood-related purposes; specifying requirements
 74 and procedures; revising foundation code adoption
 75 requirements; authorizing the Florida Building Commission
 76 to approve amendments relating to equivalency of
 77 standards; authorizing the commission to approve
 78 amendments necessary to accommodate state agency rules to
 79 meet federal requirements for design criteria relating to
 80 public educational facilities and state-licensed
 81 facilities; exempting certain mausoleums from the
 82 requirements of the Florida Building Code; exempting
 83 certain temporary housing provided by the Department of
 84 Corrections from the requirements of the Florida Building

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85 Code; restricting the code, code enforcement agencies, and
 86 local governments from imposing requirements on certain
 87 mechanical equipment on roofs; requiring that the Florida
 88 Building Code contain certain requirements regarding
 89 illumination in classroom units; requiring that classroom
 90 units be designed to provide and maintain an average of 40
 91 foot-candles of light at each desktop; requiring that
 92 public educational facilities consider using light-
 93 emitting diode lighting before considering other lighting
 94 sources; amending s. 553.74, F.S.; specifying absence of
 95 impermissible conflicts of interest for certain committee
 96 or workgroup members while representing clients under
 97 certain circumstances; specifying certain prohibited
 98 activities for such members; amending s. 553.76, F.S.;
 99 authorizing the Florida Building Commission to adopt rules
 100 related to consensus-building decisionmaking; amending s.
 101 553.775, F.S.; conforming a cross-reference; authorizing
 102 the commission to charge a fee for filing certain requests
 103 and for nonbinding interpretations; amending s. 553.79,
 104 F.S.; requiring certain inspection services to be
 105 performed under the alternative plans review and
 106 inspection process or by a local governmental entity;
 107 reenacting s. 553.80(1), F.S., relating to the enforcement
 108 of the Florida Building Code, to incorporate the
 109 amendments made to s. 553.79, F.S., in a reference
 110 thereto; amending s. 553.80, F.S.; specifying
 111 nonapplicability of certain exemptions from the Florida
 112 Building Code granted by certain enforcement entities

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113 | under certain circumstances; amending s. 553.841, F.S.;

114 | deleting provisions requiring that the Department of

115 | Community Affairs maintain, update, develop, or cause to

116 | be developed a core curriculum for persons who enforce the

117 | Florida Building Code; amending s. 553.842, F.S.;

118 | authorizing rules requiring the payment of product

119 | evaluation fees directly to the administrator of the

120 | product evaluation and approval system; specifying the use

121 | of such fees; authorizing the Florida Building Commission

122 | to provide by rule for editorial revisions to certain

123 | approvals and charge certain fees; providing requirements

124 | for the approval of applications for state approval of a

125 | product; providing for certain approved products to be

126 | immediately added to the list of state-approved products;

127 | requiring that the commission's oversight committee review

128 | approved products; revising the list of approved

129 | evaluation entities; deleting obsolete provisions

130 | governing evaluation entities; amending s. 553.844, F.S.;

131 | providing an exemption from the requirements regarding

132 | roof and opening protections for certain exposed

133 | mechanical equipment or appliances; providing for future

134 | expiration; amending s. 553.885, F.S.; revising

135 | requirements for carbon monoxide alarms; providing an

136 | exception for buildings undergoing alterations or repairs;

137 | defining the term "addition" as it relates to the

138 | requirement of a carbon monoxide alarm; amending s.

139 | 553.9061, F.S.; revising the energy efficiency performance

140 | options and elements identified by the commission for

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141 | purposes of meeting certain goals; amending s. 553.909,
 142 | F.S.; revising a compliance criterion for certain swimming
 143 | pool pumps or water heaters; revising requirements for
 144 | residential swimming pool pumps and pump motors; amending
 145 | s. 553.912, F.S.; providing requirements for replacement
 146 | air-conditioning systems; amending s. 627.711, F.S.;
 147 | conforming provisions to changes made by the act in which
 148 | core curriculum courses relating to the Florida Building
 149 | Code are deleted; amending s. 633.021, F.S.; providing
 150 | additional definitions for fire equipment dealers;
 151 | revising the definition of the term "preengineered
 152 | systems"; amending s. 633.0215, F.S.; providing guidelines
 153 | for the State Fire Marshal to apply when issuing an
 154 | expedited declaratory statement; requiring that the State
 155 | Fire Marshal issue an expedited declaratory statement
 156 | under certain circumstances; providing requirements for a
 157 | petition requesting an expedited declaratory statement;
 158 | exempting certain condominiums from installing manual fire
 159 | alarm systems; amending s. 633.0245, F.S.; conforming
 160 | cross-references; amending s. 633.026, F.S.; providing
 161 | legislative intent; providing for the establishment of the
 162 | Fire Code Interpretation Committee; providing for the
 163 | membership of the committee and requirements for
 164 | membership; requiring that nonbinding interpretations of
 165 | the Florida Fire Prevention Code be issued within a
 166 | specified period after a request is received; providing
 167 | for the waiver of such requirement under certain
 168 | conditions; requiring that the Division of State Fire

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169 Marshal charge a fee for nonbinding interpretations;
 170 providing that fees may be paid directly to a contract
 171 provider; providing requirements for requesting a
 172 nonbinding interpretation; requiring that the Division of
 173 State Fire Marshal develop a form for submitting a
 174 petition for a nonbinding interpretation; providing for a
 175 formal interpretation by the State Fire Marshal; requiring
 176 that an interpretation of the Florida Fire Prevention Code
 177 be published on the division's website and in the Florida
 178 Administrative Weekly; amending s. 626.061, F.S.;

179 authorizing certain fire equipment dealer licensees to
 180 maintain inactive license status under certain
 181 circumstances; providing requirements; providing for a
 182 renewal fee; revising an applicant licensure qualification
 183 requirement; revising licensure renewal requirements;
 184 amending s. 633.081, F.S.; requiring that the State Fire
 185 Marshal inspect a building when the State Fire Marshal,
 186 rather than the Department of Financial Services, has
 187 cause to believe a violation has occurred; requiring that
 188 the Division of State Fire Marshal and the Florida
 189 Building Code Administrators and Inspectors Board enter
 190 into a reciprocity agreement for purposes of recertifying
 191 building code inspectors, plan inspectors, building code
 192 administrators, and firesafety inspectors; requiring that
 193 the State Fire Marshal develop by rule an advanced
 194 training and certification program for firesafety
 195 inspectors who have fire code management responsibilities;
 196 requiring that the program be consistent with certain

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197 standards and establish minimum training, education, and
 198 experience levels for such firesafety inspectors; amending
 199 s. 633.081, F.S.; providing exceptions to certain local
 200 government firesafety inspection requirements; amending s.
 201 633.082, F.S.; specifying inspection requirements for fire
 202 hydrants owned by governmental entities; authorizing local
 203 government utilities to comply using designated employees;
 204 specifying responsibility for ensuring the qualification
 205 of designated employees to make inspections; amending s.
 206 633.352, F.S.; providing an exception to requirements for
 207 recertification as a firefighter; amending s. 633.521,
 208 F.S.; revising requirements for certification as a fire
 209 protection system contractor; revising the prerequisites
 210 for taking the certification examination; authorizing the
 211 State Fire Marshal to accept more than one source of
 212 professional certification; revising legislative intent;
 213 amending s. 633.524, F.S.; authorizing the State Fire
 214 Marshal to enter into contracts for examination services;
 215 providing for the direct payment of examination fees to
 216 contract providers; amending s. 633.537, F.S.; revising
 217 the continuing education requirements for certain
 218 permitholders; amending 633.72, F.S.; revising the terms
 219 of service for members of the Fire Code Advisory Council;
 220 repealing s. 718.113(6), F.S., relating to requirements
 221 for 5-year inspections of certain condominium
 222 improvements; directing the Florida Building Commission to
 223 conform provisions of the Florida Building Code with
 224 revisions made by the act relating to the operation of

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225 elevators; providing an effective date.; providing an
 226 effective date.

227

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

229

230 Section 1. Subsection (6) of section 196.031, Florida
 231 Statutes, is amended to read:

232 196.031 Exemption of homesteads.-

233 (6) When homestead property is damaged or destroyed by
 234 misfortune or calamity and the property is uninhabitable on
 235 January 1 after the damage or destruction occurs, the homestead
 236 exemption may be granted if the property is otherwise qualified
 237 and if the property owner notifies the property appraiser that
 238 he or she intends to repair or rebuild the property and live in
 239 the property as his or her primary residence after the property
 240 is repaired or rebuilt and does not claim a homestead exemption
 241 on any other property or otherwise violate this section. Failure
 242 by the property owner to commence the repair or rebuilding of
 243 the homestead property within 3 years after January 1 following
 244 the property's damage or destruction constitutes abandonment of
 245 the property as a homestead; furthermore, after the three year
 246 period, the expiration, lapse, non-renewal, or revocation of a
 247 building permit issued to the property owner for such repairs or
 248 rebuilding shall also constitute abandonment of the property as
 249 homestead.

250 Section 2. Subsection (6) of section 399.02, Florida Statutes,
 251 is amended to read:

252 399.02 General requirements.-

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253 (6) The department is empowered to carry out all of the
 254 provisions of this chapter relating to the inspection and
 255 regulation of elevators and to enforce the provisions of the
 256 Florida Building Code, except that provisions of and any updates
 257 to the code requiring modifications for Phase II Firefighters'
 258 Services controls on existing elevators, as amended into the
 259 Safety Code for Existing Elevators and Escalators, ANSI/ASME
 260 A17.1 and A17.3, may not be enforced on elevators issued a
 261 certificate of operation by the department before July 1, 2009,
 262 until the elevator is replaced. This exception does not apply to
 263 any building for which a building permit was issued on or after
 264 July 1, 2009.

265 Section 3. Present subsection (7) of section 399.15,
 266 Florida Statutes, is renumbered as subsection (8), and a new
 267 subsection (7) is added to that section to read:

268 399.15 Regional emergency elevator access.—

269 (7) As an alternative to complying with the requirements
 270 of subsection (1), each building in this state which is required
 271 to meet the provisions of subsections (1) and (2) may instead
 272 provide for the installation of a uniform lock box that contains
 273 the keys to all elevators in the building allowing public
 274 access, including service and freight elevators. The uniform
 275 lock box must be keyed to allow all uniform lock boxes in each
 276 of the seven state emergency response regions to operate in fire
 277 emergency situations using one master key. The master key for
 278 the uniform lock shall be issued only to the fire department.
 279 The Division of State Fire Marshal of the Department of
 280 Financial Services shall enforce this subsection. The Department

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281 of Financial Services shall select the provider of the uniform
 282 lock box to be installed in each building in which the
 283 requirements of this subsection are implemented.

284 Section 4. Subsection (4) of section 468.8311, Florida
 285 Statutes, is amended to read:

286 468.8311 Definitions.—As used in this part, the term:

287 (4) "Home inspection services" means a limited visual
 288 examination of one or more of the following readily accessible
 289 installed systems and components of a home: the structure,
 290 electrical system, HVAC system, roof covering, plumbing system,
 291 interior components, exterior components, and site conditions
 292 that affect the structure, for the purposes of providing a
 293 written professional opinion of the condition of the home.

294 Section 5. Subsections (4) through (8) of section
 295 468.8312, Florida Statutes, are amended to read:

296 468.8312 Fees.—

297 (4) The fee for a certificate of authorization shall not
 298 exceed \$125.

299 (4)(5) The biennial renewal fee shall not exceed \$200.

300 (5)(6) The fee for licensure by endorsement shall not
 301 exceed \$200.

302 (6)(7) The fee for application for inactive status or for
 303 reactivation of an inactive license shall not exceed \$200.

304 (7)(8) The fee for applications from providers of
 305 continuing education may not exceed \$500.

306 Section 6. Subsections (1) and (2) of section 468.8313,
 307 Florida Statutes, are amended, subsection (6) of that section is

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308 | renumbered as subsection (7) and amended, and a new subsection
 309 | (6) is added to that section, to read:

310 | 468.8313 Examinations.—

311 | (1) A person desiring to be licensed as a home inspector
 312 | shall apply to the department after he or she satisfies the
 313 | examination requirements of this part to take a licensure
 314 | examination.

315 | (2) An applicant shall be entitled to take the licensure
 316 | examination for the purpose of determining whether he or she is
 317 | qualified to practice in this state as a home inspector if the
 318 | applicant has passed the required examination, is of good moral
 319 | character, and has completed a course of study of at least no
 320 | less than 120 hours that covers all of the following components
 321 | of a home: structure, electrical system, HVAC system, roof
 322 | covering, plumbing system, interior components, exterior
 323 | components, and site conditions that affect the structure.

324 | (6) An applicant for a license shall submit, together with
 325 | the application, a complete set of electronic fingerprints in a
 326 | form and manner required by the department. The department shall
 327 | submit the fingerprints to the Department of Law Enforcement for
 328 | processing. The Department of Law Enforcement shall forward the
 329 | fingerprints to the Federal Bureau of Investigation for a level
 330 | 2 background check pursuant to s. 435.04. The department shall
 331 | review the background results to determine if an applicant meets
 332 | the requirements for licensure. The applicant is responsible for
 333 | the cost associated with processing the fingerprints. The
 334 | authorized agencies or vendors shall collect such fees and pay

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335 | for the processing costs due to the Department of Law
 336 | Enforcement.

337 | (7)(6) The department may adopt rules pursuant to ss.
 338 | 120.536(1) and 120.54 to implement the provisions of this
 339 | section.

340 | Section 7. Section 468.8318, Florida Statutes, is amended
 341 | to read:

342 | 468.8318 Certification of corporations and partnerships.—

343 | (1) The department shall issue a certificate of
 344 | authorization to a corporation or partnership offering home
 345 | inspection services to the public if the corporation or
 346 | partnership satisfies all of the requirements of this part.

347 | (2) The practice of or the offer to practice home
 348 | inspection services by licensees through a corporation or
 349 | partnership offering home inspection services to the public, or
 350 | by a corporation or partnership offering such services to the
 351 | public through licensees under this part as agents, employees,
 352 | officers, or partners, is permitted subject to the provisions of
 353 | this part, provided that all personnel of the corporation or
 354 | partnership who act in its behalf as home inspectors in this
 355 | state are licensed as provided by this part; and further
 356 | provided that the corporation or partnership has been issued a
 357 | certificate of authorization by the department as provided in
 358 | this section. Nothing in this section shall be construed to
 359 | allow a corporation to hold a license to practice home
 360 | inspection services. No corporation or partnership shall be
 361 | relieved of responsibility for the conduct or acts of its
 362 | agents, employees, or officers by reason of its compliance with

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363 | this section, nor shall any individual practicing home
 364 | inspection services be relieved of responsibility for
 365 | professional services performed by reason of his or her
 366 | employment or relationship with a corporation or partnership.

367 | (3) For the purposes of this section, a certificate of
 368 | authorization shall be required for a corporation, partnership,
 369 | association, or person practicing under a fictitious name and
 370 | offering home inspection services to the public; however, when
 371 | an individual is practicing home inspection services in his or
 372 | her own given name, he or she shall not be required to register
 373 | under this section.

374 | (4) Each certificate of authorization shall be renewed
 375 | every 2 years. Each partnership and corporation certified under
 376 | this section shall notify the department within 1 month of any
 377 | change in the information contained in the application upon
 378 | which the certification is based.

379 | (5) Disciplinary action against a corporation or
 380 | partnership shall be administered in the same manner and on the
 381 | same grounds as disciplinary action against a licensed home
 382 | inspector.

383 | Section 8. Notwithstanding the effective date of July 1,
 384 | 2010, provided by section 4 of chapter 2007-235, Laws of
 385 | Florida, the provisions of paragraphs (a) and (b) of subsection
 386 | (1) of section 468.8319, Florida Statutes, shall apply and
 387 | operate prospectively from July 1, 2011.

388 | Section 9. Paragraphs (f) and (g) of subsection (1) of
 389 | section 468.8319, Florida Statutes, are amended to read:

390 | 468.8319 Prohibitions; penalties.—

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391 (1) A home inspector, a company that employs a home
 392 inspector, or a company that is controlled by a company that
 393 also has a financial interest in a company employing a home
 394 inspector may not:

395 (f) Perform or offer to perform, prior to closing, for any
 396 additional fee, any repairs to a home on which the inspector or
 397 the inspector's company has prepared a home inspection report.
 398 This paragraph does not apply to a home warranty company that is
 399 affiliated with or retains a home inspector to perform repairs
 400 pursuant to a claim made under a home warranty contract;

401 (g) Inspect for a fee any property in which the inspector
 402 or the inspector's company has any financial or transfer
 403 interest;

404 Section 10. Subsection (1) of section 468.832, Florida
 405 Statutes, is amended to read:

406 468.832 Disciplinary proceedings.—

407 (1) The following acts constitute grounds for which the
 408 disciplinary actions in subsection (2) may be taken:

409 (a) Violation of any provision of this part or s.
 410 455.227(1);

411 (b) Attempting to procure a license to practice home
 412 inspection services by bribery or fraudulent misrepresentation;

413 (c) Having a license to practice home inspection services
 414 revoked, suspended, or otherwise acted against, including the
 415 denial of licensure, by the licensing authority of another
 416 state, territory, or country;

417 (d) Being convicted or found guilty of, or entering a plea
 418 of nolo contendere to, regardless of adjudication, a crime in

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419 any jurisdiction that directly relates to the practice of home
 420 inspection services or the ability to practice home inspection
 421 services_;

422 (e) Making or filing a report or record that the licensee
 423 knows to be false, willfully failing to file a report or record
 424 required by state or federal law, willfully impeding or
 425 obstructing such filing, or inducing another person to impede or
 426 obstruct such filing. Such reports or records shall include only
 427 those that are signed in the capacity of a licensed home
 428 inspector_;

429 (f) Advertising goods or services in a manner that is
 430 fraudulent, false, deceptive, or misleading in form or content_;

431 (g) Engaging in fraud or deceit, or negligence,
 432 incompetency, or misconduct, in the practice of home inspection
 433 services_;

434 (h) Failing to perform any statutory or legal obligation
 435 placed upon a licensed home inspector; violating any provision
 436 of this chapter, a rule of the department, or a lawful order of
 437 the department previously entered in a disciplinary hearing; or
 438 failing to comply with a lawfully issued subpoena of the
 439 department_;

440 (i) Practicing on a revoked, suspended, inactive, or
 441 delinquent license.

442 (j) Failing to meet any standard of practice adopted by
 443 the department.

444 Section 11. Section 468.8324, Florida Statutes, is amended
 445 to read:

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446 468.8324 Grandfather clause.—A person who performs home
 447 inspection services as defined in this part may qualify to be
 448 licensed by the department as a home inspector if the person
 449 submits an application to the department postmarked on or before
 450 March 1, 2011, that shows the applicant: meets the licensure
 451 requirements of this part by July 1, 2010.

452 (1) (a) Has been certified as a home inspector by a state
 453 or national association that required successful completion of a
 454 proctored examination on home inspection, as defined in this
 455 part, and has completed at least 14 hours of verifiable
 456 education on home inspection; or

457 (b) Has at least 3 years of experience as a home inspector
 458 at the time of application and has completed 14 hours of
 459 verifiable education on home inspection. Applicants must provide
 460 120 home inspection reports based on home inspections, as
 461 defined in this part, to establish the required 3 years of
 462 experience. The department may conduct investigations regarding
 463 the validity of home inspection reports submitted pursuant to
 464 this paragraph and may take disciplinary action pursuant to s.
 465 468.832 for filing false reports.

466 (2) Has not, within 5 years after the date of application,
 467 had a home inspector license or a license in a related field
 468 revoked, suspended, or assessed a fine in excess of \$500. For
 469 purposes of this part, a license in a related field includes,
 470 but is not limited to, licensure in real estate, construction,
 471 mold remediation, mold assessment, or building code
 472 administration or inspection.

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473 (3) Submits to and is not disqualified by the results of
 474 the criminal background check required under s. 468.8313.

475 (4) Is of good moral character as defined in s. 468.8313.

476 (5) Has general liability insurance as required in s.
 477 468.8322.

478 Section 12. Section 468.8325, Florida Statutes, is created
 479 to read:

480 468.8325 Rulemaking.-The department shall adopt rules to
 481 administer this part.

482 Section 13. Subsections (6) through (10) of section
 483 468.8412, Florida Statutes, are amended to read:

484 468.8412 Fees.-

485 (6) The fee for a biennial certificate of authorization
 486 renewal shall not exceed \$400.

487 (6) (7) The fee for licensure by endorsement shall not
 488 exceed \$200.

489 (7) (8) The fee for application for inactive status shall
 490 not exceed \$100.

491 (8) (9) The fee for reactivation of an inactive license
 492 shall not exceed \$200.

493 (9) (10) The fee for applications from providers of
 494 continuing education may not exceed \$500.

495 Section 14. Subsections (1) and (2) of section 468.8413,
 496 Florida Statutes, are amended to read:

497 468.8413 Examinations.-

498 (1) A person desiring to be licensed as a mold assessor or
 499 mold remediator shall apply to the department after he or she

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500 | satisfies the examination requirements of this part to take a
501 | licensure examination.

502 | (2) An applicant is qualified shall be entitled to take
503 | the licensure examination to practice in this state as a mold
504 | assessor or mold remediator if the applicant has passed the
505 | required examination, is of good moral character, and has
506 | satisfied one of the following requirements:

507 | (a)1. For a mold remediator, at least an associate of arts
508 | or equivalent a 2-year degree and has completed at least 30
509 | semester hours in microbiology, engineering, architecture,
510 | industrial hygiene, occupational safety, or a related field of
511 | science from an accredited institution and a minimum of 1 year
512 | of documented field experience in a field related to mold
513 | remediation; or

514 | 2. A high school diploma or the equivalent with a minimum
515 | of 4 years of documented field experience in a field related to
516 | mold remediation.

517 | (b)1. For a mold assessor, at least an associate of arts
518 | or equivalent a 2-year degree and has completed at least 30
519 | semester hours in microbiology, engineering, architecture,
520 | industrial hygiene, occupational safety, or a related field of
521 | science from an accredited institution and a minimum of 1 year
522 | of documented field experience in conducting microbial sampling
523 | or investigations; or

524 | 2. A high school diploma or the equivalent with a minimum
525 | of 4 years of documented field experience in conducting
526 | microbial sampling or investigations.

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527 Section 15. Subsection (3) of section 468.8414, Florida
 528 Statutes, is amended to read:

529 468.8414 Licensure.—

530 (3) The department shall certify as qualified for a
 531 license by endorsement an applicant who:

532 (a) Is of good moral character.

533 (b) Possesses liability insurance as required in s.
 534 468.8421. and:

535 (c)1.(a) Is qualified to take the examination as set forth
 536 in s. 468.8413 and has passed a certification examination
 537 offered by a nationally recognized organization that certifies
 538 persons in the specialty of mold assessment or mold remediation
 539 that has been approved by the department as substantially
 540 equivalent to the requirements of this part and s. 455.217; or

541 2.(b) Holds a valid license to practice mold assessment or
 542 mold remediation issued by another state or territory of the
 543 United States if the criteria for issuance of the license were
 544 substantially the same as the licensure criteria that is
 545 established by this part as determined by the department.

546 Section 16. Section 468.8418, Florida Statutes, is amended
 547 to read:

548 468.8418 Certification of partnerships and corporations.—

549 (1) The department shall issue a certificate of
 550 authorization to a corporation or partnership offering mold
 551 assessment or mold remediation services to the public if the
 552 corporation or partnership satisfies all of the requirements of
 553 this part.

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554 (2) The practice of or the offer to practice mold
 555 assessment or mold remediation by licensees through a
 556 corporation or partnership offering mold assessment or mold
 557 remediation to the public, or by a corporation or partnership
 558 offering such services to the public through licensees under
 559 this part as agents, employees, officers, or partners, is
 560 permitted subject to the provisions of this part, provided that
 561 the corporation or partnership has been issued a certificate of
 562 authorization by the department as provided in this section.
 563 Nothing in this section shall be construed to allow a
 564 corporation to hold a license to practice mold assessment or
 565 mold remediation. No corporation or partnership shall be
 566 relieved of responsibility for the conduct or acts of its
 567 agents, employees, or officers by reason of its compliance with
 568 this section, nor shall any individual practicing mold
 569 assessment or mold remediation be relieved of responsibility for
 570 professional services performed by reason of his or her
 571 employment or relationship with a corporation or partnership.

572 (3) For the purposes of this section, a certificate of
 573 authorization shall be required for a corporation, partnership,
 574 association, or person practicing under a fictitious name,
 575 offering mold assessment or mold remediation; however, when an
 576 individual is practicing mold assessment or mold remediation
 577 under his or her own given name, he or she shall not be required
 578 to register under this section.

579 (4) Each certificate of authorization shall be renewed
 580 every 2 years. Each partnership and corporation certified under
 581 this section shall notify the department within 1 month of any

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582 change in the information contained in the application upon
 583 which the certification is based.

584 (5) Disciplinary action against a corporation or
 585 partnership shall be administered in the same manner and on the
 586 same grounds as disciplinary action against a licensed mold
 587 assessor or mold remediator.

588
 589 Section 17. Subsection (1) of section 468.842, Florida
 590 Statutes, is amended to read:

591 468.842 Disciplinary proceedings.—

592 (1) The following acts constitute grounds for which the
 593 disciplinary actions in subsection (2) may be taken:

594 (a) Violation of any provision of this part or s.
 595 455.227(1).;

596 (b) Attempting to procure a license to practice mold
 597 assessment or mold remediation by bribery or fraudulent
 598 misrepresentations.;

599 (c) Having a license to practice mold assessment or mold
 600 remediation revoked, suspended, or otherwise acted against,
 601 including the denial of licensure, by the licensing authority of
 602 another state, territory, or country.;

603 (d) Being convicted or found guilty of, or entering a plea
 604 of nolo contendere to, regardless of adjudication, a crime in
 605 any jurisdiction that directly relates to the practice of mold
 606 assessment or mold remediation or the ability to practice mold
 607 assessment or mold remediation.;

608 (e) Making or filing a report or record that the licensee
 609 knows to be false, willfully failing to file a report or record

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610 required by state or federal law, willfully impeding or
 611 obstructing such filing, or inducing another person to impede or
 612 obstruct such filing. Such reports or records shall include only
 613 those that are signed in the capacity of a registered mold
 614 assessor or mold remediator.;

615 (f) Advertising goods or services in a manner that is
 616 fraudulent, false, deceptive, or misleading in form or content.;

617 (g) Engaging in fraud or deceit, or negligence,
 618 incompetency, or misconduct, in the practice of mold assessment
 619 or mold remediation.;

620 (h) Failing to perform any statutory or legal obligation
 621 placed upon a licensed mold assessor or mold remediator;
 622 violating any provision of this chapter, a rule of the
 623 department, or a lawful order of the department previously
 624 entered in a disciplinary hearing; or failing to comply with a
 625 lawfully issued subpoena of the department.; or

626 (i) Practicing on a revoked, suspended, inactive, or
 627 delinquent license.

628 (j) Failing to meet any standard of practice adopted by
 629 department rule.

630 Section 18. Subsection (1) of section 468.8421, Florida
 631 Statutes, is amended to read:

632 468.8421 Insurance.—

633 (1) A mold assessor shall maintain general liability and
 634 errors and omissions insurance coverage in an amount of not less
 635 than \$1,000,000. The insurance must cover preliminary and
 636 postremediation activities.

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637 Section 19. Section 468.8423, Florida Statutes, is amended
638 to read:

639 468.8423 Grandfather clause.—A person who performs mold
640 assessment or mold remediation as defined in this part may
641 qualify to be licensed by the department as a mold assessor or
642 mold remediator if the person submits an application to the
643 department postmarked on or before March 1, 2011, that shows the
644 applicant:

645 (1) (a) Has been certified as a mold assessor or mold
646 remediator by a state or national association that required
647 successful completion of a proctored examination for
648 certification and has completed at least 60 hours of education
649 for a mold assessor and 30 hours of education for a mold
650 remediator; or

651 (b) Has at least 3 years of experience as a mold assessor
652 or mold remediator at the time of application. Applicants must
653 provide 40 invoices for mold assessments or mold remediations,
654 as defined by this part, to establish the required 3 years of
655 experience. The department may conduct investigations regarding
656 the validity of invoices for mold assessments or mold
657 remediations submitted pursuant to this section and may take
658 disciplinary action pursuant to s. 468.842 for submitting false
659 information.

660 (2) Has not, within 5 years after the date of application,
661 had a mold assessor or mold remediator license or a license in a
662 related field revoked, suspended, or assessed a fine in excess
663 of \$500. For purposes of this part, a license in a related field
664 includes, but is not limited to, licensure in real estate,

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665 construction, home inspection, building code administration or
 666 inspection, or indoor air quality.

667 (3) Is of good moral character as defined in s. 468.8413.

668 (4) Has the general liability insurance required in s.

669 468.8421 meets the licensure requirements of this part by July
 670 1, 2010.

671 Section 20. Section 468.8424, Florida Statutes, is created
 672 to read:

673 468.8424 Rulemaking.-The department shall adopt rules to
 674 administer this part.

675 Section 21. Subsection (22) of section 489.103, Florida
 676 Statutes, is amended to read:

677 489.103 Exemptions.-This part does not apply to:

678 (22) A person licensed pursuant to s. 633.061(1)(d) or
 679 (3)(2)(b) performing work authorized by such license.

680 Section 22. Subsections (2), (8), and (9) of section
 681 553.37, Florida Statutes, are amended, and subsection (12) is
 682 added to that section, to read:

683 553.37 Rules; inspections; and insignia.-

684 (2) The department shall adopt rules to address:

685 (a) Procedures and qualifications for approval of third-
 686 party plan review and inspection agencies and of those who
 687 perform inspections and plan reviews.

688 (b) Investigation of consumer complaints of noncompliance
 689 of manufactured buildings with the Florida Building Code and the
 690 Florida Fire Prevention Code.

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691 (c) Issuance, cancellation, and revocation of any insignia
 692 issued by the department and procedures for auditing and
 693 accounting for disposition of them.

694 (d) Monitoring the manufacturers', inspection agencies',
 695 and plan review agencies' compliance with this part and the
 696 Florida Building Code. Monitoring may include, but is not
 697 limited to, performing audits of plans, inspections of
 698 manufacturing facilities and observation of the manufacturing
 699 and inspection process, and onsite inspections of buildings.

700 (e) The performance by the department and its designees
 701 and contractors of any other functions required by this part.

702 (8) The department, by rule, shall establish a schedule of
 703 fees to pay the cost of the administration and enforcement of
 704 this part. The rule may provide for manufacturers to pay fees to
 705 the administrator directly via the Building Code Information
 706 System.

707 (9) The department may delegate its enforcement authority
 708 to a state department having building construction
 709 responsibilities or a local government and may enter into
 710 contracts for the performance of its administrative duties under
 711 this part. The department may delegate its plan review and
 712 inspection authority to one or more of the following in any
 713 combination:

714 (a) A state department having building construction
 715 responsibilities;

716 (b) A local government;

717 (c) An approved inspection agency;

718 (d) An approved plan review agency; or

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719 (e) An agency of another state.

720 (12) Custom or one-of-a-kind prototype manufactured
 721 buildings are not required to have state approval, but must be
 722 in compliance with all local requirements of the governmental
 723 agency having jurisdiction at the installation site.

724 Section 23. Section 553.375, Florida Statutes, is amended
 725 to read:

726 553.375 Recertification of manufactured buildings.—Prior
 727 to the relocation to a site that has a higher design wind speed,
 728 modification, or change of occupancy of a manufactured building
 729 within the state, the manufacturer, dealer, or owner thereof may
 730 apply to the department for recertification of that manufactured
 731 building. The department shall, by rule, provide what
 732 information the applicant must submit for recertification and
 733 for plan review and inspection of such manufactured buildings
 734 and shall establish fees for recertification. Upon a
 735 determination by the department that the manufactured building
 736 complies with the applicable building codes, the department
 737 shall issue a recertification insignia. A manufactured building
 738 that bears recertification insignia does not require any
 739 additional approval by an enforcement jurisdiction in which the
 740 building is sold or installed, and is considered to comply with
 741 all applicable codes. As an alternative to recertification by
 742 the department, the manufacturer, dealer, or owner of a
 743 manufactured building may seek appropriate permitting and a
 744 certificate of occupancy from the local jurisdiction in
 745 accordance with procedures generally applicable under the
 746 Florida Building Code.

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747 Section 24. Section 553.509, Florida Statutes, is amended
 748 to read:

749 553.509 Vertical accessibility.—

750 (1) Nothing in ss. 553.501-553.513 or the guidelines shall
 751 be construed to relieve the owner of any building, structure, or
 752 facility governed by those sections from the duty to provide
 753 vertical accessibility to all levels above and below the
 754 occupiable grade level, regardless of whether the guidelines
 755 require an elevator to be installed in such building, structure,
 756 or facility, except for:

757 (a) Elevator pits, elevator penthouses, mechanical rooms,
 758 piping or equipment catwalks, and automobile lubrication and
 759 maintenance pits and platforms;

760 (b) Unoccupiable spaces, such as rooms, enclosed spaces,
 761 and storage spaces that are not designed for human occupancy,
 762 for public accommodations, or for work areas; and

763 (c) Occupiable spaces and rooms that are not open to the
 764 public and that house no more than five persons, including, but
 765 not limited to, equipment control rooms and projection booths.

766 (2) (a) Any person, firm, or corporation that owns,
 767 manages, or operates a residential multifamily dwelling,
 768 including a condominium, that is at least 75 feet high and
 769 contains a public elevator, as described in s. 399.035(2) and
 770 (3) and rules adopted by the Florida Building Commission, shall
 771 have at least one public elevator that is capable of operating
 772 on an alternate power source for emergency purposes. Alternate
 773 power shall be available for the purpose of allowing all
 774 residents access for a specified number of hours each day over a

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775 5-day period following a natural disaster, manmade disaster,
 776 emergency, or other civil disturbance that disrupts the normal
 777 supply of electricity. The alternate power source that controls
 778 elevator operations must also be capable of powering any
 779 connected fire alarm system in the building.

780 (b) At a minimum, the elevator must be appropriately
 781 prewired and prepared to accept an alternate power source and
 782 must have a connection on the line side of the main disconnect,
 783 pursuant to National Electric Code Handbook, Article 700. In
 784 addition to the required power source for the elevator and
 785 connected fire alarm system in the building, the alternate power
 786 supply must be sufficient to provide emergency lighting to the
 787 interior lobbies, hallways, and other portions of the building
 788 used by the public. Residential multifamily dwellings must have
 789 an available generator and fuel source on the property or have
 790 proof of a current contract posted in the elevator machine room
 791 or other place conspicuous to the elevator inspector affirming a
 792 current guaranteed service contract for such equipment and fuel
 793 source to operate the elevator on an on-call basis within 24
 794 hours after a request. By December 31, 2006, any person, firm or
 795 corporation that owns, manages, or operates a residential
 796 multifamily dwelling as defined in paragraph (a) must provide to
 797 the local building inspection agency verification of engineering
 798 plans for residential multifamily dwellings that provide for the
 799 capability to generate power by alternate means. Compliance with
 800 installation requirements and operational capability
 801 requirements must be verified by local building inspectors and

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802 | reported to the county emergency management agency by December
 803 | 31, 2007.

804 | (c) Each newly constructed residential multifamily
 805 | dwelling, including a condominium, that is at least 75 feet high
 806 | and contains a public elevator, as described in s. 399.035(2)
 807 | and (3) and rules adopted by the Florida Building Commission,
 808 | must have at least one public elevator that is capable of
 809 | operating on an alternate power source for the purpose of
 810 | allowing all residents access for a specified number of hours
 811 | each day over a 5-day period following a natural disaster,
 812 | manmade disaster, emergency, or other civil disturbance that
 813 | disrupts the normal supply of electricity. The alternate power
 814 | source that controls elevator operations must be capable of
 815 | powering any connected fire alarm system in the building. In
 816 | addition to the required power source for the elevator and
 817 | connected fire alarm system, the alternate power supply must be
 818 | sufficient to provide emergency lighting to the interior
 819 | lobbies, hallways, and other portions of the building used by
 820 | the public. Engineering plans and verification of operational
 821 | capability must be provided by the local building inspector to
 822 | the county emergency management agency before occupancy of the
 823 | newly constructed building.

824 | (d) Each person, firm, or corporation that is required to
 825 | maintain an alternate power source under this subsection shall
 826 | maintain a written emergency operations plan that details the
 827 | sequence of operations before, during, and after a natural or
 828 | manmade disaster or other emergency situation. The plan must
 829 | include, at a minimum, a lifesafety plan for evacuation,

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830 maintenance of the electrical and lighting supply, and
 831 provisions for the health, safety, and welfare of the residents.
 832 In addition, the owner, manager, or operator of the residential
 833 multifamily dwelling must keep written records of any contracts
 834 for alternative power generation equipment. Also, quarterly
 835 inspection records of lifesafety equipment and alternate power
 836 generation equipment must be posted in the elevator machine room
 837 or other place conspicuous to the elevator inspector, which
 838 confirm that such equipment is properly maintained and in good
 839 working condition, and copies of contracts for alternate power
 840 generation equipment shall be maintained on site for
 841 verification. The written emergency operations plan and
 842 inspection records shall also be open for periodic inspection by
 843 local and state government agencies as deemed necessary. The
 844 owner or operator must keep a generator key in a lockbox posted
 845 at or near any installed generator unit.

846 (e) Multistory affordable residential dwellings for
 847 persons age 62 and older that are financed or insured by the
 848 United States Department of Housing and Urban Development must
 849 make every effort to obtain grant funding from the Federal
 850 Government or the Florida Housing Finance Corporation to comply
 851 with this subsection. If an owner of such a residential dwelling
 852 cannot comply with the requirements of this subsection, the
 853 owner must develop a plan with the local emergency management
 854 agency to ensure that residents are evacuated to a place of
 855 safety in the event of a power outage resulting from a natural
 856 or manmade disaster or other emergency situation that disrupts
 857 the normal supply of electricity for an extended period of time.

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858 | A place of safety may include, but is not limited to, relocation
 859 | to an alternative site within the building or evacuation to a
 860 | local shelter.

861 | (f) As a part of the annual elevator inspection required
 862 | under s. 399.061, certified elevator inspectors shall confirm
 863 | that all installed generators required by this chapter are in
 864 | working order, have current inspection records posted in the
 865 | elevator machine room or other place conspicuous to the elevator
 866 | inspector, and that the required generator key is present in the
 867 | lockbox posted at or near the installed generator. If a building
 868 | does not have an installed generator, the inspector shall
 869 | confirm that the appropriate rewiring and switching
 870 | capabilities are present and that a statement is posted in the
 871 | elevator machine room or other place conspicuous to the elevator
 872 | inspector affirming a current guaranteed contract exists for
 873 | contingent services for alternate power is current for the
 874 | .operating period.

875 | (2) However, buildings, structures, and facilities must,
 876 | at as a minimum, comply with the requirements in the Americans
 877 | with Disabilities Act Accessibility Guidelines.

878 | Section 25. Subsection (1) of section 553.512, Florida
 879 | Statutes, is amended to read:

880 | 553.512 Modifications and waivers; advisory council.—

881 | (1) The Florida Building Commission shall provide by
 882 | regulation criteria for granting individual modifications of, or
 883 | exceptions from, the literal requirements of this part upon a
 884 | determination of unnecessary, unreasonable, or extreme hardship,
 885 | provided such waivers shall not violate federal accessibility

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886 laws and regulations and shall be reviewed by the Accessibility
 887 Advisory Council. The commission shall establish by rule a fee
 888 to be paid upon submitting a request for a waiver as provided in
 889 this section. Notwithstanding any other provision of this
 890 subsection, if an applicant for a waiver demonstrates economic
 891 hardship in accordance with 28 C.F.R. s. 36.403(f)(1), a waiver
 892 shall be granted. The commission may not consider waiving any of
 893 the requirements of s. 553.5041 unless the applicant first
 894 demonstrates that she or he has applied for and been denied
 895 waiver or variance from all local government zoning, subdivision
 896 regulations, or other ordinances that prevent compliance
 897 therewith. Further, the commission may not waive the requirement
 898 of s. 553.5041(5)(a) and (c)1. governing the minimum width of
 899 accessible routes and minimum width of accessible parking
 900 spaces.

901 Section 26. Subsections (2) and (3) and paragraph (b) of
 902 subsection (4) of section 553.73, Florida Statutes, are amended,
 903 present subsections (5) through (13) of that section are
 904 renumbered as subsections (6) through (14), respectively, a new
 905 subsection (5) is added to that section, paragraph (a) of
 906 present subsection (6) and present subsections (7) and (9) of
 907 that section are amended, and subsections (15) and (16) are
 908 added to that section, to read:

909 553.73 Florida Building Code.—

910 (2) The Florida Building Code shall contain provisions or
 911 requirements for public and private buildings, structures, and
 912 facilities relative to structural, mechanical, electrical,
 913 plumbing, energy, and gas systems, existing buildings,

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914 historical buildings, manufactured buildings, elevators, coastal
 915 construction, lodging facilities, food sales and food service
 916 facilities, health care facilities, including assisted living
 917 facilities, adult day care facilities, hospice residential and
 918 inpatient facilities and units, and facilities for the control
 919 of radiation hazards, public or private educational facilities,
 920 swimming pools, and correctional facilities and enforcement of
 921 and compliance with such provisions or requirements. Further,
 922 the Florida Building Code must provide for uniform
 923 implementation of ss. 515.25, 515.27, and 515.29 by including
 924 standards and criteria for residential swimming pool barriers,
 925 pool covers, latching devices, door and window exit alarms, and
 926 other equipment required therein, which are consistent with the
 927 intent of s. 515.23. Technical provisions to be contained within
 928 the Florida Building Code are restricted to requirements related
 929 to the types of materials used and construction methods and
 930 standards employed in order to meet criteria specified in the
 931 Florida Building Code. Provisions relating to the personnel,
 932 supervision or training of personnel, or any other professional
 933 qualification requirements relating to contractors or their
 934 workforce may not be included within the Florida Building Code,
 935 and subsections (4), (5), (6), (7), and (8), and (9) are not to
 936 be construed to allow the inclusion of such provisions within
 937 the Florida Building Code by amendment. This restriction applies
 938 to both initial development and amendment of the Florida
 939 Building Code.

940 (3) The commission shall select from available national or
 941 international model building codes, or other available building

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942 codes and standards currently recognized by the laws of this
943 state, to form the foundation for the Florida Building Code. The
944 commission may modify the selected model codes and standards as
945 needed to accommodate the specific needs of this state.

946 Standards or criteria referenced by the selected model codes
947 shall be similarly incorporated by reference. If a referenced
948 standard or criterion requires amplification or modification to
949 be appropriate for use in this state, only the amplification or
950 modification shall be specifically set forth in the Florida
951 Building Code. The Florida Building Commission may approve
952 technical amendments to the code, subject to the requirements of
953 subsections (8) (7) and (9) (8), after the amendments have been
954 subject to the following conditions:

955 (a) The proposed amendment has been published on the
956 commission's website for a minimum of 45 days and all the
957 associated documentation has been made available to any
958 interested party before any consideration by any Technical
959 Advisory Committee;

960 (b) In order for a Technical Advisory Committee to make a
961 favorable recommendation to the commission, the proposal must
962 receive a three-fourths vote of the members present at the
963 Technical Advisory Committee meeting and at least half of the
964 regular members must be present in order to conduct a meeting;

965 (c) After Technical Advisory Committee consideration and a
966 recommendation for approval of any proposed amendment, the
967 proposal must be published on the commission's website for not
968 less than 45 days before any consideration by the commission;
969 and

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970 (d) Any proposal may be modified by the commission based
 971 on public testimony and evidence from a public hearing held in
 972 accordance with chapter 120.

973
 974 The commission shall incorporate within sections of the Florida
 975 Building Code provisions which address regional and local
 976 concerns and variations. The commission shall make every effort
 977 to minimize conflicts between the Florida Building Code, the
 978 Florida Fire Prevention Code, and the Life Safety Code.

979 (4)

980 (b) Local governments may, subject to the limitations of
 981 this section, adopt amendments to the technical provisions of
 982 the Florida Building Code which apply solely within the
 983 jurisdiction of such government and which provide for more
 984 stringent requirements than those specified in the Florida
 985 Building Code, not more than once every 6 months. A local
 986 government may adopt technical amendments that address local
 987 needs if:

988 1. The local governing body determines, following a public
 989 hearing which has been advertised in a newspaper of general
 990 circulation at least 10 days before the hearing, that there is a
 991 need to strengthen the requirements of the Florida Building
 992 Code. The determination must be based upon a review of local
 993 conditions by the local governing body, which review
 994 demonstrates by evidence or data that the geographical
 995 jurisdiction governed by the local governing body exhibits a
 996 local need to strengthen the Florida Building Code beyond the
 997 needs or regional variation addressed by the Florida Building

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998 Code, that the local need is addressed by the proposed local
 999 amendment, and that the amendment is no more stringent than
 1000 necessary to address the local need.

1001 2. Such additional requirements are not discriminatory
 1002 against materials, products, or construction techniques of
 1003 demonstrated capabilities.

1004 3. Such additional requirements may not introduce a new
 1005 subject not addressed in the Florida Building Code.

1006 4. The enforcing agency shall make readily available, in a
 1007 usable format, all amendments adopted pursuant to this section.

1008 5. Any amendment to the Florida Building Code shall be
 1009 transmitted within 30 days by the adopting local government to
 1010 the commission. The commission shall maintain copies of all such
 1011 amendments in a format that is usable and obtainable by the
 1012 public. Local technical amendments shall not become effective
 1013 until 30 days after the amendment has been received and
 1014 published by the commission.

1015 6. Any amendment to the Florida Building Code adopted by a
 1016 local government pursuant to this paragraph shall be effective
 1017 only until the adoption by the commission of the new edition of
 1018 the Florida Building Code every third year. At such time, the
 1019 commission shall review such amendment for consistency with the
 1020 criteria in paragraph (9)(8)(a) and adopt such amendment as part
 1021 of the Florida Building Code or rescind the amendment. The
 1022 commission shall immediately notify the respective local
 1023 government of the rescission of any amendment. After receiving
 1024 such notice, the respective local government may readopt the

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1025 rescinded amendment pursuant to the provisions of this
 1026 paragraph.

1027 7. Each county and municipality desiring to make local
 1028 technical amendments to the Florida Building Code shall by
 1029 interlocal agreement establish a countywide compliance review
 1030 board to review any amendment to the Florida Building Code,
 1031 adopted by a local government within the county pursuant to this
 1032 paragraph, that is challenged by any substantially affected
 1033 party for purposes of determining the amendment's compliance
 1034 with this paragraph. If challenged, the local technical
 1035 amendments shall not become effective until time for filing an
 1036 appeal pursuant to subparagraph 8. has expired or, if there is
 1037 an appeal, until the commission issues its final order
 1038 determining the adopted amendment is in compliance with this
 1039 subsection.

1040 8. If the compliance review board determines such
 1041 amendment is not in compliance with this paragraph, the
 1042 compliance review board shall notify such local government of
 1043 the noncompliance and that the amendment is invalid and
 1044 unenforceable until the local government corrects the amendment
 1045 to bring it into compliance. The local government may appeal the
 1046 decision of the compliance review board to the commission. If
 1047 the compliance review board determines such amendment to be in
 1048 compliance with this paragraph, any substantially affected party
 1049 may appeal such determination to the commission. Any such appeal
 1050 shall be filed with the commission within 14 days of the board's
 1051 written determination. The commission shall promptly refer the
 1052 appeal to the Division of Administrative Hearings for the

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1053 assignment of an administrative law judge. The administrative
 1054 law judge shall conduct the required hearing within 30 days, and
 1055 shall enter a recommended order within 30 days of the conclusion
 1056 of such hearing. The commission shall enter a final order within
 1057 30 days thereafter. The provisions of chapter 120 and the
 1058 uniform rules of procedure shall apply to such proceedings. The
 1059 local government adopting the amendment that is subject to
 1060 challenge has the burden of proving that the amendment complies
 1061 with this paragraph in proceedings before the compliance review
 1062 board and the commission, as applicable. Actions of the
 1063 commission are subject to judicial review pursuant to s. 120.68.
 1064 The compliance review board shall determine whether its
 1065 decisions apply to a respective local jurisdiction or apply
 1066 countywide.

1067 9. An amendment adopted under this paragraph shall include
 1068 a fiscal impact statement which documents the costs and benefits
 1069 of the proposed amendment. Criteria for the fiscal impact
 1070 statement shall include the impact to local government relative
 1071 to enforcement, the impact to property and building owners, as
 1072 well as to industry, relative to the cost of compliance. The
 1073 fiscal impact statement may not be used as a basis for
 1074 challenging the amendment for compliance.

1075 10. In addition to subparagraphs 7. and 9., the commission
 1076 may review any amendments adopted pursuant to this subsection
 1077 and make nonbinding recommendations related to compliance of
 1078 such amendments with this subsection.

1079 (5) Notwithstanding subsection (4), counties and
 1080 municipalities may adopt by ordinance an administrative or

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1081 technical amendment to the Florida Building Code relating to
 1082 flood resistance in order to implement the National Flood
 1083 Insurance Program or incentives. Specifically, an administrative
 1084 amendment may assign the duty to enforce all or portions of
 1085 flood-related code provisions to the appropriate agencies of the
 1086 local government and adopt procedures for variances and
 1087 exceptions from flood-related code provisions other than
 1088 provisions for structures seaward of the coastal construction
 1089 control line consistent with the requirements in 44 C.F.R. s.
 1090 60.6. A technical amendment is authorized to the extent it is
 1091 more stringent than the code. A technical amendment is not
 1092 subject to the requirements of subsection (4) and may not be
 1093 rendered void when the code is updated if the amendment is
 1094 adopted for the purpose of participating in the Community Rating
 1095 System promulgated pursuant to 42 U.S.C. s. 4022, or if the
 1096 amendment had already been adopted by local ordinance prior to
 1097 this section becoming effective, or if the amendment is to
 1098 require a design flood elevation above the base flood elevation.
 1099 Any amendment adopted pursuant to this subsection shall be
 1100 transmitted to the commission within 30 days after being
 1101 adopted.

1102 (7) (6) (a) The commission, by rule adopted pursuant to ss.
 1103 120.536(1) and 120.54, shall update the Florida Building Code
 1104 every 3 years. When updating the Florida Building Code, the
 1105 commission shall select the most current version of the
 1106 International Building Code, the International Fuel Gas Code,
 1107 the International Mechanical Code, the International Plumbing
 1108 Code, and the International Residential Code, all of which are

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1109 | adopted by the International Code Council, and the National
 1110 | Electrical Code, which is adopted by the National Fire
 1111 | Protection Association, to form the foundation codes of the
 1112 | updated Florida Building Code, if the version has been adopted
 1113 | by the applicable model code entity and made available to the
 1114 | public at least 6 months prior to its selection by the
 1115 | commission. The commission shall select the most current version
 1116 | of the International Energy Conservation Code (IECC) as a
 1117 | foundation code; however, the IECC shall be modified by the
 1118 | commission to maintain the efficiencies of the Florida Energy
 1119 | Efficiency Code for Building Construction adopted and amended
 1120 | pursuant to s. 553.901.

1121 | (8)(7) Notwithstanding the provisions of subsection (3) or
 1122 | subsection (7) (6), the commission may address issues identified
 1123 | in this subsection by amending the code pursuant only to the
 1124 | rule adoption procedures contained in chapter 120. Provisions of
 1125 | the Florida Building Code, including those contained in
 1126 | referenced standards and criteria, relating to wind resistance
 1127 | or the prevention of water intrusion may not be amended pursuant
 1128 | to this subsection to diminish those construction requirements;
 1129 | however, the commission may, subject to conditions in this
 1130 | subsection, amend the provisions to enhance those construction
 1131 | requirements. Following the approval of any amendments to the
 1132 | Florida Building Code by the commission and publication of the
 1133 | amendments on the commission's website, authorities having
 1134 | jurisdiction to enforce the Florida Building Code may enforce
 1135 | the amendments. The commission may approve amendments that are
 1136 | needed to address:

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- 1137 (a) Conflicts within the updated code;
- 1138 (b) Conflicts between the updated code and the Florida
1139 Fire Prevention Code adopted pursuant to chapter 633;
- 1140 (c) The omission of previously adopted Florida-specific
1141 amendments to the updated code if such omission is not supported
1142 by a specific recommendation of a technical advisory committee
1143 or particular action by the commission;
- 1144 (d) Unintended results from the integration of previously
1145 adopted Florida-specific amendments with the model code;
- 1146 (e) Equivalency of standards;
- 1147
- 1148 (f) Changes to or inconsistencies with federal or state
1149 law; or
- 1150 (g) Adoption of an updated edition of the National
1151 Electrical Code if the commission finds that delay of
1152 implementing the updated edition causes undue hardship to
1153 stakeholders or otherwise threatens the public health, safety,
1154 and welfare.
- 1155 (10)(9) The following buildings, structures, and
1156 facilities are exempt from the Florida Building Code as provided
1157 by law, and any further exemptions shall be as determined by the
1158 Legislature and provided by law:
- 1159 (a) Buildings and structures specifically regulated and
1160 preempted by the Federal Government.
- 1161 (b) Railroads and ancillary facilities associated with the
1162 railroad.
- 1163 (c) Nonresidential farm buildings on farms.

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1164 (d) Temporary buildings or sheds used exclusively for
 1165 construction purposes.

1166 (e) Mobile or modular structures used as temporary
 1167 offices, except that the provisions of part II relating to
 1168 accessibility by persons with disabilities shall apply to such
 1169 mobile or modular structures.

1170 (f) Those structures or facilities of electric utilities,
 1171 as defined in s. 366.02, which are directly involved in the
 1172 generation, transmission, or distribution of electricity.

1173 (g) Temporary sets, assemblies, or structures used in
 1174 commercial motion picture or television production, or any
 1175 sound-recording equipment used in such production, on or off the
 1176 premises.

1177 (h) Storage sheds that are not designed for human
 1178 habitation and that have a floor area of 720 square feet or less
 1179 are not required to comply with the mandatory wind-borne-debris-
 1180 impact standards of the Florida Building Code.

1181 (i) Chickees constructed by the Miccosukee Tribe of
 1182 Indians of Florida or the Seminole Tribe of Florida. As used in
 1183 this paragraph, the term "chickee" means an open-sided wooden
 1184 hut that has a thatched roof of palm or palmetto or other
 1185 traditional materials, and that does not incorporate any
 1186 electrical, plumbing, or other nonwood features.

1187 (j) Family mausoleums not exceeding 250 square feet in
 1188 area which are prefabricated and assembled on site or
 1189 preassembled and delivered on site and have walls, roofs, and a
 1190 floor constructed of granite, marble, or reinforced concrete.
 1191

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1192 With the exception of paragraphs (a), (b), (c), and (f), in
 1193 order to preserve the health, safety, and welfare of the public,
 1194 the Florida Building Commission may, by rule adopted pursuant to
 1195 chapter 120, provide for exceptions to the broad categories of
 1196 buildings exempted in this section, including exceptions for
 1197 application of specific sections of the code or standards
 1198 adopted therein. The Department of Agriculture and Consumer
 1199 Services shall have exclusive authority to adopt by rule,
 1200 pursuant to chapter 120, exceptions to nonresidential farm
 1201 buildings exempted in paragraph (c) when reasonably necessary to
 1202 preserve public health, safety, and welfare. The exceptions must
 1203 be based upon specific criteria, such as under-roof floor area,
 1204 aggregate electrical service capacity, HVAC system capacity, or
 1205 other building requirements. Further, the commission may
 1206 recommend to the Legislature additional categories of buildings,
 1207 structures, or facilities which should be exempted from the
 1208 Florida Building Code, to be provided by law. The Florida
 1209 Building Code does not apply to temporary housing provided by
 1210 the Department of Corrections to any prisoner in the state
 1211 correctional system.

1212 (15) The Florida Building Code or any agency or local
 1213 government may not require that existing mechanical equipment on
 1214 the surface of a roof be installed in compliance with the
 1215 requirements in the code until the equipment must be removed or
 1216 the mechanical equipment is replaced.

1217 Section 27. Subsection (5) is added to section 553.74,
 1218 Florida Statutes, to read:

1219 553.74 Florida Building Commission.—

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1220 (5) Notwithstanding s. 112.313 or any other provision of
 1221 law, a member of any of commission's technical advisory
 1222 committees or a member of any other advisory committee or
 1223 workgroup of the commission, shall not be considered to have an
 1224 impermissible conflict of interest when representing clients
 1225 before the commission or one of its committees or workgroups.
 1226 However, the member, in his or her capacity as member of the
 1227 committee or workgroup, may not take part in any discussion on
 1228 or take action on any matter in which he or she has a direct
 1229 financial interest.

1230 Section 28. Subsection (2) of section 553.76, Florida
 1231 Statutes, is amended to read:

1232 553.76 General powers of the commission.—The commission is
 1233 authorized to:

1234 (2) Issue memoranda of procedure for its internal
 1235 management and control. The commission may adopt rules related
 1236 to its consensus-based decisionmaking process, including, but
 1237 not limited to, super majority voting requirements for
 1238 commission actions relating to the adoption of the Florida
 1239 Building Code or amendments to the code.

1240 Section 29. Subsections (2) and (4) of section 553.775,
 1241 Florida Statutes, are amended to read:

1242 553.775 Interpretations.—

1243 (2) Local enforcement agencies, local building officials,
 1244 state agencies, and the commission shall interpret provisions of
 1245 the Florida Building Code in a manner that is consistent with
 1246 declaratory statements and interpretations entered by the
 1247 commission, except that conflicts between the Florida Fire

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1248 Prevention Code and the Florida Building Code shall be resolved
 1249 in accordance with s. 553.73(11)(10)(c) and (d).

1250 (4) In order to administer this section, the commission
 1251 may adopt by rule and impose a fee for filing requests for
 1252 declaratory statements and binding and nonbinding
 1253 interpretations to recoup the cost of the proceedings which may
 1254 not exceed \$125 for each non-binding and \$250 for each binding
 1255 request for a review or interpretation. For proceedings
 1256 conducted by or in coordination with a third-party, the rule may
 1257 provide that payment be made directly to the third party, who
 1258 shall remit to the department that portion of the fee necessary
 1259 to cover the costs of the department.

1260 Section 30. Subsection (9) of section 553.79, Florida
 1261 Statutes, is amended to read:

1262 553.79 Permits; applications; issuance; inspections.—

1263 (9) Any state agency whose enabling legislation authorizes
 1264 it to enforce provisions of the Florida Building Code may enter
 1265 into an agreement with any other unit of government to delegate
 1266 its responsibility to enforce those provisions and may expend
 1267 public funds for permit and inspection fees, which fees may be
 1268 no greater than the fees charged others. Inspection services
 1269 that are not required to be performed by a state agency under a
 1270 federal delegation of responsibility or by a state agency under
 1271 the Florida Building Code must be performed under the
 1272 alternative plans review and inspection process created in s.
 1273 553.791 or by a local governmental entity having authority to
 1274 enforce the Florida Building Code.

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1275 Section 31. For the purpose of incorporating the amendment
 1276 made by this act to section 553.79, Florida Statutes, in a
 1277 reference thereto, subsection (1) of section 553.80, Florida
 1278 Statutes, is reenacted, and subsection (3) of that section is
 1279 amended, to read:

1280 553.80 Enforcement.—

1281 (1) Except as provided in paragraphs (a)-(g), each local
 1282 government and each legally constituted enforcement district
 1283 with statutory authority shall regulate building construction
 1284 and, where authorized in the state agency's enabling
 1285 legislation, each state agency shall enforce the Florida
 1286 Building Code required by this part on all public or private
 1287 buildings, structures, and facilities, unless such
 1288 responsibility has been delegated to another unit of government
 1289 pursuant to s. 553.79(9).

1290 (a) Construction regulations relating to correctional
 1291 facilities under the jurisdiction of the Department of
 1292 Corrections and the Department of Juvenile Justice are to be
 1293 enforced exclusively by those departments.

1294 (b) Construction regulations relating to elevator
 1295 equipment under the jurisdiction of the Bureau of Elevators of
 1296 the Department of Business and Professional Regulation shall be
 1297 enforced exclusively by that department.

1298 (c) In addition to the requirements of s. 553.79 and this
 1299 section, facilities subject to the provisions of chapter 395 and
 1300 part II of chapter 400, parts II and VIII shall have facility
 1301 plans reviewed and construction surveyed by the state agency
 1302 authorized to do so under the requirements of chapter 395 and

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1303 part II of chapter 400, parts II and VIII and the certification
 1304 requirements of the Federal Government. Facilities subject to
 1305 the provisions of part IV of chapter 400 may have facility plans
 1306 reviewed and shall have construction surveyed by the state
 1307 agency authorized to do so under the requirements of part IV of
 1308 chapter 400 and the certification requirements of the Federal
 1309 Government.

1310 (d) Building plans approved under s. 553.77(3) and state-
 1311 approved manufactured buildings, including buildings
 1312 manufactured and assembled offsite and not intended for
 1313 habitation, such as lawn storage buildings and storage sheds,
 1314 are exempt from local code enforcing agency plan reviews except
 1315 for provisions of the code relating to erection, assembly, or
 1316 construction at the site. Erection, assembly, and construction
 1317 at the site are subject to local permitting and inspections.
 1318 Lawn storage buildings and storage sheds bearing the insignia of
 1319 approval of the department are not subject to s. 553.842. Such
 1320 buildings that do not exceed 400 square feet may be delivered
 1321 and installed without need of a contractor's or specialty
 1322 license.

1323 (e) Construction regulations governing public schools,
 1324 state universities, and community colleges shall be enforced as
 1325 provided in subsection (6).

1326 (f) The Florida Building Code as it pertains to toll
 1327 collection facilities under the jurisdiction of the turnpike
 1328 enterprise of the Department of Transportation shall be enforced
 1329 exclusively by the turnpike enterprise.

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1330 (g) Construction regulations relating to secure mental
 1331 health treatment facilities under the jurisdiction of the
 1332 Department of Children and Family Services shall be enforced
 1333 exclusively by the department in conjunction with the Agency for
 1334 Health Care Administration's review authority under paragraph
 1335 (c).

1336
 1337 The governing bodies of local governments may provide a schedule
 1338 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
 1339 section, for the enforcement of the provisions of this part.
 1340 Such fees shall be used solely for carrying out the local
 1341 government's responsibilities in enforcing the Florida Building
 1342 Code. The authority of state enforcing agencies to set fees for
 1343 enforcement shall be derived from authority existing on July 1,
 1344 1998. However, nothing contained in this subsection shall
 1345 operate to limit such agencies from adjusting their fee schedule
 1346 in conformance with existing authority.

1347 (3) (a) Each enforcement district shall be governed by a
 1348 board, the composition of which shall be determined by the
 1349 affected localities.

1350 (b)1. At its own option, each enforcement district or
 1351 local enforcement agency may adopt promulgate rules granting to
 1352 the owner of a single-family residence one or more exemptions
 1353 from the Florida Building Code relating to:

1354 a.(a) Addition, alteration, or repairs performed by the
 1355 property owner upon his or her own property, provided any
 1356 addition or alteration shall not exceed 1,000 square feet or the
 1357 square footage of the primary structure, whichever is less.

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1358 | b.(b) Addition, alteration, or repairs by a nonowner
 1359 | within a specific cost limitation set by rule, provided the
 1360 | total cost shall not exceed \$5,000 within any 12-month period.

1361 | c.(c) Building and inspection fees.

1362 | 2. However, the exemptions under subparagraph 1. do not
 1363 | apply to single-family residences that are located in mapped
 1364 | flood hazard areas, as defined in the code, unless the
 1365 | enforcement district or local enforcement agency has determined
 1366 | that the work, which is otherwise exempt, does not constitute a
 1367 | substantial improvement, including the repair of substantial
 1368 | damage, of such single-family residences.

1369 | 3. Each code exemption, as defined in sub-subparagraphs
 1370 | 1.a, b., and c. paragraphs (a), (b), and (c), shall be certified
 1371 | to the local board 10 days prior to implementation and shall
 1372 | only be effective in the territorial jurisdiction of the
 1373 | enforcement district or local enforcement agency implementing
 1374 | it.

1375 | Section 32. Subsections (4) through (8) of section
 1376 | 553.841, Florida Statutes, are amended to read:

1377 | 553.841 Building code compliance and mitigation program.—

1378 | (4) The department, In administering the Florida Building
 1379 | Code Compliance and Mitigation Program, the department shall
 1380 | maintain, update, develop, or cause to be developed:

1381 | (a) A core curriculum that is prerequisite to the advanced
 1382 | module coursework.

1383 | (b) advanced modules designed for use by each profession.

1384 | (c) The core curriculum developed under this subsection
 1385 | must be submitted to the Department of Business and Professional

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1386 Regulation for approval. Advanced modules developed under this
 1387 paragraph must be approved by the commission and submitted to
 1388 the respective boards for approval.

1389 (5) The core curriculum shall cover the information
 1390 required to have all categories of participants appropriately
 1391 informed as to their technical and administrative
 1392 responsibilities in the effective execution of the code process
 1393 by all individuals currently licensed under part XII of chapter
 1394 468, chapter 471, chapter 481, or chapter 489, except as
 1395 otherwise provided in s. 471.017. The core curriculum shall be
 1396 prerequisite to the advanced module coursework for all licensees
 1397 and shall be completed by individuals licensed in all categories
 1398 under part XII of chapter 468, chapter 471, chapter 481, or
 1399 chapter 489 within the first 2-year period after initial
 1400 licensure. Core course hours taken by licensees to complete this
 1401 requirement shall count toward fulfillment of required
 1402 continuing education units under part XII of chapter 468,
 1403 chapter 471, chapter 481, or chapter 489.

1404 (5)(6) Each biennium, upon receipt of funds by the
 1405 Department of Community Affairs from the Construction Industry
 1406 Licensing Board and the Electrical Contractors' Licensing Board
 1407 provided under ss. 489.109(3) and 489.509(3), the department
 1408 shall determine the amount of funds available for the Florida
 1409 Building Code Compliance and Mitigation Program.

1410 (6)(7) If the projects provided through the Florida
 1411 Building Code Compliance and Mitigation Program in any state
 1412 fiscal year do not require the use of all available funds, the

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1413 unused funds shall be carried forward and allocated for use
 1414 during the following fiscal year.

1415 (7)(8) The Florida Building Commission shall provide by
 1416 rule for the accreditation of courses related to the Florida
 1417 Building Code by accreditors approved by the commission. The
 1418 commission shall establish qualifications of accreditors and
 1419 criteria for the accreditation of courses by rule. The
 1420 commission may revoke the accreditation of a course by an
 1421 accreditor if the accreditation is demonstrated to violate this
 1422 part or the rules of the commission.

1423 (8)(9) This section does not prohibit or limit the subject
 1424 areas or development of continuing education or training on the
 1425 Florida Building Code by any qualified entity.

1426 Section 33. Subsections (1), (5), (8), and (17) of section
 1427 553.842, Florida Statutes, are amended to read:

1428 553.842 Product evaluation and approval.—

1429 (1) The commission shall adopt rules under ss. 120.536(1)
 1430 and 120.54 to develop and implement a product evaluation and
 1431 approval system that applies statewide to operate in
 1432 coordination with the Florida Building Code. The commission may
 1433 enter into contracts to provide for administration of the
 1434 product evaluation and approval system. The commission's rules
 1435 and any applicable contract may provide that the payment of fees
 1436 related to approvals be made directly to the administrator. Any
 1437 fee paid by a product manufacturer shall be used only for
 1438 funding the product evaluation and approval system. The product
 1439 evaluation and approval system shall provide:

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1440 (a) Appropriate promotion of innovation and new
 1441 technologies.
 1442 (b) Processing submittals of products from manufacturers
 1443 in a timely manner.
 1444 (c) Independent, third-party qualified and accredited
 1445 testing and laboratory facilities, product evaluation entities,
 1446 quality assurance agencies, certification agencies, and
 1447 validation entities.
 1448 (d) An easily accessible product acceptance list to
 1449 entities subject to the Florida Building Code.
 1450 (e) Development of stringent but reasonable testing
 1451 criteria based upon existing consensus standards, when
 1452 available, for products.
 1453 (f) Long-term approvals, where feasible. State and local
 1454 approvals will be valid until the requirements of the code on
 1455 which the approval is based change, the product changes in a
 1456 manner affecting its performance as required by the code, or the
 1457 approval is revoked. However, the commission may authorize by
 1458 rule editorial revisions to approvals and charge a fee as
 1459 provided in this section.
 1460 (g) Criteria for revocation of a product approval.
 1461 (h) Cost-effectiveness.
 1462 (5) Statewide approval of products, methods, or systems of
 1463 construction may be achieved by one of the following methods.
 1464 One of these methods must be used by the commission to approve
 1465 the following categories of products: panel walls, exterior
 1466 doors, roofing, skylights, windows, shutters, and structural
 1467 components as established by the commission by rule.

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1468 (a) Products for which the code establishes standardized
 1469 testing or comparative or rational analysis methods shall be
 1470 approved by submittal and validation of one of the following
 1471 reports or listings indicating that the product or method or
 1472 system of construction was evaluated to be in compliance with
 1473 the Florida Building Code and that the product or method or
 1474 system of construction is, for the purpose intended, at least
 1475 equivalent to that required by the Florida Building Code:

1476 1. A certification mark or listing of an approved
 1477 certification agency, which may be used only for products for
 1478 which the code designates standardized testing;

1479 2. A test report from an approved testing laboratory;

1480 3. A product evaluation report based upon testing or
 1481 comparative or rational analysis, or a combination thereof, from
 1482 an approved product evaluation entity; or

1483 4. A product evaluation report based upon testing or
 1484 comparative or rational analysis, or a combination thereof,
 1485 developed and signed and sealed by a professional engineer or
 1486 architect, licensed in this state.

1487
 1488 A product evaluation report or a certification mark or listing
 1489 of an approved certification agency which demonstrates that the
 1490 product or method or system of construction complies with the
 1491 Florida Building Code for the purpose intended shall be
 1492 equivalent to a test report and test procedure as referenced in
 1493 the Florida Building Code. An application for state approval of
 1494 a product under subparagraph 1. must be approved by the
 1495 department after the commission staff or a designee verifies

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1496 | that the application and related documentation are complete.
 1497 | This verification must be completed within 10 business days
 1498 | after receipt of the application. Upon approval by the
 1499 | department, the product shall be immediately added to the list
 1500 | of state-approved products maintained under subsection (13).
 1501 | Approvals by the department shall be reviewed and ratified by
 1502 | the commission's program oversight committee except for a
 1503 | showing of good cause that a review by the full commission is
 1504 | necessary. The commission shall adopt rules pertaining to means
 1505 | to cure deficiencies identified within submittals related to
 1506 | products approved using this process.
 1507 | (b) Products, methods, or systems of construction for which
 1508 | there are no specific standardized testing or comparative or
 1509 | rational analysis methods established in the code may be
 1510 | approved by submittal and validation of one of the following:
 1511 | 1. A product evaluation report based upon testing or
 1512 | comparative or rational analysis, or a combination thereof, from
 1513 | an approved product evaluation entity indicating that the
 1514 | product or method or system of construction was evaluated to be
 1515 | in compliance with the intent of the Florida Building Code and
 1516 | that the product or method or system of construction is, for the
 1517 | purpose intended, at least equivalent to that required by the
 1518 | Florida Building Code; or
 1519 | 2. A product evaluation report based upon testing or
 1520 | comparative or rational analysis, or a combination thereof,
 1521 | developed and signed and sealed by a professional engineer or
 1522 | architect, licensed in this state, who certifies that the
 1523 | product or method or system of construction is, for the purpose

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1524 intended, at least equivalent to that required by the Florida
 1525 Building Code.

1526 (8) The commission may adopt rules to approve the
 1527 following types of entities that produce information on which
 1528 product approvals are based. All of the following entities,
 1529 including engineers and architects, must comply with a
 1530 nationally recognized standard demonstrating independence or no
 1531 conflict of interest:

1532 (a) Evaluation entities that meet the criteria for
 1533 approval adopted by the commission by rule. The commission shall
 1534 specifically approve the National Evaluation Service, the
 1535 International Association of Plumbing and Mechanical Officials
 1536 Evaluation Service the International Conference of Building
 1537 Officials Evaluation Services, the International Code Council
 1538 Evaluation Services, the Building Officials and Code
 1539 Administrators International Evaluation Services, the Southern
 1540 Building Code Congress International Evaluation Services, and
 1541 the Miami-Dade County Building Code Compliance Office Product
 1542 Control. Architects and engineers licensed in this state are
 1543 also approved to conduct product evaluations as provided in
 1544 subsection (5).

1545 (b) Testing laboratories accredited by national
 1546 organizations, such as A2LA and the National Voluntary
 1547 Laboratory Accreditation Program, laboratories accredited by
 1548 evaluation entities approved under paragraph (a), and
 1549 laboratories that comply with other guidelines for testing
 1550 laboratories selected by the commission and adopted by rule.

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1551 (c) Quality assurance entities approved by evaluation
 1552 entities approved under paragraph (a) and by certification
 1553 agencies approved under paragraph (d) and other quality
 1554 assurance entities that comply with guidelines selected by the
 1555 commission and adopted by rule.

1556 (d) Certification agencies accredited by nationally
 1557 recognized accreditors and other certification agencies that
 1558 comply with guidelines selected by the commission and adopted by
 1559 rule.

1560 (e) Validation entities that comply with accreditation
 1561 standards established by the commission by rule.

1562 (17)(a) The Florida Building Commission shall review the
 1563 list of evaluation entities in subsection (8) and, in the annual
 1564 report required under s. 553.77, shall either recommend
 1565 amendments to the list to add evaluation entities the commission
 1566 determines should be authorized to perform product evaluations
 1567 or shall report on the criteria adopted by rule or to be adopted
 1568 by rule allowing the commission to approve evaluation entities
 1569 that use the commission's product evaluation process. If the
 1570 commission adopts criteria by rule, the rulemaking process must
 1571 be completed by July 1, 2009.

1572 (b) Notwithstanding paragraph (8)(a), the International
 1573 Association of Plumbing and Mechanical Officials Evaluation
 1574 Services is approved as an evaluation entity until October 1,
 1575 2009. If the association does not obtain permanent approval by
 1576 the commission as an evaluation entity by October 1, 2009,
 1577 products approved on the basis of an association evaluation must
 1578 be substituted by an alternative, approved entity by December

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1579 31, 2009, and on January 1, 2010, any product approval issued by
 1580 the commission based on an association evaluation is void.

1581 Section 34. Subsection (4) is added to section 553.844,
 1582 Florida Statutes, to read:

1583 553.844 Windstorm loss mitigation; requirements for roofs
 1584 and opening protection.—

1585 (4) Notwithstanding the provisions of this section, exposed
 1586 mechanical equipment or appliances fastened to a roof in
 1587 compliance with the code using rated stands, platforms, curbs,
 1588 slabs, or other means are deemed to comply with the wind
 1589 resistance requirements of the 2007 Florida Building Code, as
 1590 amended. Further support or enclosure of such mechanical
 1591 equipment or appliances is not required by a state or local
 1592 official having authority to enforce the Florida Building Code.
 1593 This subsection expires on the effective date of the 2010
 1594 Florida Building Code.

1595
 1596 Section 35. Section 553.885, Florida Statutes, is amended
 1597 to read:

1598 553.885 Carbon monoxide alarm required.—

1599 (1) Every separate building or addition to an existing
 1600 building, other than a hospital, an inpatient hospice facility,
 1601 or a nursing home facility licensed by the Agency for Health
 1602 Care Administration, constructed for which a building permit is
 1603 issued for new construction on or after July 1, 2008, and having
 1604 a fossil-fuel-burning heater or appliance, a fireplace, or an
 1605 attached garage, or other feature, fixture, or element that
 1606 emits carbon monoxide as a byproduct of combustion shall have an

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1607 approved operational carbon monoxide alarm installed within 10
 1608 feet of each room used for sleeping purposes in the new building
 1609 or addition, or at such other locations as required by the
 1610 Florida Building Code. The requirements of this subsection may
 1611 be satisfied with the installation of a hard-wired battery-
 1612 powered carbon monoxide alarm or a hard-wired battery-powered
 1613 combination carbon monoxide and smoke alarm. For a new hospital,
 1614 an inpatient hospice facility, or a nursing home facility
 1615 licensed by the Agency for Health Care Administration, an
 1616 approved operational carbon monoxide detector shall be installed
 1617 inside or directly outside of each room or area within the
 1618 hospital or facility where a fossil-fuel-burning heater, engine,
 1619 or appliance is located. This detector shall be connected to the
 1620 fire alarm system of the hospital or facility as a supervisory
 1621 signal. This subsection does not apply to existing buildings
 1622 that are undergoing alterations or repairs unless the alteration
 1623 is an addition as defined in subsection (3).

1624 (2) The Florida Building Commission shall adopt rules to
 1625 administer this section and shall incorporate such requirements
 1626 into its next revision of the Florida Building Code.

1627 (3) As used in this section, the term:

1628 (a) "Carbon monoxide alarm" means a device that is meant
 1629 for the purpose of detecting carbon monoxide, that produces a
 1630 distinct audible alarm, and that meets the requirements of and
 1631 is approved by the Florida Building Commission.

1632 (b) "Fossil fuel" means coal, kerosene, oil, fuel gases,
 1633 or other petroleum or hydrocarbon product that emits carbon
 1634 monoxide as a by-product of combustion.

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1635 (c) "Addition" means an extension or increase in floor
 1636 area, number of stories, or height of a building or structure.

1637 Section 36. Subsection (2) of section 553.9061, Florida
 1638 Statutes, is amended to read:

1639 553.9061 Scheduled increases in thermal efficiency
 1640 standards.-

1641 (2) The Florida Building Commission shall identify within
 1642 code support and compliance documentation the specific building
 1643 options and elements available to meet the energy performance
 1644 goals established in subsection (1). Energy efficiency
 1645 performance options and elements include, but are not limited
 1646 to:

1647 (a) Energy-efficient water heating systems, including
 1648 solar water heating.

1649 (b) Energy-efficient appliances.

1650 (c) Energy-efficient windows, doors, and skylights.

1651 (d) Low solar-absorption roofs, also known as "cool
 1652 roofs."

1653 (e) Enhanced ceiling and wall insulation.

1654 (f) Reduced-leak duct systems and energy-saving devices
 1655 and features installed within duct systems.

1656 (g) Programmable thermostats.

1657 (h) Energy-efficient lighting systems.

1658 (i) Energy-saving quality installation procedures for
 1659 replacement air-conditioning systems, including, but not limited
 1660 to, equipment sizing analysis and duct inspection.

1661 (j) Shading devices, sunscreening materials, and
 1662 overhangs.

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1663 | (k) Weatherstripping, caulking, and sealing of exterior
 1664 | openings and penetrations.

1665 | (l) Energy-efficient centralized computer data centers in
 1666 | office buildings.

1667 | Section 37. Subsections (3) and (4) of section 553.909,
 1668 | Florida Statutes, are amended to read:

1669 | 553.909 Setting requirements for appliances; exceptions.—

1670 | (3) Commercial or residential swimming pool pumps or water
 1671 | heaters manufactured on or sold after July 1, 2011, shall comply
 1672 | with the requirements of this subsection.

1673 | (a) Natural gas pool heaters shall not be equipped with
 1674 | constantly burning pilots.

1675 | (b) Heat pump pool heaters shall have a coefficient of
 1676 | performance at low temperature of not less than 4.0.

1677 | (c) The thermal efficiency of gas-fired pool heaters and
 1678 | oil-fired pool heaters shall not be less than 78 percent.

1679 | (d) All pool heaters shall have a readily accessible on-
 1680 | off switch that is mounted outside the heater and that allows
 1681 | shutting off the heater without adjusting the thermostat
 1682 | setting.

1683 | (4) Residential swimming pool pumps and pump motors
 1684 | manufactured on or after July 1, 2011, shall comply with the
 1685 | requirements in this subsection.

1686 | (a) Residential pool pump motors shall not be split-phase,
 1687 | shaded-pole, or capacitor start-induction run types.

1688 | (b) Residential pool pumps and pool pump motors with a
 1689 | total horsepower of 1 HP or more shall have the capability of
 1690 | operating at two or more speeds with a low speed having a

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1691 rotation rate that is no more than one-half of the motor's
 1692 maximum rotation rate.

1693 (c) Residential pool pump motor controls shall have the
 1694 capability of operating the pool pump at a minimum of two
 1695 speeds. The default circulation speed shall be the residential
 1696 filtration speed, with a higher speed override capability being
 1697 for a temporary period not to exceed one normal cycle or 24
 1698 hours 120 minutes, whichever is less; except that circulation
 1699 speed for solar pool heating systems shall be permitted to run
 1700 at higher speeds during periods of usable solar heat gain.

1701 Section 38. Section 553.912, Florida Statutes, is amended
 1702 to read:

1703 553.912 Air conditioners.—All air conditioners that which
 1704 are sold or installed in the state shall meet the minimum
 1705 efficiency ratings of the Florida Energy Efficiency Code for
 1706 Building Construction. These efficiency ratings shall be
 1707 minimums and may be updated in the Florida Energy Efficiency
 1708 Code for Building Construction by the department in accordance
 1709 with s. 553.901, following its determination that more cost-
 1710 effective energy-saving equipment and techniques are available.
 1711 All replacement air-conditioning systems shall be installed
 1712 using energy-saving, quality installation procedures, including,
 1713 but not limited to, equipment sizing analysis and duct
 1714 inspection.

1715 Section 39. Subsection (2) of section 627.711, Florida
 1716 Statutes, is amended to read:

1717 627.711 Notice of premium discounts for hurricane loss
 1718 mitigation; uniform mitigation verification inspection form.—

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1719 (2) By July 1, 2007, the Financial Services Commission
 1720 shall develop by rule a uniform mitigation verification
 1721 inspection form that shall be used by all insurers when
 1722 submitted by policyholders for the purpose of factoring
 1723 discounts for wind insurance. In developing the form, the
 1724 commission shall seek input from insurance, construction, and
 1725 building code representatives. Further, the commission shall
 1726 provide guidance as to the length of time the inspection results
 1727 are valid. An insurer shall accept as valid a uniform mitigation
 1728 verification form certified by the Department of Financial
 1729 Services or signed by:

1730 (a) A hurricane mitigation inspector certified by the My
 1731 Safe Florida Home program;

1732 (b) A building code inspector certified under s. 468.607;

1733 (c) A general, building, or residential contractor
 1734 licensed under s. 489.111;

1735 (d) A professional engineer licensed under s. 471.015 who
 1736 has passed the appropriate equivalency test of the Building Code
 1737 Training Program as required by s. 553.841;

1738 (e) A professional architect licensed under s. 481.213; or

1739 (f) A home inspector licensed under s. 468.9314, who has
 1740 completed at least 2 hours of mitigation training; or

1741 (g) (f) Any other individual or entity recognized by the
 1742 insurer as possessing the necessary qualifications to properly
 1743 complete a uniform mitigation verification form.

1744 Section 40. Subsections (7) through (28) of section
 1745 633.021, Florida Statutes, are renumbered as subsections (8)
 1746 through (29), respectively, a new subsection (7) is added to

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1747 that section, and present subsection (20) of that section is
 1748 amended, to read:

1749 633.021 Definitions.—As used in this chapter:

1750 (7) (a) "Fire equipment dealer Class A" means a licensed
 1751 fire equipment dealer whose business is limited to servicing,
 1752 recharging, repairing, installing, or inspecting all types of
 1753 fire extinguishers and conducting hydrostatic tests on all types
 1754 of fire extinguishers.

1755 (b) "Fire equipment dealer Class B" means a licensed fire
 1756 equipment dealer whose business is limited to servicing,
 1757 recharging, repairing, installing, or inspecting all types of
 1758 fire extinguishers, including recharging carbon dioxide units
 1759 and conducting hydrostatic tests on all types of fire
 1760 extinguishers, except carbon dioxide units.

1761 (c) "Fire equipment dealer Class C" means a licensed fire
 1762 equipment dealer whose business is limited to servicing,
 1763 recharging, repairing, installing, or inspecting all types of
 1764 fire extinguishers, except recharging carbon dioxide units, and
 1765 conducting hydrostatic tests on all types of fire extinguishers,
 1766 except carbon dioxide units.

1767 (d) "Fire equipment dealer Class D" means a licensed fire
 1768 equipment dealer whose business is limited to servicing,
 1769 recharging, repairing, installing, hydrotesting, or inspecting
 1770 of all types of preengineered fire extinguishing systems.

1771 (21) (a) (20) A "preengineered system" is a fire suppression
 1772 system which:

1773 1. (a) Uses any of a variety of extinguishing agents.

1774 2. (b) Is designed to protect specific hazards.

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1775 | 3.(c) Must be installed according to pretested limitations
 1776 | and configurations specified by the manufacturer and applicable
 1777 | National Fire Protection Association (NFPA) standards. Only
 1778 | those chapters within the National Fire Protection Association
 1779 | standards that pertain to servicing, recharging, repairing,
 1780 | installing, hydrotesting, or inspecting any type of
 1781 | preengineered fire extinguishing system may be used.

1782 | 4.(d) Must be installed using components specified by the
 1783 | manufacturer or components that are listed as equal parts by a
 1784 | nationally recognized testing laboratory such as Underwriters
 1785 | Laboratories, Inc., or Factory Mutual Laboratories, Inc.

1786 | 5.(e) Must be listed by a nationally recognized testing
 1787 | laboratory.

1788 | (b) Preengineered systems consist of and include all of
 1789 | the components and parts providing fire suppression protection,
 1790 | but do not include the equipment being protected, and may
 1791 | incorporate special nozzles, flow rates, methods of application,
 1792 | pressurization levels, and quantities of agents designed by the
 1793 | manufacturer for specific hazards.

1794 | Section 41. Paragraph (b) of subsection (3) of section
 1795 | 633.0215, Florida Statutes, is amended, and subsections (13) and
 1796 | (14) are added to that section, to read:

1797 | 633.0215 Florida Fire Prevention Code.—

1798 | (3) No later than 180 days before the triennial adoption
 1799 | of the Florida Fire Prevention Code, the State Fire Marshal
 1800 | shall notify each municipal, county, and special district fire
 1801 | department of the triennial code adoption and steps necessary
 1802 | for local amendments to be included within the code. No later

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1803 than 120 days before the triennial adoption of the Florida Fire
 1804 Prevention Code, each local jurisdiction shall provide the State
 1805 Fire Marshal with copies of its local fire code amendments. The
 1806 State Fire Marshal has the option to process local fire code
 1807 amendments that are received less than 120 days before the
 1808 adoption date of the Florida Fire Prevention Code.

1809 (b) Any local amendment to the Florida Fire Prevention
 1810 Code adopted by a local government shall be effective only until
 1811 the adoption of the new edition of the Florida Fire Prevention
 1812 Code, which shall be every third year. At such time, the State
 1813 Fire Marshal shall adopt such amendment as part of the Florida
 1814 Fire Prevention Code or rescind the amendment. The State Fire
 1815 Marshal shall immediately notify the respective local government
 1816 of the rescission of the amendment and the reason for the
 1817 rescission. After receiving such notice, the respective local
 1818 government may readopt the rescinded amendment. Incorporation of
 1819 local amendments as regional and local concerns and variations
 1820 shall be considered as adoption of an amendment pursuant to this
 1821 section part.

1822 (13) (a) The State Fire Marshal shall issue an expedited
 1823 declaratory statement relating to interpretations of provisions
 1824 of the Florida Fire Prevention Code according to the following
 1825 guidelines:

1826 1. The declaratory statement shall be rendered in
 1827 accordance with s. 120.565, except that a final decision must be
 1828 issued by the State Fire Marshal within 45 days after the
 1829 division's receipt of a petition seeking an expedited
 1830 declaratory statement. The State Fire Marshal shall give notice

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1831 of the petition and the expedited declaratory statement or the
 1832 denial of the petition in the next available issue of the
 1833 Florida Administrative Weekly after the petition is filed and
 1834 after the statement or denial is rendered.

1835 2. The petitioner must be the owner of the disputed
 1836 project or the owner's representative.

1837 3. The petition for an expedited declaratory statement
 1838 must be:

1839 a. Related to an active project that is under construction
 1840 or must have been submitted for a permit.

1841 b. The subject of a written notice citing a specific
 1842 provision of the Florida Fire Prevention Code which is in
 1843 dispute.

1844 c. Limited to a single question that is capable of being
 1845 answered with a "yes" or "no" response.

1846 (b) A petition for a declaratory statement which does not
 1847 meet all of the requirements of this subsection must be denied
 1848 without prejudice. This subsection does not affect the right of
 1849 the petitioner as a substantially affected person to seek a
 1850 declaratory statement under s. 633.01(6).

1851 (14) A condominium that is one or two stories in height
 1852 and has an exterior means of egress corridor is exempt from
 1853 installing a manual fire alarm system as required in s. 9.6 of
 1854 the most recent edition of the Life Safety Code adopted in the
 1855 Florida Fire Prevention Code.

1856 Section 42. Subsections (2) and (10) of section 633.0245,
 1857 Florida Statutes, are amended to read:

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1858 633.0245 State Fire Marshal Nursing Home Fire Protection
 1859 Loan Guarantee Program.—

1860 (2) The State Fire Marshal may enter into limited loan
 1861 guarantee agreements with one or more financial institutions
 1862 qualified as public depositories in this state. Such agreements
 1863 shall provide a limited guarantee by the State of Florida
 1864 covering no more than 50 percent of the principal sum loaned by
 1865 such financial institution to an eligible nursing home, as
 1866 defined in subsection (10), for the sole purpose of the initial
 1867 installation at such nursing home of a fire protection system,
 1868 as defined in s. 633.021(10)(9), approved by the State Fire
 1869 Marshal as being in compliance with the provisions of s. 633.022
 1870 and rules adopted thereunder.

1871 (10) For purposes of this section, "eligible nursing home"
 1872 means a nursing home facility that provides nursing services as
 1873 defined in chapter 464, is licensed under part II of chapter
 1874 400, and is certified by the Agency for Health Care
 1875 Administration to lack an installed fire protection system as
 1876 defined in s. 633.021(10)(9).

1877 Section 43. Section 633.026, Florida Statutes, is amended
 1878 to read:

1879 633.026 Legislative intent; informal interpretations of
 1880 the Florida Fire Prevention Code.—It is the intent of the
 1881 Legislature that the Florida Fire Prevention Code be interpreted
 1882 by fire officials and local enforcement agencies in a manner
 1883 that reasonably and cost-effectively protects the public safety,
 1884 health, and welfare, that ensures uniform interpretations
 1885 throughout this state and provides a just and expeditious

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1886 processes for resolving disputes regarding such interpretations.
 1887 It is the further intent of the Legislature that such processes
 1888 provide for the expeditious resolution of the issues presented
 1889 and that the resulting interpretation of such issues be
 1890 published on the website of the Division of State Fire Marshal.

1891 (1) The Division of State Fire Marshal shall by rule
 1892 establish an informal process of rendering nonbinding
 1893 interpretations of the Florida Fire Prevention Code. The
 1894 Division of State Fire Marshal may contract with and refer
 1895 interpretive issues to a nonprofit organization third party
 1896 selected based on cost-effectiveness, quality of services to be
 1897 performed, and other performance based criteria, that has
 1898 experience in interpreting and enforcing the Florida Fire
 1899 Prevention Code. The Division of State Fire Marshal shall
 1900 immediately implement the process prior to the completion of
 1901 formal rulemaking. It is the intent of the Legislature that the
 1902 Division of State Fire Marshal establish create a Fire Code
 1903 Interpretation Committee composed of seven persons and seven
 1904 alternates, equally representing each area of the state process
 1905 to refer questions to a small group of individuals certified
 1906 under s. 633.081(2), to which a party can pose questions
 1907 regarding the interpretation of the Florida Fire Prevention Code
 1908 provisions.

1909 (2) Each member and alternate member of the Fire Code
 1910 Interpretation Committee must be certified as a firesafety
 1911 inspector pursuant to s. 633.081(2) and must have a minimum of 5
 1912 years of experience interpreting and enforcing the Florida Fire
 1913 Prevention Code and the Life Safety Code. Each member and

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1914 alternate member must be approved by the Division of State Fire
 1915 Marshal and deemed by the division to have met these
 1916 requirements for at least 30 days before participating in a
 1917 review of a nonbinding interpretation. It is the intent of the
 1918 Legislature that the process provide for the expeditious
 1919 resolution of the issues presented and publication of the
 1920 resulting interpretation on the website of the Division of State
 1921 Fire Marshal. It is the intent of the Legislature that this
 1922 program be similar to the program established by the Florida
 1923 Building Commission in s. 553.775(3)(g).

1924 (3) Each nonbinding interpretation of code provisions must
 1925 be provided within 10 business days after receipt of a request
 1926 for interpretation. The response period established in this
 1927 subsection may be waived only with the written consent of the
 1928 party requesting the nonbinding interpretation and the Division
 1929 of State Fire Marshal. Nonbinding Such interpretations shall be
 1930 advisory only and nonbinding on the parties or the State Fire
 1931 Marshal.

1932 (4) In order to administer this section, the Division of
 1933 State Fire Marshal shall charge department may adopt by rule and
 1934 impose a fee for nonbinding interpretations, with payment made
 1935 directly to the third party. The fee may not exceed \$150 for
 1936 each request for a review or interpretation. The division may
 1937 authorize payment of fees directly to the nonprofit organization
 1938 under contract pursuant to subsection (1).

1939 (5) A party requesting a nonbinding interpretation who
 1940 disagrees with the interpretation issued under this section may

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1941 apply for a formal interpretation from the State Fire Marshal
 1942 pursuant to s. 633.01(6).
 1943 (6) The Division of State Fire Marshal shall issue or
 1944 cause to be issued a nonbinding interpretation of the Florida
 1945 Fire Prevention Code pursuant to this section when requested to
 1946 do so upon submission of a petition by a fire official or by the
 1947 owner or owner's representative or the contractor or
 1948 contractor's representative of a project in dispute. The
 1949 division shall adopt a petition form by rule and the petition
 1950 form must be published on the State Fire Marshal's website. The
 1951 form shall, at a minimum, require:
 1952 (a) The name and address of the local fire official,
 1953 including the address of the county, municipality, or special
 1954 district.
 1955 (b) The name and address of the owner or owner's
 1956 representative or the contractor or contractor's representative.
 1957 (c) A statement of the specific sections of the Florida
 1958 Fire Prevention Code being interpreted by the local fire
 1959 official.
 1960 (d) An explanation of how the petitioner's substantial
 1961 interests are being affected by the local interpretation of the
 1962 Florida Fire Prevention Code.
 1963 (e) A statement of the interpretation of the specific
 1964 sections of the Florida Fire Prevention Code by the local fire
 1965 official.
 1966 (f) A statement of the interpretation that the petitioner
 1967 contends should be given to the specific sections of the Florida

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1968 | Fire Prevention Code and a statement supporting the petitioner's
 1969 | interpretation.

1970 | (7) Upon receipt of a petition that meets the requirements
 1971 | of subsection (6), the Division of State Fire Marshal shall
 1972 | immediately provide copies of the petition to the Fire Code
 1973 | Interpretation Committee, and shall publish the petition and any
 1974 | response submitted by the local fire official on the State Fire
 1975 | Marshal's website.

1976 | (8) The committee shall conduct proceedings as necessary
 1977 | to resolve the issues and give due regard to the petition, the
 1978 | facts of the matter at issue, specific code sections cited, and
 1979 | any statutory implications affecting the Florida Fire Prevention
 1980 | Code. The committee shall issue an interpretation regarding the
 1981 | provisions of the Florida Fire Prevention Code within 10 days
 1982 | after the filing of a petition. The committee shall issue an
 1983 | interpretation based upon the Florida Fire Prevention Code or,
 1984 | if the code is ambiguous, the intent of the code. The
 1985 | committee's interpretation shall be provided to the petitioner
 1986 | and shall include a notice that if the petitioner disagrees with
 1987 | the interpretation, the petitioner may file a request for formal
 1988 | interpretation by the State Fire Marshal under s. 633.01(6). The
 1989 | committee's interpretation shall be provided to the State Fire
 1990 | Marshal, and the division shall publish the interpretation on
 1991 | the State Fire Marshal's website and in the Florida
 1992 | Administrative Weekly.

1993 | Section 44. Subsections (2) through (10) of section
 1994 | 633.061, Florida Statutes, are renumbered as subsections (3)
 1995 | through (11), respectively, a new subsection (2) is added to

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1996 that section, and paragraphs (a) and (c) of present subsection
 1997 (3) of that section are amended, to read:

1998 633.061 Fire suppression equipment; license to install or
 1999 maintain.-

2000 (2) A person who holds a valid fire equipment dealer
 2001 license may maintain such license in an inactive status during
 2002 which time he or she may not engage in any work under the
 2003 definition of the license held. An inactive status license shall
 2004 be void after 2 years or at the time that the license is
 2005 renewed, whichever comes first. The biennial renewal fee for an
 2006 inactive status license shall be \$75. An inactive status license
 2007 may not be reactivated unless the continuing education
 2008 requirements of this chapter have been fulfilled.

2009 (4) (3)

2010 (a) Such licenses and permits shall be issued by the State Fire
 2011 Marshal for 2 years beginning January 1, 2000, and each 2-year
 2012 period thereafter and expiring December 31 of the second year.
 2013 All licenses or permits issued will expire on December 31 of
 2014 each odd-numbered year. The failure to renew a license or permit
 2015 by December 31 of the second year will cause the license or
 2016 permit to become inoperative. The holder of an inoperative
 2017 license or permit shall not engage in any activities for which a
 2018 license or permit is required by this section. A license or
 2019 permit which is inoperative because of the failure to renew it
 2020 shall be restored upon payment of the applicable fee plus a
 2021 penalty equal to the applicable fee, if the application for
 2022 renewal is filed no later than the following March 31. If the
 2023 application for restoration is not made before the March 31st

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2024 deadline, the fee for restoration shall be equal to the original
 2025 application fee and the penalty provided for herein, and, in
 2026 addition, the State Fire Marshal shall require reexamination of
 2027 the applicant. The fee for a license or permit issued for 1 year
 2028 or less shall be prorated at 50 percent of the applicable fee
 2029 for a biennial license or permit. Following the initial
 2030 licensure, Eeach licensee or permittee shall successfully
 2031 complete a course or courses of continuing education for fire
 2032 equipment technicians of at least 3216 hours. A license or
 2033 permit may not be renewed unless the licensee or permittee
 2034 produces documentation of the completion of at least 16 hours of
 2035 continuing education for fire equipment technicians during the
 2036 biennial licensure period. Within 4 years of initial issuance
 2037 of a license or permit and withing each 4 year period thereafter
 2038 or no such license or permit shall be renewed. A person who is
 2039 both a licensee and a permittee shall be required to complete
 2040 3216 hours of continuing education during each renewal per 4
 2041 year period. Each licensee shall ensure that all permittees in
 2042 his or her employment meet their continuing education
 2043 requirements. The State Fire Marshal shall adopt rules
 2044 describing the continuing education requirements and shall have
 2045 the authority upon reasonable belief, to audit a fire equipment
 2046 dealer to determine compliance with continuing education
 2047 requirements.

2048 (c) A license of any class shall not be issued or renewed
 2049 by the State Fire Marshal and a license of any class shall not
 2050 remain operative unless:

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2051 1. The applicant has submitted to the State Fire Marshal
 2052 evidence of registration as a Florida corporation or evidence of
 2053 compliance with s. 865.09.

2054 2. The State Fire Marshal or his or her designee has by
 2055 inspection determined that the applicant possesses the equipment
 2056 required for the class of license sought. The State Fire Marshal
 2057 shall give an applicant a reasonable opportunity to correct any
 2058 deficiencies discovered by inspection. A fee of \$50, payable to
 2059 the State Fire Marshal, shall be required for any subsequent
 2060 reinspection.

2061 3. The applicant has submitted to the State Fire Marshal
 2062 proof of insurance providing coverage for comprehensive general
 2063 liability for bodily injury and property damage, products
 2064 liability, completed operations, and contractual liability. The
 2065 State Fire Marshal shall adopt rules providing for the amounts
 2066 of such coverage, but such amounts shall not be less than
 2067 \$300,000 for Class A or Class D licenses, \$200,000 for Class B
 2068 licenses, and \$100,000 for Class C licenses; and the total
 2069 coverage for any class of license held in conjunction with a
 2070 Class D license shall not be less than \$300,000. The State Fire
 2071 Marshal may, at any time after the issuance of a license or its
 2072 renewal, require upon demand, and in no event more than 30 days
 2073 after notice of such demand, the licensee to provide proof of
 2074 insurance, on a form provided by the State Fire Marshal,
 2075 containing confirmation of insurance coverage as required by
 2076 this chapter. Failure, for any length of time, to provide proof
 2077 of insurance coverage as required shall result in the immediate
 2078 suspension of the license until proof of proper insurance is

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2079 provided to the State Fire Marshal. An insurer which provides
 2080 such coverage shall notify the State Fire Marshal of any change
 2081 in coverage or of any termination, cancellation, or nonrenewal
 2082 of any coverage.

2083 4. The applicant applies to the State Fire Marshal,
 2084 provides proof of experience, and successfully completes a
 2085 prescribed training course offered by the State Fire College or
 2086 an equivalent course approved by the State Fire Marshal. This
 2087 subparagraph does not apply to any holder of or applicant for a
 2088 permit under paragraph (f) or to a business organization or a
 2089 governmental entity seeking initial licensure or renewal of an
 2090 existing license solely for the purpose of inspecting,
 2091 servicing, repairing, marking, recharging, and maintaining fire
 2092 extinguishers used and located on the premises of and owned by
 2093 such organization or entity.

2094 5. The applicant has a current retestor identification
 2095 number that is appropriate for the license for which the
 2096 applicant is applying and that is listed with the United States
 2097 Department of Transportation.

2098 6. The applicant has passed, with a grade of at least 70
 2099 percent, a written examination testing his or her knowledge of
 2100 the rules and statutes regulating the activities authorized by
 2101 the license and demonstrating his or her knowledge and ability
 2102 to perform those tasks in a competent, lawful, and safe manner.
 2103 Such examination shall be developed and administered by the
 2104 State Fire Marshal, or his or her designee in accordance with
 2105 policies and procedures of the State Fire Marshal. An applicant
 2106 shall pay a nonrefundable examination fee of \$50 for each

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2107 examination or reexamination scheduled. No reexamination shall
 2108 be scheduled sooner than 30 days after any administration of an
 2109 examination to an applicant. No applicant shall be permitted to
 2110 take an examination for any level of license more than a total
 2111 of four times during 1 year, regardless of the number of
 2112 applications submitted. As a prerequisite to licensure of the
 2113 applicant:

2114 a. Must be at least 18 years of age.

2115 b. Must have 4 years of proven experience as a fire
 2116 equipment permittee at a level equal to or greater than the
 2117 level of license applied for or have a combination of education
 2118 and experience determined to be equivalent thereto by the State
 2119 Fire Marshal. Having held a permit at the appropriate level for
 2120 the required period constitutes the required experience.

2121 c. Must not have been convicted of, or pled nolo
 2122 contendere to, any felony. If an applicant has been convicted of
 2123 any such felony, the applicant must comply with s.
 2124 112.011(1)(b).

2125
 2126 This subparagraph does not apply to any holder of or applicant
 2127 for a permit under paragraph (f) or to a business organization
 2128 or a governmental entity seeking initial licensure or renewal of
 2129 an existing license solely for the purpose of inspecting,
 2130 servicing, repairing, marking, recharging, hydrotesting, and
 2131 maintaining fire extinguishers used and located on the premises
 2132 of and owned by such organization or entity.

2133 Section 45. Section 633.081, Florida Statutes, is amended
 2134 to read:

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2135 633.081 Inspection of buildings and equipment; orders;
 2136 firesafety inspection training requirements; certification;
 2137 disciplinary action.—The State Fire Marshal and her or his
 2138 agents shall, at any reasonable hour, when the State Fire
 2139 Marshal department has reasonable cause to believe that a
 2140 violation of this chapter or s. 509.215, or a rule promulgated
 2141 thereunder, or a minimum firesafety code adopted by a local
 2142 authority, may exist, inspect any and all buildings and
 2143 structures which are subject to the requirements of this chapter
 2144 or s. 509.215 and rules promulgated thereunder. The authority to
 2145 inspect shall extend to all equipment, vehicles, and chemicals
 2146 which are located within the premises of any such building or
 2147 structure.

2148 (1) Each county, municipality, and special district that
 2149 has firesafety enforcement responsibilities shall employ or
 2150 contract with a firesafety inspector. Except as provided in s.
 2151 633.082(2), the firesafety inspector must conduct all firesafety
 2152 inspections that are required by law. The governing body of a
 2153 county, municipality, or special district that has firesafety
 2154 enforcement responsibilities may provide a schedule of fees to
 2155 pay only the costs of inspections conducted pursuant to this
 2156 subsection and related administrative expenses. Two or more
 2157 counties, municipalities, or special districts that have
 2158 firesafety enforcement responsibilities may jointly employ or
 2159 contract with a firesafety inspector.

2160 (2) Except as provided in s. 633.082(2), every firesafety
 2161 inspection conducted pursuant to state or local firesafety
 2162 requirements shall be by a person certified as having met the

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2163 inspection training requirements set by the State Fire Marshal.
 2164 Such person shall:
 2165 (a) Be a high school graduate or the equivalent as
 2166 determined by the department;
 2167 (b) Not have been found guilty of, or having pleaded
 2168 guilty or nolo contendere to, a felony or a crime punishable by
 2169 imprisonment of 1 year or more under the law of the United
 2170 States, or of any state thereof, which involves moral turpitude,
 2171 without regard to whether a judgment of conviction has been
 2172 entered by the court having jurisdiction of such cases;
 2173 (c) Have her or his fingerprints on file with the
 2174 department or with an agency designated by the department;
 2175 (d) Have good moral character as determined by the
 2176 department;
 2177 (e) Be at least 18 years of age;
 2178 (f) Have satisfactorily completed the firesafety inspector
 2179 certification examination as prescribed by the department; and
 2180 (g)1. Have satisfactorily completed, as determined by the
 2181 department, a firesafety inspector training program of not less
 2182 than 200 hours established by the department and administered by
 2183 agencies and institutions approved by the department for the
 2184 purpose of providing basic certification training for firesafety
 2185 inspectors; or
 2186 2. Have received in another state training which is
 2187 determined by the department to be at least equivalent to that
 2188 required by the department for approved firesafety inspector
 2189 education and training programs in this state.

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2190 (3) Each special state firesafety inspection which is
 2191 required by law and is conducted by or on behalf of an agency of
 2192 the state must be performed by an individual who has met the
 2193 provision of subsection (2), except that the duration of the
 2194 training program shall not exceed 120 hours of specific training
 2195 for the type of property that such special state firesafety
 2196 inspectors are assigned to inspect.

2197 (4) A firefighter certified pursuant to s. 633.35 may
 2198 conduct firesafety inspections, under the supervision of a
 2199 certified firesafety inspector, while on duty as a member of a
 2200 fire department company conducting inservice firesafety
 2201 inspections without being certified as a firesafety inspector,
 2202 if such firefighter has satisfactorily completed an inservice
 2203 fire department company inspector training program of at least
 2204 24 hours' duration as provided by rule of the department.

2205 (5) Every firesafety inspector or special state firesafety
 2206 inspector certificate is valid for a period of 3 years from the
 2207 date of issuance. Renewal of certification shall be subject to
 2208 the affected person's completing proper application for renewal
 2209 and meeting all of the requirements for renewal as established
 2210 under this chapter or by rule promulgated thereunder, which
 2211 shall include completion of at least 40 hours during the
 2212 preceding 3-year period of continuing education as required by
 2213 the rule of the department or, in lieu thereof, successful
 2214 passage of an examination as established by the department.

2215 (6) The State Fire Marshal may deny, refuse to renew,
 2216 suspend, or revoke the certificate of a firesafety inspector or

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2217 special state firesafety inspector if it finds that any of the
 2218 following grounds exist:

2219 (a) Any cause for which issuance of a certificate could
 2220 have been refused had it then existed and been known to the
 2221 State Fire Marshal.

2222 (b) Violation of this chapter or any rule or order of the
 2223 State Fire Marshal.

2224 (c) Falsification of records relating to the certificate.

2225 (d) Having been found guilty of or having pleaded guilty
 2226 or nolo contendere to a felony, whether or not a judgment of
 2227 conviction has been entered.

2228 (e) Failure to meet any of the renewal requirements.

2229 (f) Having been convicted of a crime in any jurisdiction
 2230 which directly relates to the practice of fire code inspection,
 2231 plan review, or administration.

2232 (g) Making or filing a report or record that the
 2233 certificateholder knows to be false, or knowingly inducing
 2234 another to file a false report or record, or knowingly failing
 2235 to file a report or record required by state or local law, or
 2236 knowingly impeding or obstructing such filing, or knowingly
 2237 inducing another person to impede or obstruct such filing.

2238 (h) Failing to properly enforce applicable fire codes or
 2239 permit requirements within this state which the
 2240 certificateholder knows are applicable by committing willful
 2241 misconduct, gross negligence, gross misconduct, repeated
 2242 negligence, or negligence resulting in a significant danger to
 2243 life or property.

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2244 (i) Accepting labor, services, or materials at no charge
 2245 or at a noncompetitive rate from any person who performs work
 2246 that is under the enforcement authority of the certificateholder
 2247 and who is not an immediate family member of the
 2248 certificateholder. For the purpose of this paragraph, the term
 2249 "immediate family member" means a spouse, child, parent,
 2250 sibling, grandparent, aunt, uncle, or first cousin of the person
 2251 or the person's spouse or any person who resides in the primary
 2252 residence of the certificateholder.

2253 (7) The Division of State Fire Marshal and the Florida
 2254 Building Code Administrators and Inspectors Board, established
 2255 pursuant to under s. 468.605, shall enter into a reciprocity
 2256 agreement to facilitate joint recognition of continuing
 2257 education recertification hours for certificateholders licensed
 2258 under s. 468.609 and firesafety inspectors certified under
 2259 subsection (2).

2260 (8) The State Fire Marshal shall develop by rule an
 2261 advanced training and certification program for firesafety
 2262 inspectors having fire code management responsibilities. The
 2263 program must be consistent with the appropriate provisions of
 2264 NFPA 1037, or similar standards adopted by the division, and
 2265 establish minimum training, education, and experience levels for
 2266 firesafety inspectors having fire code management
 2267 responsibilities.

2268 (9) (7) The department shall provide by rule for the
 2269 certification of firesafety inspectors.

2270 Section 46. Subsection (2) of section 633.082, Florida
 2271 Statutes, is amended to read:

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2272 633.082 Inspection of fire control systems, fire hydrants,
 2273 and fire protection systems.-

2274 (2) Fire hydrants and fire protection systems installed in
 2275 public and private properties, except one-family or two-family
 2276 dwellings, in this state shall be inspected following procedures
 2277 established in the nationally recognized inspection, testing,
 2278 and maintenance standards publications NFPA-24 and NFPA-25 as
 2279 set forth in the edition adopted by the State Fire Marshal.
 2280 Quarterly, annual, 3-year, and 5-year inspections consistent
 2281 with the contractual provisions with the owner shall be
 2282 conducted by the certificateholder or permittees employed by the
 2283 certificateholder pursuant to s. 633.521, except that:

2284 (a) Public fire hydrants owned by a governmental entity
 2285 shall be inspected following procedures established in the
 2286 inspection, testing, and maintenance standards adopted by the
 2287 State Fire Marshal or equivalent standards such as those
 2288 contained in the latest edition of the American Water Works
 2289 Association's Manual M17, "Installation, Field Testing, and
 2290 Maintenance of Fire Hydrants."

2291 (b) County, municipal, and special district utilities may
 2292 perform fire hydrant inspections required by this section using
 2293 designated employees. Such designated employees need not be
 2294 certified under this chapter. However, counties, municipalities,
 2295 or special districts that use designated employees are
 2296 responsible for ensuring that the designated employees are
 2297 qualified to perform such inspections.

2298 Section 47. Section 633.352, Florida Statutes, is amended to
 2299 read:

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2300 633.352 Retention of firefighter certification.—Any
 2301 certified firefighter who has not been active as a firefighter,
 2302 or as a volunteer firefighter with an organized fire department,
 2303 for a period of 3 years shall be required to retake the
 2304 practical portion of the minimum standards state examination
 2305 specified in rule 69A-37.056(6)(b) 4A-37.056(6)(b), Florida
 2306 Administrative Code, in order to maintain her or his
 2307 certification as a firefighter; however, this requirement does
 2308 not apply to state-certified firefighters who are certified and
 2309 employed as full-time firesafety inspectors or firesafety
 2310 instructors, regardless of the firefighter's employment status
 2311 as determined by the division. The 3-year period begins on the
 2312 date the certificate of compliance is issued or upon termination
 2313 of service with an organized fire department.

2314 Section 48. Paragraph (e) of subsection (2) and
 2315 subsections (3), (10), and (11) of section 633.521, Florida
 2316 Statutes, are amended to read:

2317 633.521 Certificate application and issuance; permit
 2318 issuance; examination and investigation of applicant.—

2319 (2)

2320 (e) An applicant may not be examined more than four times
 2321 during 1 year for certification as a contractor pursuant to this
 2322 section unless the person is or has been certified and is taking
 2323 the examination to change classifications. If an applicant does
 2324 not pass one or more parts of the examination, she or he may
 2325 take any part of the examination three more times during the 1-
 2326 year period beginning upon the date she or he originally filed
 2327 an application to take the examination. If the applicant does

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2328 | not pass the examination within that 1-year period, she or he
 2329 | must file a new application and pay the application and
 2330 | examination fees in order to take the examination or a part of
 2331 | the examination again. However, the applicant may not file a new
 2332 | application sooner than 6 months after the date of her or his
 2333 | last examination. An applicant who passes the examination but
 2334 | does not meet the remaining qualifications as provided in
 2335 | applicable statutes and rules within 1 year after the
 2336 | application date must file a new application, pay the
 2337 | application and examination fee, successfully complete a
 2338 | prescribed training course approved by the State Fire College or
 2339 | an equivalent course approved by the State Fire Marshal, and
 2340 | retake and pass the written examination.

2341 | (3) (a) As a prerequisite to taking the examination for
 2342 | certification as a Contractor I, Contractor II, or Contractor
 2343 | III, the applicant must be at least 18 years of age, be of good
 2344 | moral character, and shall possess 4 years' proven experience in
 2345 | the employment of a fire protection system Contractor I,
 2346 | Contractor II, or Contractor III or a combination of equivalent
 2347 | education and experience in both water-based and chemical fire
 2348 | suppression systems.

2349 | (b) As a prerequisite to taking the examination for
 2350 | certification as a Contractor II, the applicant must be at least
 2351 | 18 years of age, be of good moral character, and have 4 years of
 2352 | verifiable employment experience with a fire protection system
 2353 | as a Contractor I or Contractor II, or a combination of
 2354 | equivalent education and experience in water-based fire
 2355 | suppression systems.

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2356 (c) Required education and experience for certification as
 2357 a Contractor I, Contractor II, Contractor III, or Contractor IV
 2358 includes training and experience in both installation and system
 2359 layout as defined in s. 633.021.

2360 (d) As a prerequisite to taking the examination for
 2361 certification as a Contractor III, the applicant must be at
 2362 least 18 years of age, be of good moral character, and have 4
 2363 years of verifiable employment experience with a fire protection
 2364 system as a Contractor I or Contractor II, or a combination of
 2365 equivalent education and experience in chemical fire suppression
 2366 systems.

2367 (e) As a prerequisite to taking the examination for
 2368 certification as a Contractor IV, the applicant must shall be at
 2369 least 18 years old, be of good moral character, be licensed as a
 2370 certified plumbing contractor under chapter 489, and
 2371 successfully complete a training program acceptable to the State
 2372 Fire Marshal of not less than 40 contact hours regarding the
 2373 applicable installation standard used by the Contractor IV as
 2374 described in NFPA 13D. The State Fire Marshal may adopt rules to
 2375 administer this subsection have at least 2 years' proven
 2376 experience in the employment of a fire protection system
 2377 Contractor I, Contractor II, Contractor III, or Contractor IV or
 2378 combination of equivalent education and experience which
 2379 combination need not include experience in the employment of a
 2380 fire protection system contractor.

2381 (f) As a prerequisite to taking the examination for
 2382 certification as a Contractor V, the applicant must shall be at
 2383 least 18 years old, be of good moral character, and have been

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2384 licensed as a certified underground utility and excavation
 2385 contractor or certified plumbing contractor pursuant to chapter
 2386 489, have verification by an individual who is licensed as a
 2387 certified utility contractor or certified plumbing contractor
 2388 pursuant to chapter 489 that the applicant has 4 years' proven
 2389 experience in the employ of a certified underground utility and
 2390 excavation contractor or certified plumbing contractor, or have
 2391 a combination of education and experience equivalent to 4 years'
 2392 proven experience in the employ of a certified underground
 2393 utility and excavation contractor or certified plumbing
 2394 contractor.

2395 (g) Within 30 days after the date of the examination, the
 2396 State Fire Marshal shall inform the applicant in writing whether
 2397 she or he has qualified or not and, if the applicant has
 2398 qualified, that she or he is ready to issue a certificate of
 2399 competency, subject to compliance with the requirements of
 2400 subsection (4).

2401 (10) Effective July 1, 2008, tThe State Fire Marshal shall
 2402 require the National Institute of Certification in Engineering
 2403 Technologies (NICET), Sub-field of Inspection and Testing of
 2404 Fire Protection Systems Level II or equivalent training and
 2405 education as determined by the division as proof that the
 2406 permitholders are knowledgeable about nationally accepted
 2407 standards for the inspection of fire protection systems. It is
 2408 the intent of this act, from July 1, 2005, until July 1, 2008,
 2409 to accept continuing education of all certificateholders'
 2410 employees who perform inspection functions which specifically
 2411 prepares the permitholder to qualify for NICET II certification.

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2412 (11) It is intended that a certificateholder, or a
 2413 permitholder who is employed by a certificateholder, conduct
 2414 inspections required by this chapter. It is understood that
 2415 after July 1, 2008, employee turnover may result in a depletion
 2416 of personnel who are certified under the NICET Sub-field of
 2417 Inspection and Testing of Fire Protection Systems Level II or
 2418 equivalent training and education as required by the Division of
 2419 State Fire Marshal which is required for permitholders. The
 2420 extensive training and experience necessary to achieve NICET
 2421 Level II certification is recognized. A certificateholder may
 2422 therefore obtain a provisional permit with an endorsement for
 2423 inspection, testing, and maintenance of water-based fire
 2424 extinguishing systems for an employee if the employee has
 2425 initiated procedures for obtaining Level II certification from
 2426 the National Institute for Certification in Engineering
 2427 Technologies Sub-field of Inspection and Testing of Fire
 2428 Protection Systems and achieved Level I certification or an
 2429 equivalent level as determined by the State Fire Marshal through
 2430 verification of experience, training, and examination. The State
 2431 Fire Marshal may establish rules to administer this subsection.
 2432 After 2 years of provisional certification, the employee must
 2433 have achieved NICET Level II certification or obtain equivalent
 2434 training and education as determined by the division, or cease
 2435 performing inspections requiring Level II certification. The
 2436 provisional permit is valid only for the 2 calendar years after
 2437 the date of issuance, may not be extended, and is not renewable.
 2438 After the initial 2-year provisional permit expires, the
 2439 certificateholder must wait 2 additional years before a new

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2440 provisional permit may be issued. The intent is to prohibit the
 2441 certificateholder from using employees who never reach NICET
 2442 Level II status, or equivalent training and education as
 2443 determined by the division, by continuously obtaining
 2444 provisional permits.

2445 Section 49. Subsection (3) is added to section 633.524,
 2446 Florida Statutes, to read:

2447 633.524 Certificate and permit fees; use and deposit of
 2448 collected funds.—

2449 (3) The State Fire Marshal may enter into a contract with
 2450 any qualified public entity or private company in accordance
 2451 with chapter 287 to provide examinations for any applicant for
 2452 any examination administered under the jurisdiction of the State
 2453 Fire Marshal. The State Fire Marshal may direct payments from
 2454 each applicant for each examination directly to such contracted
 2455 entity or company.

2456 Section 50. Subsection (4) of section 633.537, Florida
 2457 Statutes, is amended to read:

2458 633.537 Certificate; expiration; renewal; inactive
 2459 certificate; continuing education.—

2460 (4) The renewal period for the permit class is the same as
 2461 that for the employing certificateholder. The continuing
 2462 education requirements for permitholders are what is required to
 2463 maintain NICET Sub-field of Inspection and Testing of Fire
 2464 Protection Systems Level II, equivalent training and education
 2465 as determined by the division, or higher certification plus 8
 2466 contact hours of continuing education approved by the State Fire
 2467 Marshal during each biennial renewal period thereafter. The

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2468 continuing education curriculum from July 1, 2005, until July 1,
 2469 2008, shall be the preparatory curriculum for NICET II
 2470 certification; after July 1, 2008, the technical curriculum is
 2471 at the discretion of the State Fire Marshal and may be used to
 2472 meet the maintenance of NICET Level II certification and 8
 2473 contact hours of continuing education requirements. It is the
 2474 responsibility of the permitholder to maintain NICET II
 2475 certification or equivalent training and education as determined
 2476 by the division as a condition of permit renewal after July 1,
 2477 2008.

2478 Section 51. Subsection (4) of section 633.72, Florida
 2479 Statutes, is amended to read:

2480 633.72 Florida Fire Code Advisory Council.—

2481 (4) Each appointee shall serve a 4-year term. No member
 2482 shall serve more than two consecutive terms one term. No member
 2483 of the council shall be paid a salary as such member, but each
 2484 shall receive travel and expense reimbursement as provided in s.
 2485 112.061. Section 52. Subsection (6) of section 718.113,
 2486 Florida Statutes, is repealed.

2487 Section 53. The Florida Building Commission shall revise
 2488 the Florida Building Code in order to make it consistent with
 2489 the revisions made by this act to s. 399.02, Florida Statutes.

2490 Section 54. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HB 629

Firesafety Inspections

SPONSOR(S): Burgin

TIED BILLS:

IDEN./SIM. BILLS: SB 1136

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee	13 Y, 0 N	Vickroy	Cooper
2)	Military & Local Affairs Policy Committee		Fudge 	Hoagland 
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

In 2006, legislation was passed to ensure that all privately-owned fire hydrants would be inspected and maintained by a certified firesafety inspector or fire protection contractor. The catalyst for the legislation was a lack of standards for maintenance and inspection of privately-owned hydrants. Fire departments were encountering broken or malfunctioning hydrants, resulting in additional property loss in the event of a fire.

However, the resulting legislation created ambiguity as to whether public utilities could continue to designate a certified employee to perform inspections of their fire hydrants, as had traditionally been the case. Before the 2006 legislation, public utilities could either contract for a certified firesafety inspector or fire protection contractor to perform fire hydrant inspections, or designate a properly qualified employee to perform such inspections. Designating an employee has generally provided some cost savings to the public utility.

The bill provides that public utilities may designate properly qualified employees to perform fire hydrant inspections. It also states that such employees may inspect fire hydrants in accordance with either the standard adopted by the State Fire Marshal, or the American Water Works Association (AWWA), a standard considered to meet and exceed that which has been adopted by the State Fire Marshal.

The bill may result in some cost savings to public utilities that will not have to contract for a firesafety inspector to perform fire hydrant inspections.

The bill takes effect upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

The Division of State Fire Marshal (Division), among other responsibilities, establishes the standards and qualifications of firesafety inspectors¹ and fire protection system contractors,² as well as adopts and updates the Florida Fire Prevention Code (FFPC).³ The FFPC provides that fire hydrants must be inspected, tested, and maintained on an annual basis.⁴ It also provides that the Division has the right to inspect any fire hydrant to determine if it meets the standards of the FFPC.⁵ However, it is not the responsibility of the Division to inspect each private and public fire hydrant annually to ensure compliance with the FFPC.

As the result of problems with privately-owned fire hydrants not being properly maintained, 2006 legislation created an affirmative duty on private fire hydrant owners to ensure their fire hydrants are maintained and inspected in accordance with the FFPC.⁶

Thus, privately-owned fire hydrants are required to be inspected by a person certified as a firesafety inspector.⁷ In addition, private hydrant owners must ensure that their hydrants are maintained between inspections.⁸ Fire protection system contractors may be utilized for this purpose. A firesafety inspector is an individual who conducts firesafety inspections on a recurring basis on behalf of the state or any local government with firesafety responsibilities.⁹ Similarly, a fire protection system contractor is an individual who contracts with a person or entity to lay out, fabricate, install, inspect, alter, repair, or service certain kinds of fire protection systems, depending on the type of permit issued by the Division.¹⁰ Fire hydrants are one type of fire protection system.¹¹

¹ Section 633.01(3), F.S.

² Section 633.01(2)(c)(2), F.S.

³ Section 633.025(1), F.S.

⁴ Section 633.082(2), F.S.

⁵ Section 633.082(1), F.S.

⁶ See section 633.082(2), F.S.; see also Ch. 2006-65, The Laws of Florida.

⁷ See section 633.082(2), F.S.; see also section 633.521, F.S.

⁸ F.A.C. 69A-46.041(9).

⁹ Section 633.021(10), F.S.

¹⁰ Section 633.021(5)(a)-(e), F.S.

¹¹ Section 633.021(9), F.S.

In contrast, publically-owned fire hydrants have traditionally been permitted to be inspected by a designated and qualified employee, instead of a fire protection system contractor, or firesafety inspector. However, as a result of the legislation creating an affirmative duty on private fire hydrant owners, it is somewhat unclear if publically-owned hydrants may continue to be inspected by designated and qualified employees.

Changes Proposed by the Bill:

The bill provides that while privately-owned fire hydrants must be inspected by a firesafety inspector, publically-owned fire hydrants may be inspected by a designated and qualified employee. However, if a local government or special district uses such designated employees, it is responsible for ensuring that the employees are qualified to perform such inspections.

The bill also provides that such employees may inspect fire hydrants using the standard adopted by the State Fire Marshal¹² or those adopted by the American Water Works Association (AWWA), a standard considered to meet and exceed the standard adopted by the State Fire Marshal. Thus, publically-owned fire hydrants may be subject to two different inspection standards.

B. SECTION DIRECTORY:

Section 1 clarifies that inspections conducted pursuant to local and state requirements and that are performed under section 633.081, F.S., do not include inspections required to be performed by section 633.082(2), F.S.

Section 2 provides that county, municipal, and special district utilities may perform fire hydrant inspections using their own designated employees. It also requires such inspections to be conducted in accordance with either the standards adopted by the State Fire Marshal, or the AWWA.

Section 3 provides that the bill will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may result in indeterminate cost savings associated with the public utility designating an employee to perform inspections rather than contracting with an outside source for fire hydrant inspections.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹² This would be the standard set out in the National Fire Protection Association's (NFPA) national standards. In the case of fire hydrant inspection, NFPA-24 and 25 are the applicable chapters.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to firesafety inspections; amending s.
 3 633.081, F.S.; providing exceptions to certain local
 4 government firesafety inspection requirements; amending s.
 5 633.082, F.S.; specifying inspection requirements for fire
 6 hydrants owned by governmental entities; authorizing local
 7 government utilities to comply using designated employees;
 8 specifying responsibility for ensuring the qualification
 9 of designated employees to make inspections; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsections (1) and (2) of section 633.081,
 15 Florida Statutes, are amended to read:

16 633.081 Inspection of buildings and equipment; orders;
 17 firesafety inspection training requirements; certification;
 18 disciplinary action.—The State Fire Marshal and her or his
 19 agents shall, at any reasonable hour, when the department has
 20 reasonable cause to believe that a violation of this chapter or
 21 s. 509.215, or a rule promulgated thereunder, or a minimum
 22 firesafety code adopted by a local authority, may exist, inspect
 23 any and all buildings and structures which are subject to the
 24 requirements of this chapter or s. 509.215 and rules promulgated
 25 thereunder. The authority to inspect shall extend to all
 26 equipment, vehicles, and chemicals which are located within the
 27 premises of any such building or structure.

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28 (1) Each county, municipality, and special district that
 29 has firesafety enforcement responsibilities shall employ or
 30 contract with a firesafety inspector. Except as provided in s.
 31 633.082(2), the firesafety inspector must conduct all firesafety
 32 inspections that are required by law. The governing body of a
 33 county, municipality, or special district that has firesafety
 34 enforcement responsibilities may provide a schedule of fees to
 35 pay only the costs of inspections conducted pursuant to this
 36 subsection and related administrative expenses. Two or more
 37 counties, municipalities, or special districts that have
 38 firesafety enforcement responsibilities may jointly employ or
 39 contract with a firesafety inspector.

40 (2) Except as provided in s. 633.082(2), every firesafety
 41 inspection conducted pursuant to state or local firesafety
 42 requirements shall be by a person certified as having met the
 43 inspection training requirements set by the State Fire Marshal.
 44 Such person shall:

45 (a) Be a high school graduate or the equivalent as
 46 determined by the department;

47 (b) Not have been found guilty of, or having pleaded
 48 guilty or nolo contendere to, a felony or a crime punishable by
 49 imprisonment of 1 year or more under the law of the United
 50 States, or of any state thereof, which involves moral turpitude,
 51 without regard to whether a judgment of conviction has been
 52 entered by the court having jurisdiction of such cases;

53 (c) Have her or his fingerprints on file with the
 54 department or with an agency designated by the department;

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55 (d) Have good moral character as determined by the
 56 department;

57 (e) Be at least 18 years of age;

58 (f) Have satisfactorily completed the firesafety inspector
 59 certification examination as prescribed by the department; and

60 (g)1. Have satisfactorily completed, as determined by the
 61 department, a firesafety inspector training program of not less
 62 than 200 hours established by the department and administered by
 63 agencies and institutions approved by the department for the
 64 purpose of providing basic certification training for firesafety
 65 inspectors; or

66 2. Have received in another state training which is
 67 determined by the department to be at least equivalent to that
 68 required by the department for approved firesafety inspector
 69 education and training programs in this state.

70 Section 2. Subsection (2) of section 633.082, Florida
 71 Statutes, is amended to read:

72 633.082 Inspection of fire control systems, fire hydrants,
 73 and fire protection systems.—

74 (2) Fire hydrants and fire protection systems installed in
 75 public and private properties, except one-family or two-family
 76 dwellings, ~~in this state~~ shall be inspected following procedures
 77 established in the nationally recognized inspection, testing,
 78 and maintenance standards publications NFPA-24 and NFPA-25 as
 79 set forth in the edition adopted by the State Fire Marshal.
 80 Quarterly, annual, 3-year, and 5-year inspections consistent
 81 with the contractual provisions with the owner shall be

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82 | conducted by the certificateholder or permittees employed by the
 83 | certificateholder pursuant to s. 633.521, except that:

84 | (a) Public fire hydrants owned by a governmental entity
 85 | shall be inspected following procedures established in the
 86 | inspection, testing, and maintenance standards adopted by the
 87 | State Fire Marshal or equivalent standards such as those
 88 | contained in the latest edition of the American Water Works
 89 | Association's Manual M17, "Installation, Field Testing, and
 90 | Maintenance of Fire Hydrants."

91 | (b) County, municipal, and special district utilities may
 92 | perform fire hydrant inspections required by this section using
 93 | designated employees. Such designated employees need not be
 94 | certified under this chapter. However, counties, municipalities,
 95 | or special districts that use designated employees are
 96 | responsible for ensuring that the designated employees are
 97 | qualified to perform such inspections.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HB 1095

Special Districts

SPONSOR(S): Pafford

TIED BILLS:

IDEN./SIM. BILLS: SB 1568

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee		Fudge 	Hoagland 
2) Finance & Tax Council			
3) Economic Development & Community Affairs Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Section 189.4042, F.S., provides the method for merger and dissolution of dependent and independent special districts. Any dependent or independent district created by special act may only be merged or dissolved by the Legislature unless otherwise provided by general law. An independent district created by a county or municipality through a referendum or any other procedure, may be merged or dissolved by the same procedure by which the district was created.

The bill revises the merger and dissolution procedures for independent special districts by specifying when a referendum is required and preempts any special acts to the contrary. The bill also requires a determination of the proper allocation of indebtedness and the transfer of title.

The bill is effective July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Unlike units of general-purpose government such as counties and municipalities, special districts are units of special-purpose government, meaning they have authority to do only the things set out for them to accomplish in their creation document. A special district may be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.

There are currently 1,622 special districts in Florida, 1,007 independent and 615 dependent. From January 1, 2005, through December 31, 2009, sixty-one districts were dissolved.

Merger and Dissolution Procedures for Special Districts

Article VIII, section 4 of the Florida Constitution governs the transfer of powers between governing bodies and states that

“by law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferee, or as otherwise provided by law.”

Section 189.4042, F.S., provides the method for merger and dissolution of dependent and independent special districts. Any dependent or independent district created by special act may only be merged or dissolved by the Legislature unless otherwise provided by general law. An independent district created by a county or municipality through a referendum or any other procedure, may be merged or dissolved by the same procedure by which the district was created. However, “for any independent district that has ad valorem taxation powers, the same procedure required to grant such independent district ad valorem taxation powers shall also be required to dissolve or merge the district.”

Under certain circumstances, the Department of Community Affairs (DCA) may declare a special district inactive and take steps to dissolve a district. In particular, DCA may take steps to dissolve a district if the district fails to file with the appropriate state agency the following:

- Retirement related reports with the Department of Management Services (DFS)
- Annual Financial Report with the Department of Financial Services
- Annual Financial Audit Report with the Auditor General and DFS
- Bond related reports with the State Board of Administration, Division of Bond Finance

Effect of Proposed Changes

The bill revises the merger and dissolution procedures for independent special districts. Unless otherwise provided by general law, an independent special district created by special act may only be dissolved by the Legislature and a referendum of the resident electors of the district, if the district contains resident electors.

An independent special district, created by special act, may only be merged with another political subdivision by the Legislature and a referendum of the resident electors of the political subdivision and of the district, provided the political subdivision and the district contain resident electors.

The bill also clarifies that independent special districts created by a county or municipality by referendum may also be merged or dissolved by referendum. Likewise, any independent special district with ad valorem taxation powers, created by a county or municipality by referendum or any other procedure, may be merged or dissolved by the procedure by which it was granted that taxing authority.

The bill also provides that the government formed as a result of a merger shall assume all indebtedness of, and receive title to all property owned by, the preexisting independent special district or districts. The proposed charter shall determine the proper allocation of the indebtedness and the manner in which the debt shall be retired. When an independent special district is dissolved, all title to property owned by the district shall be transferred to the county, which shall assume all indebtedness of the district, unless otherwise provided in the dissolution plan.

B. SECTION DIRECTORY:

Section 1: Amends the merger and dissolution procedures for special districts contained in s. 189.4042, F.S.

Section 2: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Community Affairs has expressed concern that rather than dissolve through a referendum, local governments may simply abandon the special district. When districts become inactive the Department of Community Affairs, the Auditor General, and the Department of Financial Services must conduct several inquiries before the special district can be declared inactive necessitating dissolution. If special districts are simply abandoned instead of dissolved, these agencies may see an increased workload.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There will be costs associated with the calling of a referendum.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires counties or municipalities to take an action, the calling of a referendum, requiring the expenditure of funds; however, the amount of the expenditures is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill refers to a "proposed charter" which determines the proper allocation of the indebtedness assumed by the government formed by the merger. This term is not defined. Likewise, subsection (4) refers to a dissolution plan, which is not defined.

The bill does not specify which entity is responsible for calling the referendum and the costs of the referendum.

While the bill preempts any special act to the contrary, this provision would only affect existing special districts. Special districts created pursuant to a subsequently enacted special law may exempt itself from this requirement.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to special districts; amending s.
 3 189.4042, F.S.; revising provisions relating to merger and
 4 dissolution procedures for special districts; requiring
 5 certain merger and dissolution procedures to include
 6 referenda; providing that such provisions preempt prior
 7 special acts; providing for a local government to assume
 8 the indebtedness of, and receive the title to property
 9 owned by, a special district under certain circumstances;
 10 providing charter requirements for the assumption of such
 11 indebtedness and transfer of such title to property;
 12 providing an effective date.

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

15
 16 Section 1. Section 189.4042, Florida Statutes, is amended
 17 to read:

18 189.4042 Merger and dissolution procedures.—

19 (1) (a) The merger or dissolution of dependent special
 20 districts may be effectuated by an ordinance of the general-
 21 purpose local governmental entity wherein the geographical area
 22 of the district or districts is located. However, a county may
 23 not dissolve a special district that is dependent to a
 24 municipality or vice versa, or a dependent district created by
 25 special act.

26 (b) A copy of any ordinance and of any changes to a
 27 charter affecting the status or boundaries of one or more
 28 special districts shall be filed with the Special District

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29 Information Program within 30 days of such activity.

30 (2) (a) Unless otherwise provided by general law, the
 31 merger or dissolution of ~~an independent special district or a~~
 32 dependent special district created and operating pursuant to a
 33 special act may only be effectuated by the Legislature ~~unless~~
 34 ~~otherwise provided by general law.~~

35 (b) Unless otherwise provided by general law:

36 1. The dissolution of an independent special district
 37 created and operating pursuant to a special act may only be
 38 effectuated by the Legislature and a referendum of the resident
 39 electors of the district, provided the district contains
 40 resident electors.

41 2. The merger of an independent special district created
 42 and operating pursuant to a special act with another political
 43 subdivision may only be effectuated by the Legislature and a
 44 referendum of the resident electors of the political subdivision
 45 and of the district, provided the political subdivision and the
 46 district contain resident electors.

47 (c) If an inactive independent special district was
 48 created by a county or municipality through a referendum, the
 49 county or municipality that created the district may dissolve
 50 the district after publishing notice as described in s.
 51 189.4044.

52 (d) If an independent special district was created by a
 53 county or municipality by referendum or any other procedure, the
 54 county or municipality that created the district may merge or
 55 dissolve the district pursuant to a referendum and any other ~~the~~
 56 ~~same~~ procedure by which the independent district was created.

57 | (e) If an ~~However, for any~~ independent special district
 58 | that has ad valorem taxation powers was created by a county or
 59 | municipality by referendum or any other procedure, the county or
 60 | municipality that created the district may merge or dissolve the
 61 | district pursuant to a referendum, any other procedure by which
 62 | the district was created, and the same procedure by which the
 63 | ~~required to grant such independent~~ district was granted ad
 64 | ~~valorem taxation powers shall also be required to dissolve or~~
 65 | ~~merge the district.~~

66 | (f) This subsection preempts any special act to the
 67 | contrary.

68 | (3) The government formed by merger of an existing
 69 | independent special district or districts with another
 70 | government shall assume all indebtedness of, and receive title
 71 | to all property owned by, the preexisting independent special
 72 | district or districts. The proposed charter shall provide for
 73 | the determination of the proper allocation of the indebtedness
 74 | so assumed and the manner in which the debt shall be retired.

75 | (4) The dissolution of an independent special district
 76 | shall transfer the title to all property owned by the
 77 | preexisting independent special district to the county
 78 | government, which shall also assume all indebtedness of the
 79 | preexisting independent special district, unless otherwise
 80 | provided in the dissolution plan.

81 | (5) ~~(3)~~ The provisions of this section shall not apply to
 82 | community development districts implemented pursuant to chapter
 83 | 190 or to water management districts created and operated
 84 | pursuant to chapter 373.

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85

Section 2. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Military & Local Affairs Policy
2 Committee

3 Representative(s) Pafford offered the following:

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

6 Between lines 84 and 85, insert:

7 Section 2. Subsection (4) of section 189.4044, Florida
8 Statutes, is amended to read:

9 189.4044 Special procedures for inactive districts.—

10 (4) The entity that created a special district declared
11 inactive under this section must dissolve the special district
12 by repealing its enabling laws or by other appropriate means.
13 Notwithstanding this subsection or any other section of law, if
14 the governing body of a special district unanimously adopts a
15 resolution declaring the district inactive pursuant to
16 subsections (1)(b) and (c), and no administrative appeals were
17 timely filed, the special district may be dissolved without a
18 referendum.

Amendment No. 1

19 (5) Independent and dependent special districts that meet
20 any criteria to be declared inactive, or that have already been
21 declared inactive, may be dissolved or merged by special act
22 without a referendum.

23

24

25

26

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

27

Remove line 12 and insert:

28

amending s. 189.4044, F.S.; clarifying procedures for a special
29 district declared inactive by its governing board; authorizing
30 dissolution of inactive special districts without referendum ;
31 providing an effective date.

31

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HB 1109

Water Supply

SPONSOR(S): Williams

TIED BILLS:

IDEN./SIM. BILLS: SB 2202

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Rojas 	Hoagland 
2)	Natural Resources Appropriations Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

HB 1109 creates a new Part VII to Chapter 373, F.S., to include all those existing sections of Chapter 373, F.S., that address water supply policy, planning, production and funding.

The bill repeals ss. 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S., as these sections are incorporated into a new Part VII of Chapter 373, F.S.

Section 373.71, F.S., is renumbered 373.69, F.S., to remove it from the numbering scheme assigned to the new Part VII of Chapter 373, F.S.

Numerous conforming cross-reference changes are provided.

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

The bill provides a July 1, 2010, effective date.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 373, F.S., was originally enacted by the Florida Legislature as the "Water Resources Act of 1972" (ch. 72-299, L.O.F.). At that time, the chapter was limited in scope to principally address issues relating to flood control, the management and storage of surface water, the regulation of consumptive use of water, including wells, and the governance of the water management districts (WMD). No effort was made at that time to address water supply except through the "state water plan." The direction of the state water plan was to "study existing water sources . . . to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state" (see s. 373.036(1), F.S. (1972)).

Chapter 373, F.S., has been amended numerous times since 1972 to address a multitude of issues relating to water.

The following sections of Chapter 373, F.S., either in whole or in part, specifically address water supply policy, planning and production:

- s. 373.016, F.S. Declaration of policy
- s. 373.019, F.S. Definitions
- s. 373.036, F.S. Florida water plan; district water management plans
- s. 373.0361, F.S. Regional water supply planning
- s. 373.0391, F.S. Technical assistance
- s. 373.0831, F.S. Water resource development; water supply development
- s. 373.196, F.S. Legislative findings
- s. 373.1961, F.S. Water production
- s. 373.1962, F.S. Regional water supply authorities
- s. 373.1963, F.S. Assistance to West Coast Regional Water Supply Authority

Section 373.016, F.S., Declaration of policy

Section 373.016, F.S., was included in the original Water Resources Act of 1972. At that time it contained little in the way of policy that addressed water supply planning and production. Section 373.016, F.S., was amended in 1997 to add what is now paragraph (3)(d), which establishes a policy that the “availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems shall be promoted” (s. 1, ch. 97-160, L.O.F.). In 1998, paragraphs (4)(a) and (b) were added to address the issue of the use of local sources of water first for consumptive uses before transporting water across county boundaries (s. 1, ch. 98-88, L.O.F.).

Section 373.0361, F.S., Regional water supply planning

In 1997, the Legislature, made an effort to address water supply planning primarily at a regional level. Section 4 of chapter 97-160, Laws of Florida, created the regional water supply planning process and, in 2004 (s. 9, ch. 2004-381, L.O.F.), the Legislature amended requirements of the regional water supply plan (RWSP). These amendments:

- addressed the requirements of the water supply development component of the RWSP and included:
 - Requiring the WMD to hold at least one public workshop prior to completion of the RWSP to discuss the technical data and modeling tools anticipated to be utilized in the development of RWSP.
 - Identifying the best available data to be utilized to project populations.
 - Allowing the use of water conservation and demand management measurements as water source options in the water supply development component of the RWSP.
- Included the reservation of water as a component of the RWSP.
- Required reporting progress made in developing water supplies consistent with RWSP.

In 2005, the Legislature substantially reworded s. 373.0361, F.S. (s. 9, ch. 2005-291, L.O.F, often referred to as “SB 444”). The rewording added new language with respect to public education, the assessment of the impacts of minimum flows and levels on water supply needs, listing of water supply development projects, the joint development of RWSP, and the annual reporting requirements to the Department of Environmental Protection (DEP) on the status of regional water supply planning. A new subsection was added to require the WMDs districts to notify the affected local governments and make every reasonable effort to educate and involve local public officials in working toward solutions when the water supply component shows the need for one or more alternative water supply projects. An additional provision allows local governments to prepare their own water supply assessments to determine if existing water sources are adequate. This assessment is to be submitted to the WMD to be considered when the RWSP is being developed or updated.

Section 373.0391, F.S., Technical assistance to local governments

Section 373.0391, F.S., was created in 1989 and requires WMDs to provide a range of technical services to assist local governments in the preparation and implementation of their comprehensive plans and public facilities reports.

Section 373.0831, F.S., Water resource development; water supply development

In association with regional water supply planning, s. 373.0831, F.S., was another significant section added in 1997 by Chapter 97-160, L.O.F. (section 11). This section provides for legislative findings and intent relating to the planning and development of water resources and the production of water supplies from those water resources. Section 373.0831, F.S., was amended in 2004 to add (4)(c) dealing with permitting and funding for the development of alternative water sources (s. 10, ch. 2004-381, L.O.F.) and subsequently repealed in 2005 (s. 4, ch. 2005-291, L.O.F.)

Section 373.196, F.S., Alternative water supply development

Section 373.196, F.S., was created in 1974 (s. 1, ch. 74-114, L.O.F.). It contains provisions regarding the need for cooperation between local governments and the WMDs in order to meet the needs of the increasing demand on water resources and allows for the creation of regional water supply authorities. Subsection (2) of section 373.196, F.S., was amended in 1998 (s. 2, ch. 98-88, L.O.F.) to provide that WMDs are to have the power to engage in functions “that are related to water resource development

pursuant to s. 373.0831.” This was done to conform to the powers given to the WMDs in 1997 granting them the responsibility for water supply planning and water resource development.

In 2005, the Legislature substantially reworded s. 373.196, F.S. (SB 444). The rewording made changes to legislative findings regarding state water policy.

These findings acknowledge that:

- Demand for natural supplies of fresh water will continue to increase.
- There is a need for development of alternative water supplies to sustain the state’s economic growth and its natural resources.
- Cooperation among all interest groups is required to develop adequate and dependable supplies of water and such efforts use all practical means.
- Regional Water Supply Authorities are encouraged and such entities facilitate the development of county-wide and multi-county projects that achieve necessary economies of scales and efficiencies.
- Public moneys and services provided to alternative water supply development may serve a public interest.
- In order to provide sufficient water and to avoid the adverse impacts of competition for limited supplies, coordinated efforts with the WMDs are required, and funding necessary to develop alternative water supplies is a shared responsibility.

The primary roles of the WMDs, local governments, and others regarding alternative water supply development were refined. The role of the WMDs is the formulation and implementation of strategies and programs; collection and evaluation of data; construction, operation and maintenance of facilities for flood control, storage, and recharge; planning for development in conjunction with local governments and others; and providing technical and financial assistance. The role of local governments, regional water supply authorities, special districts, and water utilities is: planning, design, construction, operation, and maintenance of alternative water supply development projects; formulation, development, and implementation of alternative water supply development; planning, design, construction, operation, and maintenance of facilities to collect, divert, produce, treat, transmit, and distribute water; and coordination of activities with appropriate WMDs.

Section 373.1961, F.S., Water production

Section 373.1961, F.S., was also created in 1974 (s. 2, ch. 74-114, L.O.F.), and has been amended several times since, with the most significant and recent changes being those of s. 9, ch. 2005-291, L.O.F. (SB 444). This section contains four subsections. Subsection (1) sets forth the powers and duties of the WMD governing boards with respect to the production of water; subsection (2) sets forth the identification and reporting of alternative water supply development funding in the WMD budgets; subsection (3) sets forth the allocation, allowed uses, and conditions of funding provided through the Water Protection and Sustainability Program and its Trust Fund; and subsection (4) sets forth the conditions a WMD may attach to reuse projects that receive funding assistance.

The revisions of SB 444 included:

The new subsection (2), Identification of water supply needs in WMD budgets, was created and required the WMDs to identify in their annual budget the amount needed to implement alternative water supply development projects, as prioritized in their RWSP.

A new subsection (3), Funding, was created and established provisions that:

- Provide the distributions of state funding granted to the WMDs, for use in funding alternative water supply projects under the Water Protection and Sustainability Program. The funding allocation is as follows:
 - 30 percent to South Florida.
 - 25 percent to Southwest Florida.
 - 25 percent to St. Johns River.
 - 10 percent to Suwannee River.
 - 10 percent to Northwest Florida.
- Allow funds to be used for other water resource development projects including springs protection, if the WMD is without a regional water supply plan (Suwannee River) or has no alternative water supply development project needs.

- Require that all applicants must submit the total capital cost of their projects.
- Require all applicants to provide, at a minimum, 60 percent of the total capital costs of the project. The level of state and WMD funding is determined on a project-by-project basis.
- Provide the WMD the discretion to grant a waiver, in part or in full, of the match requirement for financially disadvantaged small local governments.
- Allow the WMD to accept non-state funding to meet match requirements.
- Allow the governing boards the flexibility to use up to 20 percent of these funds for projects not specifically identified in the regional water supply plan. However, these projects must be consistent with the goals of the RWSP.
- Require that utilities receiving funding establish rate structures that promote conservation of water and promote development of alternative water supplies.
- Establish additional factors to be used by the governing boards in prioritizing and funding the projects. The factors that require significant weight in the governing funding decision include:
 - Whether the project provides substantial environmental benefits by limiting adverse water resource impacts.
 - Whether the project reduces competition for water.
 - Whether the project brings about replacement of traditional water sources to aid in the implementation of minimum flows and levels, or reservations.
 - Whether the applicant is achieving goal based targets for water conservation.
 - The quantity of water supplied compared to its cost.
 - Projects in which reuse is a major component.
 - Whether the applicant is a regional water supply authority or multi-jurisdictional water supply entity.

Additional factors to be considered include:

- Whether the project is part of a plan to produce water at a uniform rate.
- The percentage of project costs to be borne by the applicant.
- Whether the project can be reasonably implemented within the timeframes of RWSP.
- Whether the project is a subsequent phase of an existing project.
- At what percentage the local government is transferring water supply system revenues into water infrastructure needs.

The WMDs are required to conduct at least one public hearing prior to adopting a priority list of projects eligible for funding. In developing the list, the WMDs may allocate up to 20 percent of the funding for projects that are not identified or listed in the RWSP but are consistent with the goals of the plan.

Section 373.1962, F.S., Regional water supply authorities

In 1974, the Legislature established a process for the creation of regional water supply authorities in s. 373.1962, F.S., (s.7, ch. 74-114, L.O.F.). Numerous minor amendments have been made to the section since then. The establishment of regional water supply authorities requires approval by the Secretary of DEP and may be created for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas.

Section 373.1963, F.S., Assistance to West Coast Regional Water Supply Authority

Section 373.1963, F.S., was created in 1976 to address issues relating to the governance of the West Coast Regional Water Supply Authority (s. 13, ch. 76-243, L.O.F.). The section has been substantially rewritten three times with the last rewrite coming in 1998 (s. 4, ch. 339, L.O.F., s. 30, ch. 97-160, L.O.F., and s. 2, ch. 98-402, L.O.F.). The West Coast Regional Water Supply Authority is currently known as Tampa Bay Water. Tampa Bay Water is a special district that serves as a water wholesaler for its member governments: Hillsborough County, Pasco County, Pinellas County, New Port Richey, St. Petersburg and Tampa.

Effect of Proposed Changes

The bill creates a new Part VII to Chapter 373, F.S., that includes all sections of Chapter 373, F.S., that address water supply policy, planning, and production.

New Section 373.701, F.S. -- Declaration of policy

Those policy statements in s. 373.016, F.S., dealing with water supply planning and production and portions of s. 373.196, F.S., are moved to a new section 373.701, F.S., "Declaration of policy".

The bill restates the legislature's policy regarding the following issues:

- The availability of sufficient water for all beneficial uses should be promoted. (s. 373.016(3)(d), F.S.)
- Water is a public resource benefitting the entire state. (s. 373.016 (4)(a), F.S.)
- Necessity of transporting water. (s. 373.016 (4)(b), F.S.)
- Cooperative efforts to develop water supplies are mandatory and should utilize all practical means. (s. 373.196(1)(c), F.S.)

New Section 373.703, F.S., Powers and duties

Subsection 373.1961(1), F.S., relating to the powers and duties of the WMD governing board is moved to a new section 373.703, F.S., "Powers and duties".

New Section 373.705, F.S., Water resource development; water supply development

Section 373.0831, F.S., is moved to a new section 373.705, F.S., "Water resource development; water supply development".

New Section 373.707, F.S., Alternative water supply development

Section 373.196, F.S., and subsections (2) (3) and (4) of 373.1961, F.S., are moved to a new section 373.707, F.S., "Alternative water supply development".

New Section 373.709, F.S., Regional water supply planning

Section 373.0361, F.S., is moved in its entirety to a new section 373.709, F.S., "Regional water supply planning".

New Section 373.711, F.S., Technical assistance to local governments

Section 373.0391, F.S., is moved to a new section 373.711, F.S., "Technical assistance".

New Section 373.713, F.S., Regional water supply authorities

Section 373.1962, F.S., is moved to a new section 373.713, F.S., "Regional water supply authorities".

New Section 373.715, F.S., Assistance to West Coast Regional Water Supply Authority

Section 373.1963, F.S., is moved to a new section 373.715, F.S., "West Coast Regional Water Supply Authority".

The bill provides a number of conforming cross-reference revisions.

The bill repeals ss. 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S. All the fore mentioned sections are incorporated into a new Part VII of Chapter 373, F.S., as described above.

Section 373.71, F.S., is renumbered 373.69, F.S., to remove it from the numbering scheme assigned to the new Part VII of Chapter 373, F.S.

The bill provides a July 1, 2010, effective date.

B. SECTION DIRECTORY:

Section 1: Creates Part VII of Chapter 373, F.S., consisting of:

- s. 373.701, F.S., "Declaration of policy", includes those policy statements currently in s. 373.016, F.S., and portions of 373.196, F.S., dealing with water supply planning and production.

- s. 373.703, F.S., "Powers and duties", includes former ss. 373.1961(1), F.S., providing the powers and duties of the governing board.
- s. 373.705, F.S., "Water resource development; water supply development", includes former s. 373.0831, F.S., providing the roles and responsibilities of WMDs, local governments and utilities relating to water resource development and water supply development.
- s. 373.707, F.S., "Alternative water supply development", includes former s. 373.196, F.S. and subsections (2), (3) and (4) of s. 373.1961, F.S., providing for cooperative efforts between WMDs, local governments and utilities regarding the development of alternative water supplies; providing the fund allocation to WMDs and funding requirement for recipients of Water Protection and Sustainability Program funds.
- s. 373.709, F.S., "Regional water supply planning", includes former s. 373.0361, F.S., establishing the goals and requirements regional water supply plans.
- s. 373.711, F.S., "Technical assistance", includes former s. 373.0391, F.S., providing for the WMD assistance to local governments in preparing comprehensive plans.
- s. 373.713, F.S., "Regional water supply authorities", includes former s. 373.1962, F.S., providing for the establishment and authority of regional water supply authorities.
- s. 373.715, F.S., "Assistance to West Coast Regional Water Supply Authority", includes former s. 373.1963, F.S., providing for the establishment and authority of West Coast Regional Water Supply Authorities.

- Section 2. Amends s. 120.52(13), F.S., to conform a cross-reference.
- Section 3. Amends s. 163.3167(13), F.S., to conform a cross-reference.
- Section 4. Amends ss. 163.3177(4) and (6), F.S., to conform cross-references.
- Section 5. Amends s. 163.3191(2), F.S., to conform a cross-reference.
- Section 6. Amends s. 189.404(4), F.S., to conform cross-references.
- Section 7. Amends s. 189.4155(3), F.S., to conform a cross-reference.
- Section 8. Amends s. 189.4156, F.S., to conform a cross-reference.
- Section 9. Amends s. 367.021(7), F.S., to conform a cross-reference.
- Section 10. Amends s. 373.019(17), F.S., to conform a cross-reference.
- Section 11. Amends s. 373.036(2), and (7), F.S., to conform a cross-reference.
- Section 12. Amends s. 373.0363(4), F.S., to conform a cross-reference.
- Section 13. Amends s. 373.0421(2), F.S., to conform a cross-reference.
- Section 14. Amends s. 373.0695(4), F.S., to conform a cross-reference.
- Section 15. Amends ss. 373.223(3) and (5), F.S., to conform a cross-reference.
- Section 16. Amends s. 373.2234, F.S., to conform cross-references.
- Section 17. Amends s. 373.229(3), F.S., to conform a cross-reference.
- Section 18. Amends s. 373.236(6), F.S., to conform a cross-reference.
- Section 19. Amends s. 373.536(6), F.S., to conform a cross-reference.
- Section 20. Amends s. 373.59(11), F.S., to conform cross-references.
- Section 21. Amends s. 378.212(1), F.S., to conform a cross-reference.
- Section 22. Amends s. 378.404(9), F.S., to conform a cross-reference.
- Section 23. Amends s. 403.0891(3)(a), F.S., to conform a cross-reference.
- Section 24. Amends s. 403.890(1) and (2), F.S., to delete obsolete language and to conform a cross-reference.

- Section 25. Amends s. 403.891, F.S., F.S., to conform a cross-reference.
- Section 26. Amends s. 682.02, F.S., F.S., to conform a cross-reference.
- Section 27. Renumbers s 373.71, F.S. as s. 373.69, F.S.
- Section 28. Repeals ss. 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S.
- Section 29. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Since this bill simply codifies existing statutory provisions into a new Part VII of Chapter 373, F.S., it has no fiscal impact on state or local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
Not Applicable. The bill does not appear to affect municipal or county governments.
- 2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to water supply; creating part VII of ch.
 3 373, F.S., relating to water supply policy, planning,
 4 production, and funding; providing a declaration of
 5 policy; providing for the powers and duties of water
 6 management district governing boards; requiring the
 7 Department of Environmental Protection to develop the
 8 Florida water supply plan; providing components of the
 9 plan; requiring water management district governing boards
 10 to develop water supply plans for their respective
 11 regions; providing components of district water supply
 12 plans; providing legislative findings and intent with
 13 respect to water resource development and water supply
 14 development; requiring water management districts to fund
 15 and implement water resource development; specifying water
 16 supply development projects that are eligible to receive
 17 priority consideration for state or water management
 18 district funding assistance; encouraging cooperation in
 19 the development of water supplies; providing for
 20 alternative water supply development; encouraging
 21 municipalities, counties, and special districts to create
 22 regional water supply authorities; establishing the
 23 primary roles of the water management districts in
 24 alternative water supply development; establishing the
 25 primary roles of local governments, regional water supply
 26 authorities, special districts, and publicly owned and
 27 privately owned water utilities in alternative water
 28 supply development; requiring the water management

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29 districts to detail the specific allocations to be used
30 for alternative water supply development in their annual
31 budget submission; requiring that the water management
32 districts include the amount needed to implement the water
33 supply development projects in each annual budget;
34 establishing general funding criteria for funding
35 assistance to the state or water management districts;
36 establishing economic incentives for alternative water
37 supply development; providing a funding formula for the
38 distribution of state funds to the water management
39 districts for alternative water supply development;
40 requiring that funding assistance for alternative water
41 supply development be limited to a percentage of the total
42 capital costs of an approved project; establishing a
43 selection process and criteria; providing for cost
44 recovery from the Public Service Commission; requiring a
45 water management district governing board to conduct water
46 supply planning for each region identified in the district
47 water supply plan; providing procedures and requirements
48 with respect to regional water supply plans; providing for
49 joint development of a specified water supply development
50 component of a regional water supply plan within the
51 boundaries of the Southwest Florida Water Management
52 District; providing that approval of a regional water
53 supply plan is not subject to the rulemaking requirements
54 of the Administrative Procedure Act; requiring the
55 department to submit annual reports on the status of
56 regional water supply planning in each district; providing

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

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57 construction with respect to the water supply development
 58 component of a regional water supply plan; requiring water
 59 management districts to present to certain entities the
 60 relevant portions of a regional water supply plan;
 61 requiring certain entities to provide written notification
 62 to water management districts as to the implementation of
 63 water supply project options; requiring water management
 64 districts to notify local governments of the need for
 65 alternative water supply projects; requiring water
 66 management districts to assist local governments in the
 67 development and future revision of local government
 68 comprehensive plan elements or public facilities reports
 69 related to water resource issues; providing for the
 70 creation of regional water supply authorities; providing
 71 purpose of such authorities; specifying considerations
 72 with respect to the creation of a proposed authority;
 73 specifying authority of a regional water supply authority;
 74 providing authority of specified entities to convey title,
 75 dedicate land, or grant land-use rights to a regional
 76 water supply authority for specified purposes; providing
 77 preferential rights of counties and municipalities to
 78 purchase water from regional water supply authorities;
 79 providing exemption for specified water supply authorities
 80 from consideration of certain factors and submissions;
 81 providing applicability of such exemptions; authorizing
 82 the West Coast Regional Water Supply Authority and its
 83 member governments to reconstitute the authority's
 84 governance and rename the authority under a voluntary

85 interlocal agreement; providing compliance requirements
 86 with respect to the interlocal agreement; providing for
 87 supersession of conflicting general or special laws;
 88 providing requirements with respect to annual budgets;
 89 specifying the annual millage for the authority;
 90 authorizing the authority to request the governing board
 91 of the district to levy ad valorem taxes within the
 92 boundaries of the authority to finance authority
 93 functions; providing requirements and procedures with
 94 respect to the collection of such taxes; amending ss.
 95 120.52, 163.3167, 163.3177, 163.3191, 189.404, 189.4155,
 96 189.4156, 367.021, 373.019, 373.036, 373.0363, 373.0421,
 97 373.0695, 373.223, 373.2234, 373.229, 373.236, 373.536,
 98 373.59, 378.212, 378.404, 403.0891, 403.890, 403.891, and
 99 682.02, F.S.; conforming cross-references and removing
 100 obsolete provisions; renumbering s. 373.71, F.S., relating
 101 to the Apalachicola-Chattahoochee-Flint River Basin
 102 Compact, to clarify retention of the section in part VI of
 103 ch. 373, F.S.; repealing s. 373.0361, F.S., relating to
 104 regional water supply planning; repealing s. 373.0391,
 105 F.S., relating to technical assistance to local
 106 governments; repealing s. 373.0831, F.S., relating to
 107 water resource and water supply development; repealing s.
 108 373.196, F.S., relating to alternative water supply
 109 development; repealing s. 373.1961, F.S., relating to
 110 water production and related powers and duties of water
 111 management districts; repealing s. 373.1962, F.S.,
 112 relating to regional water supply authorities; repealing

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113 s. 373.1963, F.S., relating to assistance to the West
 114 Coast Regional Water Supply Authority; providing an
 115 effective date.

116
 117 Be It Enacted by the Legislature of the State of Florida:

118
 119 Section 1. Part VII of chapter 373, Florida Statutes,
 120 consisting of sections 373.701, 373.703, 373.705, 373.707,
 121 373.709, 373.711, 373.713, and 373.715, is created to read:

122 PART VII

123 WATER SUPPLY POLICY, PLANNING, PRODUCTION, AND FUNDING

124 373.701 Declaration of policy.—It is declared to be the
 125 policy of the Legislature:

126 (1) To promote the availability of sufficient water for
 127 all existing and future reasonable-beneficial uses and natural
 128 systems.

129 (2) (a) Because water constitutes a public resource
 130 benefiting the entire state, it is the policy of the Legislature
 131 that the waters in the state be managed on a state and regional
 132 basis. Consistent with this directive, the Legislature
 133 recognizes the need to allocate water throughout the state so as
 134 to meet all reasonable-beneficial uses. However, the Legislature
 135 acknowledges that such allocations have in the past adversely
 136 affected the water resources of certain areas in this state. To
 137 protect such water resources and to meet the current and future
 138 needs of those areas with abundant water, the Legislature
 139 directs the department and the water management districts to
 140 encourage the use of water from sources nearest the area of use

141 or application whenever practicable. Such sources shall include
 142 all naturally occurring water sources and all alternative water
 143 sources, including, but not limited to, desalination,
 144 conservation, reuse of nonpotable reclaimed water and
 145 stormwater, and aquifer storage and recovery. Reuse of potable
 146 reclaimed water and stormwater shall not be subject to the
 147 evaluation described in s. 373.223(3)(a)-(g). However, this
 148 directive to encourage the use of water, whenever practicable,
 149 from sources nearest the area of use or application shall not
 150 apply to the transport and direct and indirect use of water
 151 within the area encompassed by the Central and Southern Florida
 152 Flood Control Project, nor shall it apply anywhere in the state
 153 to the transport and use of water supplied exclusively for
 154 bottled water as defined in s. 500.03(1)(d), nor shall it apply
 155 to the transport and use of reclaimed water for electrical power
 156 production by an electric utility as defined in s. 366.02(2).

157 (b) In establishing the policy outlined in paragraph (a),
 158 the Legislature realizes that under certain circumstances the
 159 need to transport water from distant sources may be necessary
 160 for environmental, technical, or economic reasons.

161 (3) Cooperative efforts between municipalities, counties,
 162 water management districts, and the department are mandatory in
 163 order to meet the water needs of rapidly urbanizing areas in a
 164 manner that will supply adequate and dependable supplies of
 165 water where needed without resulting in adverse effects upon the
 166 areas from which such water is withdrawn. Such efforts should
 167 use all practical means of obtaining water, including, but not
 168 limited to, withdrawals of surface water and groundwater, reuse,

169 and desalination and will necessitate not only cooperation but
 170 also well-coordinated activities. Municipalities, counties, and
 171 special districts are encouraged to create regional water supply
 172 authorities as authorized in s. 373.713 or multijurisdictional
 173 water supply entities.

174 373.703 Water production; powers and duties.—In the
 175 performance of, and in conjunction with, its other powers and
 176 duties, the governing board of a water management district
 177 existing pursuant to this chapter:

178 (1) Shall engage in planning to assist counties,
 179 municipalities, special districts, publicly owned and privately
 180 owned water utilities, multijurisdictional water supply
 181 entities, or regional water supply authorities in meeting water
 182 supply needs in such manner as will give priority to encouraging
 183 conservation and reducing adverse environmental effects of
 184 improper or excessive withdrawals of water from concentrated
 185 areas. As used in this section and s. 373.707, regional water
 186 supply authorities are regional water authorities created under
 187 s. 373.713 or other laws of this state.

188 (2) Shall assist counties, municipalities, special
 189 districts, publicly owned or privately owned water utilities,
 190 multijurisdictional water supply entities, or regional water
 191 supply authorities in meeting water supply needs in such manner
 192 as will give priority to encouraging conservation and reducing
 193 adverse environmental effects of improper or excessive
 194 withdrawals of water from concentrated areas.

195 (3) May establish, design, construct, operate, and
 196 maintain water production and transmission facilities for the

197 purpose of supplying water to counties, municipalities, special
 198 districts, publicly owned and privately owned water utilities,
 199 multijurisdictional water supply entities, or regional water
 200 supply authorities. The permit required by part II of this
 201 chapter for a water management district engaged in water
 202 production and transmission shall be granted, denied, or granted
 203 with conditions by the department.

204 (4) Shall not engage in local water supply distribution.

205 (5) Shall not deprive, directly or indirectly, any county
 206 wherein water is withdrawn of the prior right to the reasonable
 207 and beneficial use of water which is required to supply
 208 adequately the reasonable and beneficial needs of the county or
 209 any of the inhabitants or property owners therein.

210 (6) May provide water and financial assistance to regional
 211 water supply authorities, but may not provide water to counties
 212 and municipalities which are located within the area of such
 213 authority without the specific approval of the authority or, in
 214 the event of the authority's disapproval, the approval of the
 215 Governor and Cabinet sitting as the Land and Water Adjudicatory
 216 Commission. The district may supply water at rates and upon
 217 terms mutually agreed to by the parties or, if they do not
 218 agree, as set by the governing board and specifically approved
 219 by the Governor and Cabinet sitting as the Land and Water
 220 Adjudicatory Commission.

221 (7) May acquire title to such interest as is necessary in
 222 real property, by purchase, gift, devise, lease, eminent domain,
 223 or otherwise, for water production and transmission consistent
 224 with this section and s. 373.707. However, the district shall

225 not use any of the eminent domain powers herein granted to
 226 acquire water and water rights already devoted to reasonable and
 227 beneficial use or any water production or transmission
 228 facilities owned by any county, municipality, or regional water
 229 supply authority. The district may exercise eminent domain
 230 powers outside of its district boundaries for the acquisition of
 231 pumpage facilities, storage areas, transmission facilities, and
 232 the normal appurtenances thereto, provided that at least 45 days
 233 prior to the exercise of eminent domain, the district notifies
 234 the district where the property is located after public notice
 235 and the district where the property is located does not object
 236 within 45 days after notification of such exercise of eminent
 237 domain authority.

238 (8) In addition to the power to issue revenue bonds
 239 pursuant to s. 373.584, may issue revenue bonds for the purposes
 240 of paying the costs and expenses incurred in carrying out the
 241 purposes of this chapter or refunding obligations of the
 242 district issued pursuant to this section. Such revenue bonds
 243 shall be secured by, and be payable from, revenues derived from
 244 the operation, lease, or use of its water production and
 245 transmission facilities and other water-related facilities and
 246 from the sale of water or services relating thereto. Such
 247 revenue bonds may not be secured by, or be payable from, moneys
 248 derived by the district from the Water Management Lands Trust
 249 Fund or from ad valorem taxes received by the district. All
 250 provisions of s. 373.584 relating to the issuance of revenue
 251 bonds which are not inconsistent with this section shall apply
 252 to the issuance of revenue bonds pursuant to this section. The

253 district may also issue bond anticipation notes in accordance
 254 with the provisions of s. 373.584.

255 (9) May join with one or more other water management
 256 districts, counties, municipalities, special districts, publicly
 257 owned or privately owned water utilities, multijurisdictional
 258 water supply entities, or regional water supply authorities for
 259 the purpose of carrying out any of its powers, and may contract
 260 with such other entities to finance acquisitions, construction,
 261 operation, and maintenance. The contract may provide for
 262 contributions to be made by each party thereto, for the division
 263 and apportionment of the expenses of acquisitions, construction,
 264 operation, and maintenance, and for the division and
 265 apportionment of the benefits, services, and products therefrom.
 266 The contracts may contain other covenants and agreements
 267 necessary and appropriate to accomplish their purposes.

268 373.705 Water resource development; water supply
 269 development.-

270 (1) The Legislature finds that:

271 (a) The proper role of the water management districts in
 272 water supply is primarily planning and water resource
 273 development, but this does not preclude them from providing
 274 assistance with water supply development.

275 (b) The proper role of local government, regional water
 276 supply authorities, and government-owned and privately owned
 277 water utilities in water supply is primarily water supply
 278 development, but this does not preclude them from providing
 279 assistance with water resource development.

280 (c) Water resource development and water supply

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281 development must receive priority attention, where needed, to
282 increase the availability of sufficient water for all existing
283 and future reasonable-beneficial uses and natural systems.

284 (2) It is the intent of the Legislature that:

285 (a) Sufficient water be available for all existing and
286 future reasonable-beneficial uses and the natural systems, and
287 that the adverse effects of competition for water supplies be
288 avoided.

289 (b) Water management districts take the lead in
290 identifying and implementing water resource development
291 projects, and be responsible for securing necessary funding for
292 regionally significant water resource development projects.

293 (c) Local governments, regional water supply authorities,
294 and government-owned and privately owned water utilities take
295 the lead in securing funds for and implementing water supply
296 development projects. Generally, direct beneficiaries of water
297 supply development projects should pay the costs of the projects
298 from which they benefit, and water supply development projects
299 should continue to be paid for through local funding sources.

300 (d) Water supply development be conducted in coordination
301 with water management district regional water supply planning
302 and water resource development.

303 (3) The water management districts shall fund and
304 implement water resource development as defined in s. 373.019.
305 The water management districts are encouraged to implement water
306 resource development as expeditiously as possible in areas
307 subject to regional water supply plans. Each governing board
308 shall include in its annual budget the amount needed for the

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309 fiscal year to implement water resource development projects, as
 310 prioritized in its regional water supply plans.

311 (4) (a) Water supply development projects which are
 312 consistent with the relevant regional water supply plans and
 313 which meet one or more of the following criteria shall receive
 314 priority consideration for state or water management district
 315 funding assistance:

316 1. The project supports establishment of a dependable,
 317 sustainable supply of water which is not otherwise financially
 318 feasible;

319 2. The project provides substantial environmental benefits
 320 by preventing or limiting adverse water resource impacts, but
 321 requires funding assistance to be economically competitive with
 322 other options; or

323 3. The project significantly implements reuse, storage,
 324 recharge, or conservation of water in a manner that contributes
 325 to the sustainability of regional water sources.

326 (b) Water supply development projects that meet the
 327 criteria in paragraph (a) and that meet one or more of the
 328 following additional criteria shall be given first consideration
 329 for state or water management district funding assistance:

330 1. The project brings about replacement of existing
 331 sources in order to help implement a minimum flow or level; or

332 2. The project implements reuse that assists in the
 333 elimination of domestic wastewater ocean outfalls as provided in
 334 s. 403.086(9).

335 373.707 Alternative water supply development.-

336 (1) The purpose of this section is to encourage

337 cooperation in the development of water supplies and to provide
 338 for alternative water supply development.

339 (a) Demands on natural supplies of fresh water to meet the
 340 needs of a rapidly growing population and the needs of the
 341 environment, agriculture, industry, and mining will continue to
 342 increase.

343 (b) There is a need for the development of alternative
 344 water supplies for Florida to sustain its economic growth,
 345 economic viability, and natural resources.

346 (c) Cooperative efforts between municipalities, counties,
 347 special districts, water management districts, and the
 348 Department of Environmental Protection are mandatory in order to
 349 meet the water needs of rapidly urbanizing areas in a manner
 350 that will supply adequate and dependable supplies of water where
 351 needed without resulting in adverse effects upon the areas from
 352 which such water is withdrawn. Such efforts should use all
 353 practical means of obtaining water, including, but not limited
 354 to, withdrawals of surface water and groundwater, reuse, and
 355 desalinization, and will necessitate not only cooperation but
 356 also well-coordinated activities. Municipalities, counties, and
 357 special districts are encouraged to create regional water supply
 358 authorities as authorized in s. 373.713 or multijurisdictional
 359 water supply entities.

360 (d) Alternative water supply development must receive
 361 priority funding attention to increase the available supplies of
 362 water to meet all existing and future reasonable-beneficial uses
 363 and to benefit the natural systems.

364 (e) Cooperation between counties, municipalities, regional

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365 water supply authorities, multijurisdictional water supply
366 entities, special districts, and publicly owned and privately
367 owned water utilities in the development of countywide and
368 multicountywide alternative water supply projects will allow for
369 necessary economies of scale and efficiencies to be achieved in
370 order to accelerate the development of new, dependable, and
371 sustainable alternative water supplies.

372 (f) It is in the public interest that county, municipal,
373 industrial, agricultural, and other public and private water
374 users, the Department of Environmental Protection, and the water
375 management districts cooperate and work together in the
376 development of alternative water supplies to avoid the adverse
377 effects of competition for limited supplies of water. Public
378 moneys or services provided to private entities for alternative
379 water supply development may constitute public purposes that
380 also are in the public interest.

381 (2) (a) Sufficient water must be available for all existing
382 and future reasonable-beneficial uses and the natural systems,
383 and the adverse effects of competition for water supplies must
384 be avoided.

385 (b) Water supply development and alternative water supply
386 development must be conducted in coordination with water
387 management district regional water supply planning.

388 (c) Funding for the development of alternative water
389 supplies shall be a shared responsibility of water suppliers and
390 users, the State of Florida, and the water management districts,
391 with water suppliers and users having the primary responsibility
392 and the State of Florida and the water management districts

393 being responsible for providing funding assistance.

394 (3) The primary roles of the water management districts in
 395 water resource development as it relates to supporting
 396 alternative water supply development are:

397 (a) The formulation and implementation of regional water
 398 resource management strategies that support alternative water
 399 supply development;

400 (b) The collection and evaluation of surface water and
 401 groundwater data to be used for a planning level assessment of
 402 the feasibility of alternative water supply development
 403 projects;

404 (c) The construction, operation, and maintenance of major
 405 public works facilities for flood control, surface and
 406 underground water storage, and groundwater recharge augmentation
 407 to support alternative water supply development;

408 (d) Planning for alternative water supply development as
 409 provided in regional water supply plans in coordination with
 410 local governments, regional water supply authorities,
 411 multijurisdictional water supply entities, special districts,
 412 and publicly owned and privately owned water utilities and self-
 413 suppliers;

414 (e) The formulation and implementation of structural and
 415 nonstructural programs to protect and manage water resources in
 416 support of alternative water supply projects; and

417 (f) The provision of technical and financial assistance to
 418 local governments and publicly owned and privately owned water
 419 utilities for alternative water supply projects.

420 (4) The primary roles of local government, regional water

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421 supply authorities, multijurisdictional water supply entities,
422 special districts, and publicly owned and privately owned water
423 utilities in alternative water supply development shall be:

424 (a) The planning, design, construction, operation, and
425 maintenance of alternative water supply development projects;

426 (b) The formulation and implementation of alternative
427 water supply development strategies and programs;

428 (c) The planning, design, construction, operation, and
429 maintenance of facilities to collect, divert, produce, treat,
430 transmit, and distribute water for sale, resale, or end use; and

431 (d) The coordination of alternative water supply
432 development activities with the appropriate water management
433 district having jurisdiction over the activity.

434 (5) Nothing in this section shall be construed to preclude
435 the various special districts, municipalities, and counties from
436 continuing to operate existing water production and transmission
437 facilities or to enter into cooperative agreements with other
438 special districts, municipalities, and counties for the purpose
439 of meeting their respective needs for dependable and adequate
440 supplies of water; however, the obtaining of water through such
441 operations shall not be done in a manner that results in adverse
442 effects upon the areas from which such water is withdrawn.

443 (6) (a) The statewide funds provided pursuant to the Water
444 Protection and Sustainability Program serve to supplement
445 existing water management district or basin board funding for
446 alternative water supply development assistance and should not
447 result in a reduction of such funding. Therefore, the water
448 management districts shall include in the annual tentative and

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449 adopted budget submittals required under this chapter the amount
 450 of funds allocated for water resource development that supports
 451 alternative water supply development and the funds allocated for
 452 alternative water supply projects selected for inclusion in the
 453 Water Protection and Sustainability Program. It shall be the
 454 goal of each water management district and basin boards that the
 455 combined funds allocated annually for these purposes be, at a
 456 minimum, the equivalent of 100 percent of the state funding
 457 provided to the water management district for alternative water
 458 supply development. If this goal is not achieved, the water
 459 management district shall provide in the budget submittal an
 460 explanation of the reasons or constraints that prevent this goal
 461 from being met, an explanation of how the goal will be met in
 462 future years, and affirmation of match is required during the
 463 budget review process as established under s. 373.536(5). The
 464 Suwannee River Water Management District and the Northwest
 465 Florida Water Management District shall not be required to meet
 466 the match requirements of this paragraph; however, they shall
 467 try to achieve the match requirement to the greatest extent
 468 practicable.

469 (b) State funds from the Water Protection and
 470 Sustainability Program created in s. 403.890 shall be made
 471 available for financial assistance for the project construction
 472 costs of alternative water supply development projects selected
 473 by a water management district governing board for inclusion in
 474 the program.

475 (7) The water management district shall implement its
 476 responsibilities as expeditiously as possible in areas subject

477 to regional water supply plans. Each district's governing board
 478 shall include in its annual budget the amount needed for the
 479 fiscal year to assist in implementing alternative water supply
 480 development projects.

481 (8) (a) The water management districts and the state shall
 482 share a percentage of revenues with water providers and users,
 483 including local governments, water, wastewater, and reuse
 484 utilities, municipal, special district, industrial, and
 485 agricultural water users, and other public and private water
 486 users, to be used to supplement other funding sources in the
 487 development of alternative water supplies.

488 (b) Beginning in fiscal year 2005-2006, the state shall
 489 annually provide a portion of those revenues deposited into the
 490 Water Protection and Sustainability Program Trust Fund for the
 491 purpose of providing funding assistance for the development of
 492 alternative water supplies pursuant to the Water Protection and
 493 Sustainability Program. At the beginning of each fiscal year,
 494 beginning with fiscal year 2005-2006, such revenues shall be
 495 distributed by the department into the alternative water supply
 496 trust fund accounts created by each district for the purpose of
 497 alternative water supply development under the following funding
 498 formula:

499 1. Thirty percent to the South Florida Water Management
 500 District;

501 2. Twenty-five percent to the Southwest Florida Water
 502 Management District;

503 3. Twenty-five percent to the St. Johns River Water
 504 Management District;

505 4. Ten percent to the Suwannee River Water Management
 506 District; and

507 5. Ten percent to the Northwest Florida Water Management
 508 District.

509 (c) The financial assistance for alternative water supply
 510 projects allocated in each district's budget as required in
 511 subsection (6) shall be combined with the state funds and used
 512 to assist in funding the project construction costs of
 513 alternative water supply projects selected by the governing
 514 board. If the district has not completed any regional water
 515 supply plan, or the regional water supply plan does not identify
 516 the need for any alternative water supply projects, funds
 517 deposited in that district's trust fund may be used for water
 518 resource development projects, including, but not limited to,
 519 springs protection.

520 (d) All projects submitted to the governing board for
 521 consideration shall reflect the total capital cost for
 522 implementation. The costs shall be segregated pursuant to the
 523 categories described in the definition of capital costs.

524 (e) Applicants for projects that may receive funding
 525 assistance pursuant to the Water Protection and Sustainability
 526 Program shall, at a minimum, be required to pay 60 percent of
 527 the project's construction costs. The water management districts
 528 may, at their discretion, totally or partially waive this
 529 requirement for projects sponsored by financially disadvantaged
 530 small local governments as defined in former s. 403.885(5). The
 531 water management districts or basin boards may, at their
 532 discretion, use ad valorem or federal revenues to assist a

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533 project applicant in meeting the requirements of this paragraph.

534 (f) The governing boards shall determine those projects
535 that will be selected for financial assistance. The governing
536 boards may establish factors to determine project funding;
537 however, significant weight shall be given to the following
538 factors:

539 1. Whether the project provides substantial environmental
540 benefits by preventing or limiting adverse water resource
541 impacts.

542 2. Whether the project reduces competition for water
543 supplies.

544 3. Whether the project brings about replacement of
545 traditional sources in order to help implement a minimum flow or
546 level or a reservation.

547 4. Whether the project will be implemented by a
548 consumptive use permittee that has achieved the targets
549 contained in a goal-based water conservation program approved
550 pursuant to s. 373.227.

551 5. The quantity of water supplied by the project as
552 compared to its cost.

553 6. Projects in which the construction and delivery to end
554 users of reuse water is a major component.

555 7. Whether the project will be implemented by a
556 multijurisdictional water supply entity or regional water supply
557 authority.

558 8. Whether the project implements reuse that assists in
559 the elimination of domestic wastewater ocean outfalls as
560 provided in s. 403.086(9).

561 (g) Additional factors to be considered in determining
 562 project funding shall include:

563 1. Whether the project is part of a plan to implement two
 564 or more alternative water supply projects, all of which will be
 565 operated to produce water at a uniform rate for the participants
 566 in a multijurisdictional water supply entity or regional water
 567 supply authority.

568 2. The percentage of project costs to be funded by the
 569 water supplier or water user.

570 3. Whether the project proposal includes sufficient
 571 preliminary planning and engineering to demonstrate that the
 572 project can reasonably be implemented within the timeframes
 573 provided in the regional water supply plan.

574 4. Whether the project is a subsequent phase of an
 575 alternative water supply project that is underway.

576 5. Whether and in what percentage a local government or
 577 local government utility is transferring water supply system
 578 revenues to the local government general fund in excess of
 579 reimbursements for services received from the general fund,
 580 including direct and indirect costs and legitimate payments in
 581 lieu of taxes.

582 (h) After conducting one or more meetings to solicit
 583 public input on eligible projects, including input from those
 584 entities identified pursuant to s. 373.709(2)(a)3.d. for
 585 implementation of alternative water supply projects, the
 586 governing board of each water management district shall select
 587 projects for funding assistance based upon the criteria set
 588 forth in paragraphs (f) and (g). The governing board may select

589 a project identified or listed as an alternative water supply
 590 development project in the regional water supply plan, or
 591 allocate up to 20 percent of the funding for alternative water
 592 supply projects that are not identified or listed in the
 593 regional water supply plan but are consistent with the goals of
 594 the plan.

595 (i) Without diminishing amounts available through other
 596 means described in this paragraph, the governing boards are
 597 encouraged to consider establishing revolving loan funds to
 598 expand the total funds available to accomplish the objectives of
 599 this section. A revolving loan fund created under this paragraph
 600 must be a nonlapsing fund from which the water management
 601 district may make loans with interest rates below prevailing
 602 market rates to public or private entities for the purposes
 603 described in this section. The governing board may adopt
 604 resolutions to establish revolving loan funds which must specify
 605 the details of the administration of the fund, the procedures
 606 for applying for loans from the fund, the criteria for awarding
 607 loans from the fund, the initial capitalization of the fund, and
 608 the goals for future capitalization of the fund in subsequent
 609 budget years. Revolving loan funds created under this paragraph
 610 must be used to expand the total sums and sources of cooperative
 611 funding available for the development of alternative water
 612 supplies. The Legislature does not intend for the creation of
 613 revolving loan funds to supplant or otherwise reduce existing
 614 sources or amounts of funds currently available through other
 615 means.

616 (j) For each utility that receives financial assistance

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617 from the state or a water management district for an alternative
 618 water supply project, the water management district shall
 619 require the appropriate rate-setting authority to develop rate
 620 structures for water customers in the service area of the funded
 621 utility that will:

- 622 1. Promote the conservation of water; and
 623 2. Promote the use of water from alternative water
 624 supplies.

625 (k) The governing boards shall establish a process for the
 626 disbursal of revenues pursuant to this subsection.

627 (l) All revenues made available pursuant to this
 628 subsection must be encumbered annually by the governing board
 629 when it approves projects sufficient to expend the available
 630 revenues.

631 (m) This subsection is not subject to the rulemaking
 632 requirements of chapter 120.

633 (n) By March 1 of each year, as part of the consolidated
 634 annual report required by s. 373.036(7), each water management
 635 district shall submit a report on the disbursal of all budgeted
 636 amounts pursuant to this section. Such report shall describe all
 637 alternative water supply projects funded as well as the quantity
 638 of new water to be created as a result of such projects and
 639 shall account separately for any other moneys provided through
 640 grants, matching grants, revolving loans, and the use of
 641 district lands or facilities to implement regional water supply
 642 plans.

643 (o) The Florida Public Service Commission shall allow
 644 entities under its jurisdiction constructing or participating in

645 constructing facilities that provide alternative water supplies
 646 to recover their full, prudently incurred cost of constructing
 647 such facilities through their rate structure. If construction of
 648 a facility or participation in construction is pursuant to or in
 649 furtherance of a regional water supply plan, the cost shall be
 650 deemed to be prudently incurred. Every component of an
 651 alternative water supply facility constructed by an investor-
 652 owned utility shall be recovered in current rates. Any state or
 653 water management district cost-share is not subject to the
 654 recovery provisions allowed in this paragraph.

655 (9) Funding assistance provided by the water management
 656 districts for a water reuse system may include the following
 657 conditions for that project if a water management district
 658 determines that such conditions will encourage water use
 659 efficiency:

660 (a) Metering of reclaimed water use for residential
 661 irrigation, agricultural irrigation, industrial uses, except for
 662 electric utilities as defined in s. 366.02(2), landscape
 663 irrigation, golf course irrigation, irrigation of other public
 664 access areas, commercial and institutional uses such as toilet
 665 flushing, and transfers to other reclaimed water utilities;

666 (b) Implementation of reclaimed water rate structures
 667 based on actual use of reclaimed water for the reuse activities
 668 listed in paragraph (a);

669 (c) Implementation of education programs to inform the
 670 public about water issues, water conservation, and the
 671 importance and proper use of reclaimed water; or

672 (d) Development of location data for key reuse facilities.

673 373.709 Regional water supply planning.-
 674 (1) The governing board of each water management district
 675 shall conduct water supply planning for any water supply
 676 planning region within the district identified in the
 677 appropriate district water supply plan under s. 373.036, where
 678 it determines that existing sources of water are not adequate to
 679 supply water for all existing and future reasonable-beneficial
 680 uses and to sustain the water resources and related natural
 681 systems for the planning period. The planning must be conducted
 682 in an open public process, in coordination and cooperation with
 683 local governments, regional water supply authorities,
 684 government-owned and privately owned water utilities,
 685 multijurisdictional water supply entities, self-suppliers, and
 686 other affected and interested parties. The districts shall
 687 actively engage in public education and outreach to all affected
 688 local entities and their officials, as well as members of the
 689 public, in the planning process and in seeking input. During
 690 preparation, but prior to completion of the regional water
 691 supply plan, the district must conduct at least one public
 692 workshop to discuss the technical data and modeling tools
 693 anticipated to be used to support the regional water supply
 694 plan. The district shall also hold several public meetings to
 695 communicate the status, overall conceptual intent, and impacts
 696 of the plan on existing and future reasonable-beneficial uses
 697 and related natural systems. During the planning process, a
 698 local government may choose to prepare its own water supply
 699 assessment to determine if existing water sources are adequate
 700 to meet existing and projected reasonable-beneficial needs of

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701 the local government while sustaining water resources and
702 related natural systems. The local government shall submit such
703 assessment, including the data and methodology used, to the
704 district. The district shall consider the local government's
705 assessment during the formation of the plan. A determination by
706 the governing board that initiation of a regional water supply
707 plan for a specific planning region is not needed pursuant to
708 this section shall be subject to s. 120.569. The governing board
709 shall reevaluate such a determination at least once every 5
710 years and shall initiate a regional water supply plan, if
711 needed, pursuant to this subsection.

712 (2) Each regional water supply plan shall be based on at
713 least a 20-year planning period and shall include, but need not
714 be limited to:

715 (a) A water supply development component for each water
716 supply planning region identified by the district which
717 includes:

718 1. A quantification of the water supply needs for all
719 existing and future reasonable-beneficial uses within the
720 planning horizon. The level-of-certainty planning goal
721 associated with identifying the water supply needs of existing
722 and future reasonable-beneficial uses shall be based upon
723 meeting those needs for a 1-in-10-year drought event. Population
724 projections used for determining public water supply needs must
725 be based upon the best available data. In determining the best
726 available data, the district shall consider the University of
727 Florida's Bureau of Economic and Business Research (BEBR) medium
728 population projections and any population projection data and

729 analysis submitted by a local government pursuant to the public
 730 workshop described in subsection (1) if the data and analysis
 731 support the local government's comprehensive plan. Any
 732 adjustment of or deviation from the BEBR projections must be
 733 fully described, and the original BEBR data must be presented
 734 along with the adjusted data.

735 2. A list of water supply development project options,
 736 including traditional and alternative water supply project
 737 options, from which local government, government-owned and
 738 privately owned utilities, regional water supply authorities,
 739 multijurisdictional water supply entities, self-suppliers, and
 740 others may choose for water supply development. In addition to
 741 projects listed by the district, such users may propose specific
 742 projects for inclusion in the list of alternative water supply
 743 projects. If such users propose a project to be listed as an
 744 alternative water supply project, the district shall determine
 745 whether it meets the goals of the plan, and, if so, it shall be
 746 included in the list. The total capacity of the projects
 747 included in the plan shall exceed the needs identified in
 748 subparagraph 1. and shall take into account water conservation
 749 and other demand management measures, as well as water resources
 750 constraints, including adopted minimum flows and levels and
 751 water reservations. Where the district determines it is
 752 appropriate, the plan should specifically identify the need for
 753 multijurisdictional approaches to project options that, based on
 754 planning level analysis, are appropriate to supply the intended
 755 uses and that, based on such analysis, appear to be permissible
 756 and financially and technically feasible. The list of water

757 supply development options must contain provisions that
 758 recognize that alternative water supply options for agricultural
 759 self-suppliers are limited.

760 3. For each project option identified in subparagraph 2.,
 761 the following shall be provided:

762 a. An estimate of the amount of water to become available
 763 through the project.

764 b. The timeframe in which the project option should be
 765 implemented and the estimated planning-level costs for capital
 766 investment and operating and maintaining the project.

767 c. An analysis of funding needs and sources of possible
 768 funding options. For alternative water supply projects the water
 769 management districts shall provide funding assistance in
 770 accordance with s. 373.707(8).

771 d. Identification of the entity that should implement each
 772 project option and the current status of project implementation.

773 (b) A water resource development component that includes:

774 1. A listing of those water resource development projects
 775 that support water supply development.

776 2. For each water resource development project listed:

777 a. An estimate of the amount of water to become available
 778 through the project.

779 b. The timeframe in which the project option should be
 780 implemented and the estimated planning-level costs for capital
 781 investment and for operating and maintaining the project.

782 c. An analysis of funding needs and sources of possible
 783 funding options.

784 d. Identification of the entity that should implement each

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785 project option and the current status of project implementation.

786 (c) The recovery and prevention strategy described in s.
787 373.0421(2).

788 (d) A funding strategy for water resource development
789 projects, which shall be reasonable and sufficient to pay the
790 cost of constructing or implementing all of the listed projects.

791 (e) Consideration of how the project options addressed in
792 paragraph (a) serve the public interest or save costs overall by
793 preventing the loss of natural resources or avoiding greater
794 future expenditures for water resource development or water
795 supply development. However, unless adopted by rule, these
796 considerations do not constitute final agency action.

797 (f) The technical data and information applicable to each
798 planning region which are necessary to support the regional
799 water supply plan.

800 (g) The minimum flows and levels established for water
801 resources within each planning region.

802 (h) Reservations of water adopted by rule pursuant to s.
803 373.223(4) within each planning region.

804 (i) Identification of surface waters or aquifers for which
805 minimum flows and levels are scheduled to be adopted.

806 (j) An analysis, developed in cooperation with the
807 department, of areas or instances in which the variance
808 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
809 create water supply development or water resource development
810 projects.

811 (3) The water supply development component of a regional
812 water supply plan which deals with or affects public utilities

813 and public water supply for those areas served by a regional
 814 water supply authority and its member governments within the
 815 boundary of the Southwest Florida Water Management District
 816 shall be developed jointly by the authority and the district. In
 817 areas not served by regional water supply authorities, or other
 818 multijurisdictional water supply entities, and where
 819 opportunities exist to meet water supply needs more efficiently
 820 through multijurisdictional projects identified pursuant to
 821 paragraph (2) (a), water management districts are directed to
 822 assist in developing multijurisdictional approaches to water
 823 supply project development jointly with affected water
 824 utilities, special districts, and local governments.

825 (4) The South Florida Water Management District shall
 826 include in its regional water supply plan water resource and
 827 water supply development projects that promote the elimination
 828 of wastewater ocean outfalls as provided in s. 403.086(9).

829 (5) Governing board approval of a regional water supply
 830 plan shall not be subject to the rulemaking requirements of
 831 chapter 120. However, any portion of an approved regional water
 832 supply plan which affects the substantial interests of a party
 833 shall be subject to s. 120.569.

834 (6) Annually and in conjunction with the reporting
 835 requirements of s. 373.536(6) (a)4., the department shall submit
 836 to the Governor and the Legislature a report on the status of
 837 regional water supply planning in each district. The report
 838 shall include:

839 (a) A compilation of the estimated costs of and potential
 840 sources of funding for water resource development and water

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841 supply development projects as identified in the water
842 management district regional water supply plans.

843 (b) The percentage and amount, by district, of district ad
844 valorem tax revenues or other district funds made available to
845 develop alternative water supplies.

846 (c) A description of each district's progress toward
847 achieving its water resource development objectives, including
848 the district's implementation of its 5-year water resource
849 development work program.

850 (d) An assessment of the specific progress being made to
851 implement each alternative water supply project option chosen by
852 the entities and identified for implementation in the plan.

853 (e) An overall assessment of the progress being made to
854 develop water supply in each district, including, but not
855 limited to, an explanation of how each project, either
856 alternative or traditional, will produce, contribute to, or
857 account for additional water being made available for
858 consumptive uses, an estimate of the quantity of water to be
859 produced by each project, and an assessment of the contribution
860 of the district's regional water supply plan in providing
861 sufficient water to meet the needs of existing and future
862 reasonable-beneficial uses for a 1-in-10 year drought event, as
863 well as the needs of the natural systems.

864 (7) Nothing contained in the water supply development
865 component of a regional water supply plan shall be construed to
866 require local governments, government-owned or privately owned
867 water utilities, special districts, self-suppliers, regional
868 water supply authorities, multijurisdictional water supply

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869 entities, or other water suppliers to select a water supply
 870 development project identified in the component merely because
 871 it is identified in the plan. Except as provided in s.
 872 373.223(3) and (5), the plan may not be used in the review of
 873 permits under part II of this chapter unless the plan or an
 874 applicable portion thereof has been adopted by rule. However,
 875 this subsection does not prohibit a water management district
 876 from employing the data or other information used to establish
 877 the plan in reviewing permits under part II, nor does it limit
 878 the authority of the department or governing board under part
 879 II.

880 (8) Where the water supply component of a water supply
 881 planning region shows the need for one or more alternative water
 882 supply projects, the district shall notify the affected local
 883 governments and make every reasonable effort to educate and
 884 involve local public officials in working toward solutions in
 885 conjunction with the districts and, where appropriate, other
 886 local and regional water supply entities.

887 (a) Within 6 months following approval or amendment of its
 888 regional water supply plan, each water management district shall
 889 notify by certified mail each entity identified in sub-
 890 subparagraph (2)(a)3.d. of that portion of the plan relevant to
 891 the entity. Upon request of such an entity, the water management
 892 district shall appear before and present its findings and
 893 recommendations to the entity.

894 (b) Within 1 year after the notification by a water
 895 management district pursuant to paragraph (a), each entity
 896 identified in sub-subparagraph (2)(a)3.d. shall provide to the

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897 water management district written notification of the following:
898 the alternative water supply projects or options identified in
899 paragraph (2) (a) which it has developed or intends to develop,
900 if any; an estimate of the quantity of water to be produced by
901 each project; and the status of project implementation,
902 including development of the financial plan, facilities master
903 planning, permitting, and efforts in coordinating
904 multijurisdictional projects, if applicable. The information
905 provided in the notification shall be updated annually, and a
906 progress report shall be provided by November 15 of each year to
907 the water management district. If an entity does not intend to
908 develop one or more of the alternative water supply project
909 options identified in the regional water supply plan, the entity
910 shall propose, within 1 year after notification by a water
911 management district pursuant to paragraph (a), another
912 alternative water supply project option sufficient to address
913 the needs identified in paragraph (2) (a) within the entity's
914 jurisdiction and shall provide an estimate of the quantity of
915 water to be produced by the project and the status of project
916 implementation as described in this paragraph. The entity may
917 request that the water management district consider the other
918 project for inclusion in the regional water supply plan.

919 (9) For any regional water supply plan that is scheduled
920 to be updated before December 31, 2005, the deadline for such
921 update shall be extended by 1 year.

922 373.711 Technical assistance to local governments.-

923 (1) The water management districts shall assist local
924 governments in the development and future revision of local

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925 government comprehensive plan elements or public facilities
926 report as required by s. 189.415, related to water resource
927 issues.

928 (2) By July 1, 1991, each water management district shall
929 prepare and provide information and data to assist local
930 governments in the preparation and implementation of their local
931 government comprehensive plans or public facilities report as
932 required by s. 189.415, whichever is applicable. Such
933 information and data shall include, but not be limited to:

934 (a) All information and data required in a public
935 facilities report pursuant to s. 189.415.

936 (b) A description of regulations, programs, and schedules
937 implemented by the district.

938 (c) Identification of regulations, programs, and schedules
939 undertaken or proposed by the district to further the State
940 Comprehensive Plan.

941 (d) A description of surface water basins, including
942 regulatory jurisdictions, flood-prone areas, existing and
943 projected water quality in water management district operated
944 facilities, as well as surface water runoff characteristics and
945 topography regarding flood plains, wetlands, and recharge areas.

946 (e) A description of groundwater characteristics,
947 including existing and planned wellfield sites, existing and
948 anticipated cones of influence, highly productive groundwater
949 areas, aquifer recharge areas, deep well injection zones,
950 contaminated areas, an assessment of regional water resource
951 needs and sources for the next 20 years, and water quality.

952 (f) The identification of existing and potential water

953 management district land acquisitions.

954 (g) Information reflecting the minimum flows for surface
 955 watercourses to avoid harm to water resources or the ecosystem
 956 and information reflecting the minimum water levels for aquifers
 957 to avoid harm to water resources or the ecosystem.

958 373.713 Regional water supply authorities.-

959 (1) By interlocal agreement between counties,
 960 municipalities, or special districts, as applicable, pursuant to
 961 the Florida Interlocal Cooperation Act of 1969, s. 163.01, and
 962 upon the approval of the Secretary of Environmental Protection
 963 to ensure that such agreement will be in the public interest and
 964 complies with the intent and purposes of this act, regional
 965 water supply authorities may be created for the purpose of
 966 developing, recovering, storing, and supplying water for county
 967 or municipal purposes in such a manner as will give priority to
 968 reducing adverse environmental effects of excessive or improper
 969 withdrawals of water from concentrated areas. In approving said
 970 agreement the Secretary of Environmental Protection shall
 971 consider, but not be limited to, the following:

972 (a) Whether the geographic territory of the proposed
 973 authority is of sufficient size and character to reduce the
 974 environmental effects of improper or excessive withdrawals of
 975 water from concentrated areas.

976 (b) The maximization of economic development of the water
 977 resources within the territory of the proposed authority.

978 (c) The availability of a dependable and adequate water
 979 supply.

980 (d) The ability of any proposed authority to design,

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981 construct, operate, and maintain water supply facilities in the
 982 locations, and at the times necessary, to ensure that an
 983 adequate water supply will be available to all citizens within
 984 the authority.

985 (e) The effect or impact of any proposed authority on any
 986 municipality, county, or existing authority or authorities.

987 (f) The existing needs of the water users within the area
 988 of the authority.

989 (2) In addition to other powers and duties agreed upon,
 990 and notwithstanding the provisions of s. 163.01, such authority
 991 may:

992 (a) Upon approval of the electors residing in each county
 993 or municipality within the territory to be included in any
 994 authority, levy ad valorem taxes, not to exceed 0.5 mill,
 995 pursuant to s. 9(b), Art. VII of the State Constitution. No tax
 996 authorized by this paragraph shall be levied in any county or
 997 municipality without an affirmative vote of the electors
 998 residing in such county or municipality.

999 (b) Acquire water and water rights; develop, store, and
 1000 transport water; provide, sell, and deliver water for county or
 1001 municipal uses and purposes; and provide for the furnishing of
 1002 such water and water service upon terms and conditions and at
 1003 rates which will apportion to parties and nonparties an
 1004 equitable share of the capital cost and operating expense of the
 1005 authority's work to the purchaser.

1006 (c) Collect, treat, and recover wastewater.

1007 (d) Not engage in local distribution.

1008 (e) Exercise the power of eminent domain in the manner

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1009 provided by law for the condemnation of private property for
1010 public use to acquire title to such interest in real property as
1011 is necessary to the exercise of the powers herein granted,
1012 except water and water rights already devoted to reasonable and
1013 beneficial use or any water production or transmission
1014 facilities owned by any county or municipality.

1015 (f) Issue revenue bonds in the manner prescribed by the
1016 Revenue Bond Act of 1953, as amended, part I, chapter 159, to be
1017 payable solely from funds derived from the sale of water by the
1018 authority to any county or municipality. Such bonds may be
1019 additionally secured by the full faith and credit of any county
1020 or municipality, as provided by s. 159.16 or by a pledge of
1021 excise taxes, as provided by s. 159.19. For the purpose of
1022 issuing revenue bonds, an authority shall be considered a "unit"
1023 as defined in s. 159.02(2) and as that term is used in the
1024 Revenue Bond Act of 1953, as amended. Such bonds may be issued
1025 to finance the cost of acquiring properties and facilities for
1026 the production and transmission of water by the authority to any
1027 county or municipality, which cost shall include the acquisition
1028 of real property and easements therein for such purposes. Such
1029 bonds may be in the form of refunding bonds to take up any
1030 outstanding bonds of the authority or of any county or
1031 municipality where such outstanding bonds are secured by
1032 properties and facilities for production and transmission of
1033 water, which properties and facilities are being acquired by the
1034 authority. Refunding bonds may be issued to take up and refund
1035 all outstanding bonds of said authority that are subject to call
1036 and termination, and all bonds of said authority that are not

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1037 subject to call or redemption, when the surrender of said bonds
 1038 can be procured from the holder thereof at prices satisfactory
 1039 to the authority. Such refunding bonds may be issued at any time
 1040 when, in the judgment of the authority, it will be to the best
 1041 interest of the authority financially or economically by
 1042 securing a lower rate of interest on said bonds or by extending
 1043 the time of maturity of said bonds or, for any other reason, in
 1044 the judgment of the authority, advantageous to said authority.

1045 (g) Sue and be sued in its own name.

1046 (h) Borrow money and incur indebtedness and issue bonds or
 1047 other evidence of such indebtedness.

1048 (i) Join with one or more other public corporations for
 1049 the purpose of carrying out any of its powers and for that
 1050 purpose to contract with such other public corporation or
 1051 corporations for the purpose of financing such acquisitions,
 1052 construction, and operations. Such contracts may provide for
 1053 contributions to be made by each party thereto, for the division
 1054 and apportionment of the expenses of such acquisitions and
 1055 operations, and for the division and apportionment of the
 1056 benefits, services, and products therefrom. Such contract may
 1057 contain such other and further covenants and agreements as may
 1058 be necessary and convenient to accomplish the purposes hereof.

1059 (3) A regional water supply authority is authorized to
 1060 develop, construct, operate, maintain, or contract for
 1061 alternative sources of potable water, including desalinated
 1062 water, and pipelines to interconnect authority sources and
 1063 facilities, either by itself or jointly with a water management
 1064 district; however, such alternative potable water sources,

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1065 facilities, and pipelines may also be privately developed,
 1066 constructed, owned, operated, and maintained, in which event an
 1067 authority and a water management district are authorized to
 1068 pledge and contribute their funds to reduce the wholesale cost
 1069 of water from such alternative sources of potable water supplied
 1070 by an authority to its member governments.

1071 (4) When it is found to be in the public interest, for the
 1072 public convenience and welfare, for a public benefit, and
 1073 necessary for carrying out the purpose of any regional water
 1074 supply authority, any state agency, county, water control
 1075 district existing pursuant to chapter 298, water management
 1076 district existing pursuant to this chapter, municipality,
 1077 governmental agency, or public corporation in this state holding
 1078 title to any interest in land is hereby authorized, in its
 1079 discretion, to convey the title to or dedicate land, title to
 1080 which is in such entity, including tax-reverted land, or to
 1081 grant use-rights therein, to any regional water supply authority
 1082 created pursuant to this section. Land granted or conveyed to
 1083 such authority shall be for the public purposes of such
 1084 authority and may be made subject to the condition that in the
 1085 event said land is not so used, or if used and subsequently its
 1086 use for said purpose is abandoned, the interest granted shall
 1087 cease as to such authority and shall automatically revert to the
 1088 granting entity.

1089 (5) Each county, special district, or municipality that is
 1090 a party to an agreement pursuant to subsection (1) shall have a
 1091 preferential right to purchase water from the regional water
 1092 supply authority for use by such county, special district, or

1093 municipality.

1094 (6) In carrying out the provisions of this section, any
 1095 county wherein water is withdrawn by the authority shall not be
 1096 deprived, directly or indirectly, of the prior right to the
 1097 reasonable and beneficial use of water which is required
 1098 adequately to supply the reasonable and beneficial needs of the
 1099 county or any of the inhabitants or property owners therein.

1100 (7) Upon a resolution adopted by the governing body of any
 1101 county or municipality, the authority may, subject to a majority
 1102 vote of its voting members, include such county or municipality
 1103 in its regional water supply authority upon such terms and
 1104 conditions as may be prescribed.

1105 (8) The authority shall design, construct, operate, and
 1106 maintain facilities in the locations and at the times necessary
 1107 to ensure that an adequate water supply will be available to all
 1108 citizens within the authority.

1109 (9) Where a water supply authority exists pursuant to this
 1110 section or s. 373.715 under a voluntary interlocal agreement
 1111 that is consistent with requirements in s. 373.715(1)(b) and
 1112 receives or maintains consumptive use permits under this
 1113 voluntary agreement consistent with the water supply plan, if
 1114 any, adopted by the governing board, such authority shall be
 1115 exempt from consideration by the governing board or department
 1116 of the factors specified in s. 373.223(3)(a)-(g) and the
 1117 submissions required by s. 373.229(3). Such exemptions shall
 1118 apply only to water sources within the jurisdictional areas of
 1119 such voluntary water supply interlocal agreements.

1120 373.715 Assistance to West Coast Regional Water Supply

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1121 Authority.-

1122 (1) It is the intent of the Legislature to authorize the
 1123 implementation of changes in governance recommended by the West
 1124 Coast Regional Water Supply Authority in its reports to the
 1125 Legislature dated February 1, 1997, and January 5, 1998. The
 1126 authority and its member governments may reconstitute the
 1127 authority's governance and rename the authority under a
 1128 voluntary interlocal agreement with a term of not less than 20
 1129 years. The interlocal agreement must comply with this subsection
 1130 as follows:

1131 (a) The authority and its member governments agree that
 1132 cooperative efforts are mandatory to meet their water needs in a
 1133 manner that will provide adequate and dependable supplies of
 1134 water where needed without resulting in adverse environmental
 1135 effects upon the areas from which the water is withdrawn or
 1136 otherwise produced.

1137 (b) In accordance with s. 4, Art. VIII of the State
 1138 Constitution and notwithstanding s. 163.01, the interlocal
 1139 agreement may include the following terms, which are considered
 1140 approved by the parties without a vote of their electors, upon
 1141 execution of the interlocal agreement by all member governments
 1142 and upon satisfaction of all conditions precedent in the
 1143 interlocal agreement:

1144 1. All member governments shall relinquish to the
 1145 authority their individual rights to develop potable water
 1146 supply sources, except as otherwise provided in the interlocal
 1147 agreement;

1148 2. The authority shall be the sole and exclusive wholesale

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1149 potable water supplier for all member governments; and
 1150 3. The authority shall have the absolute and unequivocal
 1151 obligation to meet the wholesale needs of the member governments
 1152 for potable water.
 1153 4. A member government may not restrict or prohibit the
 1154 use of land within a member's jurisdictional boundaries by the
 1155 authority for water supply purposes through use of zoning, land
 1156 use, comprehensive planning, or other form of regulation.
 1157 5. A member government may not impose any tax, fee, or
 1158 charge upon the authority in conjunction with the production or
 1159 supply of water not otherwise provided for in the interlocal
 1160 agreement.
 1161 6. The authority may use the powers provided in part II of
 1162 chapter 159 for financing and refinancing water treatment,
 1163 production, or transmission facilities, including, but not
 1164 limited to, desalinization facilities. All such water treatment,
 1165 production, or transmission facilities are considered a
 1166 "manufacturing plant" for purposes of s. 159.27(5) and serve a
 1167 paramount public purpose by providing water to citizens of the
 1168 state.
 1169 7. A member government and any governmental or quasi-
 1170 judicial board or commission established by local ordinance or
 1171 general or special law where the governing membership of such
 1172 board or commission is shared, in whole or in part, or appointed
 1173 by a member government agreeing to be bound by the interlocal
 1174 agreement shall be limited to the procedures set forth therein
 1175 regarding actions that directly or indirectly restrict or
 1176 prohibit the use of lands or other activities related to the

1177 production or supply of water.

1178 (c) The authority shall acquire full or lesser interests
 1179 in all regionally significant member government wholesale water
 1180 supply facilities and tangible assets and each member government
 1181 shall convey such interests in the facilities and assets to the
 1182 authority, at an agreed value.

1183 (d) The authority shall charge a uniform per gallon
 1184 wholesale rate to member governments for the wholesale supply of
 1185 potable water. All capital, operation, maintenance, and
 1186 administrative costs for existing facilities and acquired
 1187 facilities, authority master water plan facilities, and other
 1188 future projects must be allocated to member governments based on
 1189 water usage at the uniform per gallon wholesale rate.

1190 (e) The interlocal agreement may include procedures for
 1191 resolving the parties' differences regarding water management
 1192 district proposed agency action in the water use permitting
 1193 process within the authority. Such procedures should minimize
 1194 the potential for litigation and include alternative dispute
 1195 resolution. Any governmental or quasi-judicial board or
 1196 commission established by local ordinance or general or special
 1197 law where the governing members of such board or commission is
 1198 shared, in whole or in part, or appointed by a member
 1199 government, may agree to be bound by the dispute resolution
 1200 procedures set forth in the interlocal agreement.

1201 (f) Upon execution of the voluntary interlocal agreement
 1202 provided for herein, the authority shall jointly develop with
 1203 the Southwest Florida Water Management District alternative
 1204 sources of potable water and transmission pipelines to

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1205 interconnect regionally significant water supply sources and
 1206 facilities of the authority in amounts sufficient to meet the
 1207 needs of all member governments for a period of at least 20
 1208 years and for natural systems. Nothing herein, however, shall
 1209 preclude the authority and its member governments from
 1210 developing traditional water sources pursuant to the voluntary
 1211 interlocal agreement. Development and construction costs for
 1212 alternative source facilities, which may include a desalination
 1213 facility and significant regional interconnects, must be borne
 1214 as mutually agreed to by both the authority and the Southwest
 1215 Florida Water Management District. Nothing herein shall preclude
 1216 authority or district cost sharing with private entities for the
 1217 construction or ownership of alternative source facilities. By
 1218 December 31, 1997, the authority and the Southwest Florida Water
 1219 Management District shall enter into a mutually acceptable
 1220 agreement detailing the development and implementation of
 1221 directives contained in this paragraph. Nothing in this section
 1222 shall be construed to modify the rights or responsibilities of
 1223 the authority or its member governments, except as otherwise
 1224 provided herein, or of the Southwest Florida Water Management
 1225 District or the department pursuant to this chapter or chapter
 1226 403 and as otherwise set forth by statutes.

1227 (g) Unless otherwise provided in the interlocal agreement,
 1228 the authority shall be governed by a board of commissioners
 1229 consisting of nine voting members, all of whom must be elected
 1230 officers, as follows:

1231 1. Three members from Hillsborough County who must be
 1232 selected by the county commission; provided, however, that one

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1233 member shall be selected by the Mayor of Tampa in the event that
 1234 the City of Tampa elects to be a member of the authority;

1235 2. Three members from Pasco County, two of whom must be
 1236 selected by the county commission and one of whom must be
 1237 selected by the City Council of New Port Richey;

1238 3. Three members from Pinellas County, two of whom must be
 1239 selected by the county commission and one of whom must be
 1240 selected by the City Council of St. Petersburg.

1241
 1242 Except as otherwise provided in this section or in the voluntary
 1243 interlocal agreement between the member governments, a majority
 1244 vote shall bind the authority and its member governments in all
 1245 matters relating to the funding of wholesale water supply,
 1246 production, delivery, and related activities.

1247 (2) The provisions of this section supersede any
 1248 conflicting provisions contained in all other general or special
 1249 laws or provisions thereof as they may apply directly or
 1250 indirectly to the exclusivity of water supply or withdrawal of
 1251 water, including provisions relating to the environmental
 1252 effects, if any, in conjunction with the production and supply
 1253 of potable water, and the provisions of this section are
 1254 intended to be a complete revision of all laws related to a
 1255 regional water supply authority created under s. 373.713 and
 1256 this section.

1257 (3) In lieu of the provisions in s. 373.713(2)(a), the
 1258 Southwest Florida Water Management District shall assist the
 1259 West Coast Regional Water Supply Authority for a period of 5
 1260 years, terminating December 31, 1981, by levying an ad valorem

1261 tax, upon request of the authority, of not more than 0.05 mill
 1262 on all taxable property within the limits of the authority.
 1263 During such period the corresponding basin board ad valorem tax
 1264 levies shall be reduced accordingly.

1265 (4) The authority shall prepare its annual budget in the
 1266 same manner as prescribed for the preparation of basin budgets,
 1267 but such authority budget shall not be subject to review by the
 1268 respective basin boards or by the governing board of the
 1269 district.

1270 (5) The annual millage for the authority shall be the
 1271 amount required to raise the amount called for by the annual
 1272 budget when applied to the total assessment on all taxable
 1273 property within the limits of the authority, as determined for
 1274 county taxing purposes.

1275 (6) The authority may, by resolution, request the
 1276 governing board of the district to levy ad valorem taxes within
 1277 the boundaries of the authority. Upon receipt of such request,
 1278 together with formal certification of the adoption of its annual
 1279 budget and of the required tax levy, the authority tax levy
 1280 shall be made by the governing board of the district to finance
 1281 authority functions.

1282 (7) The taxes provided for in this section shall be
 1283 extended by the property appraiser on the county tax roll in
 1284 each county within, or partly within, the authority boundaries
 1285 and shall be collected by the tax collector in the same manner
 1286 and time as county taxes, and the proceeds therefrom paid to the
 1287 district which shall forthwith pay them over to the authority.
 1288 Until paid, such taxes shall be a lien on the property against

1289 which assessed and enforceable in like manner as county taxes.
 1290 The property appraisers, tax collectors, and clerks of the
 1291 circuit court of the respective counties shall be entitled to
 1292 compensation for services performed in connection with such
 1293 taxes at the same rates as apply to county taxes.

1294 (8) The governing board of the district shall not be
 1295 responsible for any actions or lack of actions by the authority.

1296 Section 2. Subsection (13) of section 120.52, Florida
 1297 Statutes, is amended to read:

1298 120.52 Definitions.—As used in this act:

1299 (13) "Party" means:

1300 (a) Specifically named persons whose substantial interests
 1301 are being determined in the proceeding.

1302 (b) Any other person who, as a matter of constitutional
 1303 right, provision of statute, or provision of agency regulation,
 1304 is entitled to participate in whole or in part in the
 1305 proceeding, or whose substantial interests will be affected by
 1306 proposed agency action, and who makes an appearance as a party.

1307 (c) Any other person, including an agency staff member,
 1308 allowed by the agency to intervene or participate in the
 1309 proceeding as a party. An agency may by rule authorize limited
 1310 forms of participation in agency proceedings for persons who are
 1311 not eligible to become parties.

1312 (d) Any county representative, agency, department, or unit
 1313 funded and authorized by state statute or county ordinance to
 1314 represent the interests of the consumers of a county, when the
 1315 proceeding involves the substantial interests of a significant
 1316 number of residents of the county and the board of county

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1317 commissioners has, by resolution, authorized the representative,
 1318 agency, department, or unit to represent the class of interested
 1319 persons. The authorizing resolution shall apply to a specific
 1320 proceeding and to appeals and ancillary proceedings thereto, and
 1321 it shall not be required to state the names of the persons whose
 1322 interests are to be represented.

1323
 1324 The term "party" does not include a member government of a
 1325 regional water supply authority or a governmental or quasi-
 1326 judicial board or commission established by local ordinance or
 1327 special or general law where the governing membership of such
 1328 board or commission is shared with, in whole or in part, or
 1329 appointed by a member government of a regional water supply
 1330 authority in proceedings under s. 120.569, s. 120.57, or s.
 1331 120.68, to the extent that an interlocal agreement under ss.
 1332 163.01 and 373.713 ~~373.1962~~ exists in which the member
 1333 government has agreed that its substantial interests are not
 1334 affected by the proceedings or that it is to be bound by
 1335 alternative dispute resolution in lieu of participating in the
 1336 proceedings. This exclusion applies only to those particular
 1337 types of disputes or controversies, if any, identified in an
 1338 interlocal agreement.

1339 Section 3. Subsection (13) of section 163.3167, Florida
 1340 Statutes, is amended to read:

1341 163.3167 Scope of act.—

1342 (13) Each local government shall address in its
 1343 comprehensive plan, as enumerated in this chapter, the water
 1344 supply sources necessary to meet and achieve the existing and

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1345 | projected water use demand for the established planning period,
 1346 | considering the applicable plan developed pursuant to s. 373.709
 1347 | ~~373.0361~~.

1348 | Section 4. Paragraph (a) of subsection (4) and paragraphs
 1349 | (c), (d), and (h) of subsection (6) of section 163.3177, Florida
 1350 | Statutes, are amended to read:

1351 | 163.3177 Required and optional elements of comprehensive
 1352 | plan; studies and surveys.—

1353 | (4)(a) Coordination of the local comprehensive plan with
 1354 | the comprehensive plans of adjacent municipalities, the county,
 1355 | adjacent counties, or the region; with the appropriate water
 1356 | management district's regional water supply plans approved
 1357 | pursuant to s. 373.709 ~~373.0361~~; with adopted rules pertaining
 1358 | to designated areas of critical state concern; and with the
 1359 | state comprehensive plan shall be a major objective of the local
 1360 | comprehensive planning process. To that end, in the preparation
 1361 | of a comprehensive plan or element thereof, and in the
 1362 | comprehensive plan or element as adopted, the governing body
 1363 | shall include a specific policy statement indicating the
 1364 | relationship of the proposed development of the area to the
 1365 | comprehensive plans of adjacent municipalities, the county,
 1366 | adjacent counties, or the region and to the state comprehensive
 1367 | plan, as the case may require and as such adopted plans or plans
 1368 | in preparation may exist.

1369 | (6) In addition to the requirements of subsections (1)-(5)
 1370 | and (12), the comprehensive plan shall include the following
 1371 | elements:

1372 | (c) A general sanitary sewer, solid waste, drainage,

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1373 | potable water, and natural groundwater aquifer recharge element
 1374 | correlated to principles and guidelines for future land use,
 1375 | indicating ways to provide for future potable water, drainage,
 1376 | sanitary sewer, solid waste, and aquifer recharge protection
 1377 | requirements for the area. The element may be a detailed
 1378 | engineering plan including a topographic map depicting areas of
 1379 | prime groundwater recharge. The element shall describe the
 1380 | problems and needs and the general facilities that will be
 1381 | required for solution of the problems and needs. The element
 1382 | shall also include a topographic map depicting any areas adopted
 1383 | by a regional water management district as prime groundwater
 1384 | recharge areas for the Floridan or Biscayne aquifers. These
 1385 | areas shall be given special consideration when the local
 1386 | government is engaged in zoning or considering future land use
 1387 | for said designated areas. For areas served by septic tanks,
 1388 | soil surveys shall be provided which indicate the suitability of
 1389 | soils for septic tanks. Within 18 months after the governing
 1390 | board approves an updated regional water supply plan, the
 1391 | element must incorporate the alternative water supply project or
 1392 | projects selected by the local government from those identified
 1393 | in the regional water supply plan pursuant to s. 373.709(2)(a)
 1394 | ~~373.0361(2)(a)~~ or proposed by the local government under s.
 1395 | 373.709(8)(b) ~~373.0361(8)(b)~~. If a local government is located
 1396 | within two water management districts, the local government
 1397 | shall adopt its comprehensive plan amendment within 18 months
 1398 | after the later updated regional water supply plan. The element
 1399 | must identify such alternative water supply projects and
 1400 | traditional water supply projects and conservation and reuse

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1401 necessary to meet the water needs identified in s. 373.709(2)(a)
 1402 ~~373.0361(2)(a)~~ within the local government's jurisdiction and
 1403 include a work plan, covering at least a 10 year planning
 1404 period, for building public, private, and regional water supply
 1405 facilities, including development of alternative water supplies,
 1406 which are identified in the element as necessary to serve
 1407 existing and new development. The work plan shall be updated, at
 1408 a minimum, every 5 years within 18 months after the governing
 1409 board of a water management district approves an updated
 1410 regional water supply plan. Amendments to incorporate the work
 1411 plan do not count toward the limitation on the frequency of
 1412 adoption of amendments to the comprehensive plan. Local
 1413 governments, public and private utilities, regional water supply
 1414 authorities, special districts, and water management districts
 1415 are encouraged to cooperatively plan for the development of
 1416 multijurisdictional water supply facilities that are sufficient
 1417 to meet projected demands for established planning periods,
 1418 including the development of alternative water sources to
 1419 supplement traditional sources of groundwater and surface water
 1420 supplies.

1421 (d) A conservation element for the conservation, use, and
 1422 protection of natural resources in the area, including air,
 1423 water, water recharge areas, wetlands, waterwells, estuarine
 1424 marshes, soils, beaches, shores, flood plains, rivers, bays,
 1425 lakes, harbors, forests, fisheries and wildlife, marine habitat,
 1426 minerals, and other natural and environmental resources,
 1427 including factors that affect energy conservation. Local
 1428 governments shall assess their current, as well as projected,

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1429 water needs and sources for at least a 10-year period,
 1430 considering the appropriate regional water supply plan approved
 1431 pursuant to s. 373.709 ~~373.0361~~, or, in the absence of an
 1432 approved regional water supply plan, the district water
 1433 management plan approved pursuant to s. 373.036(2). This
 1434 information shall be submitted to the appropriate agencies. The
 1435 land use map or map series contained in the future land use
 1436 element shall generally identify and depict the following:

- 1437 1. Existing and planned waterwells and cones of influence
- 1438 where applicable.
- 1439 2. Beaches and shores, including estuarine systems.
- 1440 3. Rivers, bays, lakes, flood plains, and harbors.
- 1441 4. Wetlands.
- 1442 5. Minerals and soils.
- 1443 6. Energy conservation.

1444
 1445 The land uses identified on such maps shall be consistent with
 1446 applicable state law and rules.

1447 (h)1. An intergovernmental coordination element showing
 1448 relationships and stating principles and guidelines to be used
 1449 in the accomplishment of coordination of the adopted
 1450 comprehensive plan with the plans of school boards, regional
 1451 water supply authorities, and other units of local government
 1452 providing services but not having regulatory authority over the
 1453 use of land, with the comprehensive plans of adjacent
 1454 municipalities, the county, adjacent counties, or the region,
 1455 with the state comprehensive plan and with the applicable
 1456 regional water supply plan approved pursuant to s. 373.709

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1457 ~~373.0361~~, as the case may require and as such adopted plans or
 1458 plans in preparation may exist. This element of the local
 1459 comprehensive plan shall demonstrate consideration of the
 1460 particular effects of the local plan, when adopted, upon the
 1461 development of adjacent municipalities, the county, adjacent
 1462 counties, or the region, or upon the state comprehensive plan,
 1463 as the case may require.

1464 a. The intergovernmental coordination element shall
 1465 provide procedures to identify and implement joint planning
 1466 areas, especially for the purpose of annexation, municipal
 1467 incorporation, and joint infrastructure service areas.

1468 b. The intergovernmental coordination element shall
 1469 provide for recognition of campus master plans prepared pursuant
 1470 to s. 1013.30 and airport master plans under paragraph(k).

1471 c. The intergovernmental coordination element shall
 1472 provide for a dispute resolution process as established pursuant
 1473 to s. 186.509 for bringing to closure in a timely manner
 1474 intergovernmental disputes.

1475 d. The intergovernmental coordination element shall
 1476 provide for interlocal agreements as established pursuant to s.
 1477 333.03(1)(b).

1478 2. The intergovernmental coordination element shall
 1479 further state principles and guidelines to be used in the
 1480 accomplishment of coordination of the adopted comprehensive plan
 1481 with the plans of school boards and other units of local
 1482 government providing facilities and services but not having
 1483 regulatory authority over the use of land. In addition, the
 1484 intergovernmental coordination element shall describe joint

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1485 processes for collaborative planning and decisionmaking on
 1486 population projections and public school siting, the location
 1487 and extension of public facilities subject to concurrency, and
 1488 siting facilities with countywide significance, including
 1489 locally unwanted land uses whose nature and identity are
 1490 established in an agreement. Within 1 year of adopting their
 1491 intergovernmental coordination elements, each county, all the
 1492 municipalities within that county, the district school board,
 1493 and any unit of local government service providers in that
 1494 county shall establish by interlocal or other formal agreement
 1495 executed by all affected entities, the joint processes described
 1496 in this subparagraph consistent with their adopted
 1497 intergovernmental coordination elements.

1498 3. To foster coordination between special districts and
 1499 local general-purpose governments as local general-purpose
 1500 governments implement local comprehensive plans, each
 1501 independent special district must submit a public facilities
 1502 report to the appropriate local government as required by s.
 1503 189.415.

1504 4.a. Local governments shall execute an interlocal
 1505 agreement with the district school board, the county, and
 1506 nonexempt municipalities pursuant to s. 163.31777. The local
 1507 government shall amend the intergovernmental coordination
 1508 element to provide that coordination between the local
 1509 government and school board is pursuant to the agreement and
 1510 shall state the obligations of the local government under the
 1511 agreement.

1512 b. Plan amendments that comply with this subparagraph are

1513 exempt from the provisions of s. 163.3187(1).

1514 5. The state land planning agency shall establish a
 1515 schedule for phased completion and transmittal of plan
 1516 amendments to implement subparagraphs 1., 2., and 3. from all
 1517 jurisdictions so as to accomplish their adoption by December 31,
 1518 1999. A local government may complete and transmit its plan
 1519 amendments to carry out these provisions prior to the scheduled
 1520 date established by the state land planning agency. The plan
 1521 amendments are exempt from the provisions of s. 163.3187(1).

1522 6. By January 1, 2004, any county having a population
 1523 greater than 100,000, and the municipalities and special
 1524 districts within that county, shall submit a report to the
 1525 Department of Community Affairs which:

1526 a. Identifies all existing or proposed interlocal service
 1527 delivery agreements regarding the following: education; sanitary
 1528 sewer; public safety; solid waste; drainage; potable water;
 1529 parks and recreation; and transportation facilities.

1530 b. Identifies any deficits or duplication in the provision
 1531 of services within its jurisdiction, whether capital or
 1532 operational. Upon request, the Department of Community Affairs
 1533 shall provide technical assistance to the local governments in
 1534 identifying deficits or duplication.

1535 7. Within 6 months after submission of the report, the
 1536 Department of Community Affairs shall, through the appropriate
 1537 regional planning council, coordinate a meeting of all local
 1538 governments within the regional planning area to discuss the
 1539 reports and potential strategies to remedy any identified
 1540 deficiencies or duplications.

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1541 8. Each local government shall update its
 1542 intergovernmental coordination element based upon the findings
 1543 in the report submitted pursuant to subparagraph 6. The report
 1544 may be used as supporting data and analysis for the
 1545 intergovernmental coordination element.

1546 Section 5. Paragraph (1) of subsection (2) of section
 1547 163.3191, Florida Statutes, is amended to read:

1548 163.3191 Evaluation and appraisal of comprehensive plan.-

1549 (2) The report shall present an evaluation and assessment
 1550 of the comprehensive plan and shall contain appropriate
 1551 statements to update the comprehensive plan, including, but not
 1552 limited to, words, maps, illustrations, or other media, related
 1553 to:

1554 (1) The extent to which the local government has been
 1555 successful in identifying alternative water supply projects and
 1556 traditional water supply projects, including conservation and
 1557 reuse, necessary to meet the water needs identified in s.
 1558 373.709(2)(a) ~~373.0361(2)(a)~~ within the local government's
 1559 jurisdiction. The report must evaluate the degree to which the
 1560 local government has implemented the work plan for building
 1561 public, private, and regional water supply facilities, including
 1562 development of alternative water supplies, identified in the
 1563 element as necessary to serve existing and new development.

1564 Section 6. Paragraphs (c) and (d) of subsection (4) of
 1565 section 189.404, Florida Statutes, are amended to read:

1566 189.404 Legislative intent for the creation of independent
 1567 special districts; special act prohibitions; model elements and
 1568 other requirements; general-purpose local government/Governor

1569 and Cabinet creation authorizations.—

1570 (4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION
 1571 AUTHORIZATIONS.—Except as otherwise authorized by general law,
 1572 only the Legislature may create independent special districts.

1573 (c) The Governor and Cabinet may create an independent
 1574 special district which shall be established by rule in
 1575 accordance with s. 190.005 or as otherwise authorized in general
 1576 law. The Governor and Cabinet may also approve the establishment
 1577 of a charter for the creation of an independent special district
 1578 which shall be in accordance with s. 373.713 ~~373.1962~~, or as
 1579 otherwise authorized in general law.

1580 (d)1. Any combination of two or more counties may create a
 1581 regional special district which shall be established in
 1582 accordance with s. 950.001, or as otherwise authorized in
 1583 general law.

1584 2. Any combination of two or more counties or
 1585 municipalities may create a regional special district which
 1586 shall be established in accordance with s. 373.713 ~~373.1962~~, or
 1587 as otherwise authorized by general law.

1588 3. Any combination of two or more counties,
 1589 municipalities, or other political subdivisions may create a
 1590 regional special district in accordance with s. 163.567, or as
 1591 otherwise authorized in general law.

1592 Section 7. Subsection (3) of section 189.4155, Florida
 1593 Statutes, is amended to read:

1594 189.4155 Activities of special districts; local government
 1595 comprehensive planning.—

1596 (3) The provisions of this section shall not apply to

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1597 water management districts created pursuant to s. 373.069, to
 1598 regional water supply authorities created pursuant to s. 373.713
 1599 ~~373.1962~~, or to spoil disposal sites owned or used by the
 1600 Federal Government.

1601 Section 8. Section 189.4156, Florida Statutes, is amended
 1602 to read:

1603 189.4156 Water management district technical assistance;
 1604 local government comprehensive planning.—Water management
 1605 districts shall assist local governments in the development of
 1606 local government comprehensive plan elements related to water
 1607 resource issues as required by s. 373.711 ~~373.0391~~.

1608 Section 9. Subsection (7) of section 367.021, Florida
 1609 Statutes, is amended to read:

1610 367.021 Definitions.—As used in this chapter, the
 1611 following words or terms shall have the meanings indicated:

1612 (7) "Governmental authority" means a political
 1613 subdivision, as defined by s. 1.01(8), a regional water supply
 1614 authority created pursuant to s. 373.713 ~~373.1962~~, or a
 1615 nonprofit corporation formed for the purpose of acting on behalf
 1616 of a political subdivision with respect to a water or wastewater
 1617 facility.

1618 Section 10. Subsection (17) of section 373.019, Florida
 1619 Statutes, is amended to read:

1620 373.019 Definitions.—When appearing in this chapter or in
 1621 any rule, regulation, or order adopted pursuant thereto, the
 1622 term:

1623 (17) "Regional water supply plan" means a detailed water
 1624 supply plan developed by a governing board under s. 373.709

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1625 | ~~373.0361.~~

1626 | Section 11. Paragraph (b) of subsection (2) and paragraph
1627 | (b) of subsection (7) of section 373.036, Florida Statutes, are
1628 | amended to read:

1629 | 373.036 Florida water plan; district water management
1630 | plans.—

1631 | (2) DISTRICT WATER MANAGEMENT PLANS.—

1632 | (b) The district water management plan shall include, but
1633 | not be limited to:

1634 | 1. The scientific methodologies for establishing minimum
1635 | flows and levels under s. 373.042, and all established minimum
1636 | flows and levels.

1637 | 2. Identification of one or more water supply planning
1638 | regions that singly or together encompass the entire district.

1639 | 3. Technical data and information prepared under s.

1640 | 373.711 ~~373.0391.~~

1641 | 4. A districtwide water supply assessment, to be completed
1642 | no later than July 1, 1998, which determines for each water
1643 | supply planning region:

1644 | a. Existing legal uses, reasonably anticipated future
1645 | needs, and existing and reasonably anticipated sources of water
1646 | and conservation efforts; and

1647 | b. Whether existing and reasonably anticipated sources of
1648 | water and conservation efforts are adequate to supply water for
1649 | all existing legal uses and reasonably anticipated future needs
1650 | and to sustain the water resources and related natural systems.

1651 | 5. Any completed regional water supply plans.

1652 | (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

1653 (b) The consolidated annual report shall contain the
 1654 following elements, as appropriate to that water management
 1655 district:

1656 1. A district water management plan annual report or the
 1657 annual work plan report allowed in subparagraph (2)(e)4.

1658 2. The department-approved minimum flows and levels annual
 1659 priority list and schedule required by s. 373.042(2).

1660 3. The annual 5-year capital improvements plan required by
 1661 s. 373.536(6)(a)3.

1662 4. The alternative water supplies annual report required
 1663 by s. 373.707(8)(n) ~~373.1961(3)(n)~~.

1664 5. The final annual 5-year water resource development work
 1665 program required by s. 373.536(6)(a)4.

1666 6. The Florida Forever Water Management District Work Plan
 1667 annual report required by s. 373.199(7).

1668 7. The mitigation donation annual report required by s.
 1669 373.414(1)(b)2.

1670 Section 12. Paragraphs (a) and (e) of subsection (4) of
 1671 section 373.0363, Florida Statutes, are amended to read:

1672 373.0363 Southern Water Use Caution Area Recovery
 1673 Strategy.-

1674 (4) The West-Central Florida Water Restoration Action Plan
 1675 includes:

1676 (a) The Central West Coast Surface Water Enhancement
 1677 Initiative. The purpose of this initiative is to make additional
 1678 surface waters available for public supply through restoration
 1679 of surface waters, natural water flows, and freshwater wetland
 1680 communities. This initiative is designed to allow limits on

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1681 groundwater withdrawals in order to slow the rate of saltwater
 1682 intrusion. The initiative shall be an ongoing program in
 1683 cooperation with the Peace River-Manasota Regional Water Supply
 1684 Authority created under s. 373.713 ~~373.1962~~.

1685 (e) The Central Florida Water Resource Development
 1686 Initiative. The purpose of this initiative is to create and
 1687 implement a long-term plan that takes a comprehensive approach
 1688 to limit ground water withdrawals in the Southern Water Use
 1689 Caution Area and to identify and develop alternative water
 1690 supplies for Polk County. The project components developed
 1691 pursuant to this initiative are eligible for state and regional
 1692 funding under s. 373.707 ~~373.196~~ as an alternative water supply,
 1693 as defined in s. 373.019, or as a supplemental water supply
 1694 under the rules of the Southwest Florida Water Management
 1695 District or the South Florida Water Management District. The
 1696 initiative shall be implemented by the district as an ongoing
 1697 program in cooperation with Polk County and the South Florida
 1698 Water Management District.

1699 Section 13. Subsection (2) of section 373.0421, Florida
 1700 Statutes, is amended to read:

1701 373.0421 Establishment and implementation of minimum flows
 1702 and levels.—

1703 (2) If the existing flow or level in a water body is
 1704 below, or is projected to fall within 20 years below, the
 1705 applicable minimum flow or level established pursuant to s.
 1706 373.042, the department or governing board, as part of the
 1707 regional water supply plan described in s. 373.709 ~~373.0361~~,
 1708 shall expeditiously implement a recovery or prevention strategy,

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1709 which includes the development of additional water supplies and
 1710 other actions, consistent with the authority granted by this
 1711 chapter, to:

1712 (a) Achieve recovery to the established minimum flow or
 1713 level as soon as practicable; or

1714 (b) Prevent the existing flow or level from falling below
 1715 the established minimum flow or level.

1716
 1717 The recovery or prevention strategy shall include phasing or a
 1718 timetable which will allow for the provision of sufficient water
 1719 supplies for all existing and projected reasonable-beneficial
 1720 uses, including development of additional water supplies and
 1721 implementation of conservation and other efficiency measures
 1722 concurrent with, to the extent practical, and to offset,
 1723 reductions in permitted withdrawals, consistent with the
 1724 provisions of this chapter.

1725 Section 14. Subsection (4) of section 373.0695, Florida
 1726 Statutes, is amended to read:

1727 373.0695 Duties of basin boards; authorized expenditures.—

1728 (4) In the exercise of the duties and powers granted
 1729 herein, the basin boards shall be subject to all the limitations
 1730 and restrictions imposed on the water management districts in s.
 1731 373.703 ~~373.1961~~.

1732 Section 15. Subsections (3) and (5) of section 373.223,
 1733 Florida Statutes, are amended to read:

1734 373.223 Conditions for a permit.—

1735 (3) Except for the transport and use of water supplied by
 1736 the Central and Southern Florida Flood Control Project, and

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1737 anywhere in the state when the transport and use of water is
 1738 supplied exclusively for bottled water as defined in s.
 1739 500.03(1)(d), any water use permit applications pending as of
 1740 April 1, 1998, with the Northwest Florida Water Management
 1741 District and self-suppliers of water for which the proposed
 1742 water source and area of use or application are located on
 1743 contiguous private properties, when evaluating whether a
 1744 potential transport and use of ground or surface water across
 1745 county boundaries is consistent with the public interest,
 1746 pursuant to paragraph (1)(c), the governing board or department
 1747 shall consider:

1748 (a) The proximity of the proposed water source to the area
 1749 of use or application.

1750 (b) All impoundments, streams, groundwater sources, or
 1751 watercourses that are geographically closer to the area of use
 1752 or application than the proposed source, and that are
 1753 technically and economically feasible for the proposed transport
 1754 and use.

1755 (c) All economically and technically feasible alternatives
 1756 to the proposed source, including, but not limited to,
 1757 desalination, conservation, reuse of nonpotable reclaimed water
 1758 and stormwater, and aquifer storage and recovery.

1759 (d) The potential environmental impacts that may result
 1760 from the transport and use of water from the proposed source,
 1761 and the potential environmental impacts that may result from use
 1762 of the other water sources identified in paragraphs (b) and (c).

1763 (e) Whether existing and reasonably anticipated sources of
 1764 water and conservation efforts are adequate to supply water for

1765 existing legal uses and reasonably anticipated future needs of
 1766 the water supply planning region in which the proposed water
 1767 source is located.

1768 (f) Consultations with local governments affected by the
 1769 proposed transport and use.

1770 (g) The value of the existing capital investment in water-
 1771 related infrastructure made by the applicant.

1772

1773 Where districtwide water supply assessments and regional water
 1774 supply plans have been prepared pursuant to ss. 373.036 and
 1775 373.709 ~~373.0361~~, the governing board or the department shall
 1776 use the applicable plans and assessments as the basis for its
 1777 consideration of the applicable factors in this subsection.

1778 (5) In evaluating an application for consumptive use of
 1779 water which proposes the use of an alternative water supply
 1780 project as described in the regional water supply plan and
 1781 provides reasonable assurances of the applicant's capability to
 1782 design, construct, operate, and maintain the project, the
 1783 governing board or department shall presume that the alternative
 1784 water supply use is consistent with the public interest under
 1785 paragraph (1)(c). However, where the governing board identifies
 1786 the need for a multijurisdictional water supply entity or
 1787 regional water supply authority to develop the alternative water
 1788 supply project pursuant to s. 373.709(2)(a)2. ~~373.0361(2)(a)2.~~,
 1789 the presumption shall be accorded only to that use proposed by
 1790 such entity or authority. This subsection does not effect
 1791 evaluation of the use pursuant to the provisions of paragraphs
 1792 (1)(a) and (b), subsections (2) and (3), and ss. 373.2295 and

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1793 | 373.233.

1794 | Section 16. Section 373.2234, Florida Statutes, is amended
1795 | to read:

1796 | 373.2234 Preferred water supply sources.—The governing
1797 | board of a water management district is authorized to adopt
1798 | rules that identify preferred water supply sources for
1799 | consumptive uses for which there is sufficient data to establish
1800 | that a preferred source will provide a substantial new water
1801 | supply to meet the existing and projected reasonable-beneficial
1802 | uses of a water supply planning region identified pursuant to s.
1803 | 373.709(1) ~~373.0361(1)~~, while sustaining existing water
1804 | resources and natural systems. At a minimum, such rules must
1805 | contain a description of the preferred water supply source and
1806 | an assessment of the water the preferred source is projected to
1807 | produce. If an applicant proposes to use a preferred water
1808 | supply source, that applicant's proposed water use is subject to
1809 | s. 373.223(1), except that the proposed use of a preferred water
1810 | supply source must be considered by a water management district
1811 | when determining whether a permit applicant's proposed use of
1812 | water is consistent with the public interest pursuant to s.
1813 | 373.223(1)(c). A consumptive use permit issued for the use of a
1814 | preferred water supply source must be granted, when requested by
1815 | the applicant, for at least a 20-year period and may be subject
1816 | to the compliance reporting provisions of s. 373.236(4). Nothing
1817 | in this section shall be construed to exempt the use of
1818 | preferred water supply sources from the provisions of ss.
1819 | 373.016(4) and 373.223(2) and (3), or be construed to provide
1820 | that permits issued for the use of a nonpreferred water supply

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1821 source must be issued for a duration of less than 20 years or
 1822 that the use of a nonpreferred water supply source is not
 1823 consistent with the public interest. Additionally, nothing in
 1824 this section shall be interpreted to require the use of a
 1825 preferred water supply source or to restrict or prohibit the use
 1826 of a nonpreferred water supply source. Rules adopted by the
 1827 governing board of a water management district to implement this
 1828 section shall specify that the use of a preferred water supply
 1829 source is not required and that the use of a nonpreferred water
 1830 supply source is not restricted or prohibited.

1831 Section 17. Subsection (3) of section 373.229, Florida
 1832 Statutes, is amended to read:

1833 373.229 Application for permit.—

1834 (3) In addition to the information required in subsection
 1835 (1), all permit applications filed with the governing board or
 1836 the department which propose the transport and use of water
 1837 across county boundaries shall include information pertaining to
 1838 factors to be considered, pursuant to s. 373.223(3), unless
 1839 exempt under s. 373.713(9) ~~373.1962(9)~~.

1840 Section 18. Paragraph (a) of subsection (6) of section
 1841 373.236, Florida Statutes, is amended to read:

1842 373.236 Duration of permits; compliance reports.—

1843 (6)(a) The Legislature finds that the need for alternative
 1844 water supply development projects to meet anticipated public
 1845 water supply demands of the state is so important that it is
 1846 essential to encourage participation in and contribution to
 1847 these projects by private-rural-land owners who
 1848 characteristically have relatively modest near-term water

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1849 demands but substantially increasing demands after the 20-year
 1850 planning period in s. 373.709 ~~373.0361~~. Therefore, where such
 1851 landowners make extraordinary contributions of lands or
 1852 construction funding to enable the expeditious implementation of
 1853 such projects, water management districts and the department may
 1854 grant permits for such projects for a period of up to 50 years
 1855 to municipalities, counties, special districts, regional water
 1856 supply authorities, multijurisdictional water supply entities,
 1857 and publicly or privately owned utilities, with the exception of
 1858 any publicly or privately owned utilities created for or by a
 1859 private landowner after April 1, 2008, which have entered into
 1860 an agreement with the private landowner for the purpose of more
 1861 efficiently pursuing alternative public water supply development
 1862 projects identified in a district's regional water supply plan
 1863 and meeting water demands of both the applicant and the
 1864 landowner.

1865 Section 19. Paragraph (a) of subsection (6) of section
 1866 373.536, Florida Statutes, is amended to read:

1867 373.536 District budget and hearing thereon.—

1868 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 1869 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1870 (a) Each district must, by the date specified for each
 1871 item, furnish copies of the following documents to the Governor,
 1872 the President of the Senate, the Speaker of the House of
 1873 Representatives, the chairs of all legislative committees and
 1874 subcommittees having substantive or fiscal jurisdiction over the
 1875 districts, as determined by the President of the Senate or the
 1876 Speaker of the House of Representatives as applicable, the

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1877 secretary of the department, and the governing board of each
 1878 county in which the district has jurisdiction or derives any
 1879 funds for the operations of the district:

1880 1. The adopted budget, to be furnished within 10 days
 1881 after its adoption.

1882 2. A financial audit of its accounts and records, to be
 1883 furnished within 10 days after its acceptance by the governing
 1884 board. The audit must be conducted in accordance with the
 1885 provisions of s. 11.45 and the rules adopted thereunder. In
 1886 addition to the entities named above, the district must provide
 1887 a copy of the audit to the Auditor General within 10 days after
 1888 its acceptance by the governing board.

1889 3. A 5-year capital improvements plan, to be included in
 1890 the consolidated annual report required by s. 373.036(7). The
 1891 plan must include expected sources of revenue for planned
 1892 improvements and must be prepared in a manner comparable to the
 1893 fixed capital outlay format set forth in s. 216.043.

1894 4. A 5-year water resource development work program to be
 1895 furnished within 30 days after the adoption of the final budget.
 1896 The program must describe the district's implementation strategy
 1897 for the water resource development component of each approved
 1898 regional water supply plan developed or revised under s. 373.709
 1899 ~~373.0361~~. The work program must address all the elements of the
 1900 water resource development component in the district's approved
 1901 regional water supply plans and must identify which projects in
 1902 the work program will provide water, explain how each water
 1903 resource development project will produce additional water
 1904 available for consumptive uses, estimate the quantity of water

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1905 to be produced by each project, and provide an assessment of the
 1906 contribution of the district's regional water supply plans in
 1907 providing sufficient water to meet the water supply needs of
 1908 existing and future reasonable-beneficial uses for a 1-in-10-
 1909 year drought event. Within 30 days after its submittal, the
 1910 department shall review the proposed work program and submit its
 1911 findings, questions, and comments to the district. The review
 1912 must include a written evaluation of the program's consistency
 1913 with the furtherance of the district's approved regional water
 1914 supply plans, and the adequacy of proposed expenditures. As part
 1915 of the review, the department shall give interested parties the
 1916 opportunity to provide written comments on each district's
 1917 proposed work program. Within 45 days after receipt of the
 1918 department's evaluation, the governing board shall state in
 1919 writing to the department which changes recommended in the
 1920 evaluation it will incorporate into its work program submitted
 1921 as part of the March 1 consolidated annual report required by s.
 1922 373.036(7) or specify the reasons for not incorporating the
 1923 changes. The department shall include the district's responses
 1924 in a final evaluation report and shall submit a copy of the
 1925 report to the Governor, the President of the Senate, and the
 1926 Speaker of the House of Representatives.

1927 Section 20. Subsection (11) of section 373.59, Florida
 1928 Statutes, is amended to read:

1929 373.59 Water Management Lands Trust Fund.—

1930 (11) Notwithstanding any provision of this section to the
 1931 contrary, the governing board of a water management district may
 1932 request, and the Secretary of Environmental Protection shall

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1933 release upon such request, moneys allocated to the districts
 1934 pursuant to subsection (8) for purposes consistent with the
 1935 provisions of s. 373.709 ~~373.0361~~, s. 373.705 ~~373.0831~~, s.
 1936 373.139, or ss. 373.451-373.4595 and for legislatively
 1937 authorized land acquisition and water restoration initiatives.
 1938 No funds may be used pursuant to this subsection until necessary
 1939 debt service obligations, requirements for payments in lieu of
 1940 taxes, and land management obligations that may be required by
 1941 this chapter are provided for.

1942 Section 21. Paragraph (g) of subsection (1) of section
 1943 378.212, Florida Statutes, is amended to read:

1944 378.212 Variances.—

1945 (1) Upon application, the secretary may grant a variance
 1946 from the provisions of this part or the rules adopted pursuant
 1947 thereto. Variances and renewals thereof may be granted for any
 1948 one of the following reasons:

1949 (g) To accommodate reclamation that provides water supply
 1950 development or water resource development not inconsistent with
 1951 the applicable regional water supply plan approved pursuant to
 1952 s. 373.709 ~~373.0361~~, provided adverse impacts are not caused to
 1953 the water resources in the basin. A variance may also be granted
 1954 from the requirements of part IV of chapter 373, or the rules
 1955 adopted thereunder, when a project provides an improvement in
 1956 water availability in the basin and does not cause adverse
 1957 impacts to water resources in the basin.

1958 Section 22. Subsection (9) of section 378.404, Florida
 1959 Statutes, is amended to read:

1960 378.404 Department of Environmental Protection; powers and

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1961 duties.—The department shall have the following powers and
 1962 duties:

1963 (9) To grant variances from the provisions of this part to
 1964 accommodate reclamation that provides for water supply
 1965 development or water resource development not inconsistent with
 1966 the applicable regional water supply plan approved pursuant to
 1967 s. 373.709 ~~373.0361~~, appropriate stormwater management, improved
 1968 wildlife habitat, recreation, or a mixture thereof, provided
 1969 adverse impacts are not caused to the water resources in the
 1970 basin and public health and safety are not adversely affected.

1971 Section 23. Paragraph (a) of subsection (3) of section
 1972 403.0891, Florida Statutes, is amended to read:

1973 403.0891 State, regional, and local stormwater management
 1974 plans and programs.—The department, the water management
 1975 districts, and local governments shall have the responsibility
 1976 for the development of mutually compatible stormwater management
 1977 programs.

1978 (3)(a) Each local government required by chapter 163 to
 1979 submit a comprehensive plan, whose plan is submitted after July
 1980 1, 1992, and the others when updated after July 1, 1992, in the
 1981 development of its stormwater management program described by
 1982 elements within its comprehensive plan shall consider the water
 1983 resource implementation rule, district stormwater management
 1984 goals, plans approved pursuant to the Surface Water Improvement
 1985 and Management Act, ss. 373.451-373.4595, and technical
 1986 assistance information provided by the water management
 1987 districts pursuant to s. 373.711 ~~373.0391~~.

1988 Section 24. Section 403.890, Florida Statutes, is amended

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1989 to read:

1990 403.890 Water Protection and Sustainability Program;
 1991 ~~intent; goals; purposes.-~~

1992 ~~(1) Effective July 1, 2006, revenues transferred from the~~
 1993 ~~Department of Revenue pursuant to s. 201.15(1)(c)2. shall be~~
 1994 ~~deposited into the Water Protection and Sustainability Program~~
 1995 ~~Trust Fund in the Department of Environmental Protection. These~~
 1996 ~~revenues and any other additional revenues deposited into or~~
 1997 ~~appropriated to the Water Protection and Sustainability Program~~
 1998 ~~Trust Fund shall be distributed by the Department of~~
 1999 ~~Environmental Protection in the following manner:-~~

2000 ~~(a) Sixty percent to the Department of Environmental~~
 2001 ~~Protection for the implementation of an alternative water supply~~
 2002 ~~program as provided in s. 373.1961.~~

2003 ~~(b) Twenty percent for the implementation of best~~
 2004 ~~management practices and capital project expenditures necessary~~
 2005 ~~for the implementation of the goals of the total maximum daily~~
 2006 ~~load program established in s. 403.067. Of these funds, 85~~
 2007 ~~percent shall be transferred to the credit of the Department of~~
 2008 ~~Environmental Protection Water Quality Assurance Trust Fund to~~
 2009 ~~address water quality impacts associated with nonagricultural~~
 2010 ~~nonpoint sources. Fifteen percent of these funds shall be~~
 2011 ~~transferred to the Department of Agriculture and Consumer~~
 2012 ~~Services General Inspection Trust Fund to address water quality~~
 2013 ~~impacts associated with agricultural nonpoint sources. These~~
 2014 ~~funds shall be used for research, development, demonstration,~~
 2015 ~~and implementation of the total maximum daily load program under~~
 2016 ~~s. 403.067, suitable best management practices or other measures~~

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2017 ~~used to achieve water quality standards in surface waters and~~
 2018 ~~water segments identified pursuant to s. 303(d) of the Clean~~
 2019 ~~Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.~~
 2020 ~~Implementation of best management practices and other measures~~
 2021 ~~may include cost share grants, technical assistance,~~
 2022 ~~implementation tracking, and conservation leases or other~~
 2023 ~~agreements for water quality improvement. The Department of~~
 2024 ~~Environmental Protection and the Department of Agriculture and~~
 2025 ~~Consumer Services may adopt rules governing the distribution of~~
 2026 ~~funds for implementation of capital projects, best management~~
 2027 ~~practices, and other measures. These funds shall not be used to~~
 2028 ~~abrogate the financial responsibility of those point and~~
 2029 ~~nonpoint sources that have contributed to the degradation of~~
 2030 ~~water or land areas. Increased priority shall be given by the~~
 2031 ~~department and the water management district governing boards to~~
 2032 ~~those projects that have secured a cost sharing agreement~~
 2033 ~~allocating responsibility for the cleanup of point and nonpoint~~
 2034 ~~sources.~~

2035 ~~(c) Ten percent shall be disbursed for the purposes of~~
 2036 ~~funding projects pursuant to ss. 373.451-373.459 or surface~~
 2037 ~~water restoration activities in water management district-~~
 2038 ~~designated priority water bodies. The Secretary of Environmental~~
 2039 ~~Protection shall ensure that each water management district~~
 2040 ~~receives the following percentage of funds annually:~~

2041 ~~1. Thirty five percent to the South Florida Water~~
 2042 ~~Management District;~~

2043 ~~2. Twenty five percent to the Southwest Florida Water~~
 2044 ~~Management District;~~

2045 ~~3. Twenty five percent to the St. Johns River Water~~
 2046 ~~Management District;~~

2047 ~~4. Seven and one half percent to the Suwannee River Water~~
 2048 ~~Management District; and~~

2049 ~~5. Seven and one half percent to the Northwest Florida~~
 2050 ~~Water Management District.~~

2051 ~~(d) Ten percent to the Department of Environmental~~
 2052 ~~Protection for the Disadvantaged Small Community Wastewater~~
 2053 ~~Grant Program as provided in s. 403.1838.~~

2054 ~~(2) Applicable beginning in the 2007-2008 fiscal year,~~
 2055 ~~revenues transferred from the Department of Revenue pursuant to~~
 2056 ~~s. 201.15(1)(c)2. shall be deposited into the Water Protection~~
 2057 ~~and Sustainability Program Trust Fund in the Department of~~
 2058 ~~Environmental Protection. These revenues and any other~~
 2059 ~~additional Revenues deposited into or appropriated to the Water~~
 2060 ~~Protection and Sustainability Program Trust Fund shall be~~
 2061 ~~distributed by the Department of Environmental Protection in the~~
 2062 ~~following manner:~~

2063 ~~(1)(a)~~ (1) Sixty-five percent to the Department of
 2064 Environmental Protection for the implementation of an
 2065 alternative water supply program as provided in s. 373.703
 2066 ~~373.1961.~~

2067 ~~(2)(b)~~ (2) Twenty-two and five-tenths percent for the
 2068 implementation of best management practices and capital project
 2069 expenditures necessary for the implementation of the goals of
 2070 the total maximum daily load program established in s. 403.067.
 2071 Of these funds, 83.33 percent shall be transferred to the credit
 2072 of the Department of Environmental Protection Water Quality

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2073 Assurance Trust Fund to address water quality impacts associated
 2074 with nonagricultural nonpoint sources. Sixteen and sixty-seven
 2075 hundredths percent of these funds shall be transferred to the
 2076 Department of Agriculture and Consumer Services General
 2077 Inspection Trust Fund to address water quality impacts
 2078 associated with agricultural nonpoint sources. These funds shall
 2079 be used for research, development, demonstration, and
 2080 implementation of the total maximum daily load program under s.
 2081 403.067, suitable best management practices or other measures
 2082 used to achieve water quality standards in surface waters and
 2083 water segments identified pursuant to s. 303(d) of the Clean
 2084 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
 2085 Implementation of best management practices and other measures
 2086 may include cost-share grants, technical assistance,
 2087 implementation tracking, and conservation leases or other
 2088 agreements for water quality improvement. The Department of
 2089 Environmental Protection and the Department of Agriculture and
 2090 Consumer Services may adopt rules governing the distribution of
 2091 funds for implementation of capital projects, best management
 2092 practices, and other measures. These funds shall not be used to
 2093 abrogate the financial responsibility of those point and
 2094 nonpoint sources that have contributed to the degradation of
 2095 water or land areas. Increased priority shall be given by the
 2096 department and the water management district governing boards to
 2097 those projects that have secured a cost-sharing agreement
 2098 allocating responsibility for the cleanup of point and nonpoint
 2099 sources.

2100 (3)~~(e)~~ Twelve and five-tenths percent to the Department of

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2101 Environmental Protection for the Disadvantaged Small Community
 2102 Wastewater Grant Program as provided in s. 403.1838.

2103 ~~(4)(d)~~ On June 30, 2009, and every 24 months thereafter,
 2104 the Department of Environmental Protection shall request the
 2105 return of all unencumbered funds distributed pursuant to this
 2106 section. These funds shall be deposited into the Water
 2107 Protection and Sustainability Program Trust Fund and
 2108 redistributed pursuant to the provisions of this section.

2109 ~~(3) For the 2008-2009 fiscal year only, moneys in the~~
 2110 ~~Water Protection and Sustainability Program Trust Fund shall be~~
 2111 ~~transferred to the Ecosystem Management and Restoration Trust~~
 2112 ~~Fund for grants and aids to local governments for water projects~~
 2113 ~~as provided in the General Appropriations Act. This subsection~~
 2114 ~~expires July 1, 2009.~~

2115 ~~(4) For fiscal year 2005-2006, funds deposited or~~
 2116 ~~appropriated into the Water Protection and Sustainability~~
 2117 ~~Program Trust Fund shall be distributed as follows:~~

2118 ~~(a) One hundred million dollars to the Department of~~
 2119 ~~Environmental Protection for the implementation of an~~
 2120 ~~alternative water supply program as provided in s. 373.1961.~~

2121 ~~(b) Funds remaining after the distribution provided for in~~
 2122 ~~subsection (1) shall be distributed as follows:~~

2123 ~~1. Fifty percent for the implementation of best management~~
 2124 ~~practices and capital project expenditures necessary for the~~
 2125 ~~implementation of the goals of the total maximum daily load~~
 2126 ~~program established in s. 403.067. Of these funds, 85 percent~~
 2127 ~~shall be transferred to the credit of the Department of~~
 2128 ~~Environmental Protection Water Quality Assurance Trust Fund to~~

2129 ~~address water quality impacts associated with nonagricultural~~
 2130 ~~nonpoint sources. Fifteen percent of these funds shall be~~
 2131 ~~transferred to the Department of Agriculture and Consumer~~
 2132 ~~Services General Inspection Trust Fund to address water quality~~
 2133 ~~impacts associated with agricultural nonpoint sources. These~~
 2134 ~~funds shall be used for research, development, demonstration,~~
 2135 ~~and implementation of suitable best management practices or~~
 2136 ~~other measures used to achieve water quality standards in~~
 2137 ~~surface waters and water segments identified pursuant to s.~~
 2138 ~~303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss.~~
 2139 ~~1251 et seq. Implementation of best management practices and~~
 2140 ~~other measures may include cost share grants, technical~~
 2141 ~~assistance, implementation tracking, and conservation leases or~~
 2142 ~~other agreements for water quality improvement. The Department~~
 2143 ~~of Environmental Protection and the Department of Agriculture~~
 2144 ~~and Consumer Services may adopt rules governing the distribution~~
 2145 ~~of funds for implementation of best management practices. These~~
 2146 ~~funds shall not be used to abrogate the financial responsibility~~
 2147 ~~of those point and nonpoint sources that have contributed to the~~
 2148 ~~degradation of water or land areas. Increased priority shall be~~
 2149 ~~given by the department and the water management district~~
 2150 ~~governing boards to those projects that have secured a cost-~~
 2151 ~~sharing agreement allocating responsibility for the cleanup of~~
 2152 ~~point and nonpoint sources.~~

2153 ~~2. Twenty five percent for the purposes of funding~~
 2154 ~~projects pursuant to ss. 373.451-373.459 or surface water~~
 2155 ~~restoration activities in water management district designated~~
 2156 ~~priority water bodies. The Secretary of Environmental Protection~~

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2157 ~~shall ensure that each water management district receives the~~
 2158 ~~following percentage of funds annually:~~

2159 ~~a. Thirty five percent to the South Florida Water~~
 2160 ~~Management District;~~

2161 ~~b. Twenty five percent to the Southwest Florida Water~~
 2162 ~~Management District;~~

2163 ~~c. Twenty five percent to the St. Johns River Water~~
 2164 ~~Management District;~~

2165 ~~d. Seven and one half percent to the Suwannee River Water~~
 2166 ~~Management District; and~~

2167 ~~e. Seven and one half percent to the Northwest Florida~~
 2168 ~~Water Management District.~~

2169 ~~3. Twenty five percent to the Department of Environmental~~
 2170 ~~Protection for the Disadvantaged Small Community Wastewater~~
 2171 ~~Grant Program as provided in s. 403.1838.~~

2172
 2173 ~~Prior to the end of the 2008 Regular Session, the Legislature~~
 2174 ~~must review the distribution of funds under the Water Protection~~
 2175 ~~and Sustainability Program to determine if revisions to the~~
 2176 ~~funding formula are required. At the discretion of the President~~
 2177 ~~of the Senate and the Speaker of the House of Representatives,~~
 2178 ~~the appropriate substantive committees of the Legislature may~~
 2179 ~~conduct an interim project to review the Water Protection and~~
 2180 ~~Sustainability Program and the funding formula and make written~~
 2181 ~~recommendations to the Legislature proposing necessary changes,~~
 2182 ~~if any.~~

2183 ~~(5) For the 2009-2010 fiscal year only, funds shall be~~
 2184 ~~distributed as follows:~~

2185 ~~(a) Thirty one and twenty one hundredths percent to the~~
 2186 ~~Department of Environmental Protection for the implementation of~~
 2187 ~~an alternative water supply program as provided in s. 373.1961.~~
 2188 ~~(b) Twenty six and eighty seven hundredths percent for the~~
 2189 ~~implementation of best management practices and capital project~~
 2190 ~~expenditures necessary for the implementation of the goals of~~
 2191 ~~the total maximum daily load program established in s. 403.067.~~
 2192 ~~Of these funds, 86 percent shall be transferred to the credit of~~
 2193 ~~the Water Quality Assurance Trust Fund of the Department of~~
 2194 ~~Environmental Protection to address water quality impacts~~
 2195 ~~associated with nonagricultural nonpoint sources. Fourteen~~
 2196 ~~percent of these funds shall be transferred to the General~~
 2197 ~~Inspection Trust Fund of the Department of Agriculture and~~
 2198 ~~Consumer Services to address water quality impacts associated~~
 2199 ~~with agricultural nonpoint sources. These funds shall be used~~
 2200 ~~for research, development, demonstration, and implementation of~~
 2201 ~~the total maximum daily load program under s. 403.067, suitable~~
 2202 ~~best management practices, or other measures used to achieve~~
 2203 ~~water quality standards in surface waters and water segments~~
 2204 ~~identified pursuant to s. 303(d) of the Clean Water Act, Pub. L.~~
 2205 ~~No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best~~
 2206 ~~management practices and other measures may include cost share~~
 2207 ~~grants, technical assistance, implementation tracking, and~~
 2208 ~~conservation leases or other agreements for water quality~~
 2209 ~~improvement. The Department of Environmental Protection and the~~
 2210 ~~Department of Agriculture and Consumer Services may adopt rules~~
 2211 ~~governing the distribution of funds for implementation of~~
 2212 ~~capital projects, best management practices, and other measures.~~

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2213 ~~These funds may not be used to abrogate the financial~~
 2214 ~~responsibility of those point and nonpoint sources that have~~
 2215 ~~contributed to the degradation of water or land areas. Increased~~
 2216 ~~priority shall be given by the department and the water~~
 2217 ~~management district governing boards to those projects that have~~
 2218 ~~secured a cost sharing agreement that allocates responsibility~~
 2219 ~~for the cleanup of point and nonpoint sources.~~

2220 ~~(c) Forty one and ninety two hundredths percent to the~~
 2221 ~~Department of Environmental Protection for the Disadvantaged~~
 2222 ~~Small Community Wastewater Grant Program as provided in s.~~
 2223 ~~403.1838.~~

2224
 2225 ~~This subsection expires July 1, 2010.~~

2226 Section 25. Subsection (1) of section 403.891, Florida
 2227 Statutes, is amended to read:

2228 403.891 Water Protection and Sustainability Program Trust
 2229 Fund of the Department of Environmental Protection.—

2230 (1) The Water Protection and Sustainability Program Trust
 2231 Fund is created within the Department of Environmental
 2232 Protection. The purpose of the trust fund is to ~~receive funds~~
 2233 ~~pursuant to s. 201.15(1)(c)2., funds from other sources provided~~
 2234 ~~for in law and the General Appropriations Act, and funds~~
 2235 ~~received by the department in order to implement the provisions~~
 2236 ~~of the Water Sustainability and Protection Program created in s.~~
 2237 403.890.

2238 Section 26. Section 682.02, Florida Statutes, is amended
 2239 to read:

2240 682.02 Arbitration agreements made valid, irrevocable, and

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2241 enforceable; scope.—Two or more parties may agree in writing to
 2242 submit to arbitration any controversy existing between them at
 2243 the time of the agreement, or they may include in a written
 2244 contract a provision for the settlement by arbitration of any
 2245 controversy thereafter arising between them relating to such
 2246 contract or the failure or refusal to perform the whole or any
 2247 part thereof. This section also applies to written interlocal
 2248 agreements under ss. 163.01 and 373.713 ~~373.1962~~ in which two or
 2249 more parties agree to submit to arbitration any controversy
 2250 between them concerning water use permit applications and other
 2251 matters, regardless of whether or not the water management
 2252 district with jurisdiction over the subject application is a
 2253 party to the interlocal agreement or a participant in the
 2254 arbitration. Such agreement or provision shall be valid,
 2255 enforceable, and irrevocable without regard to the justiciable
 2256 character of the controversy; provided that this act shall not
 2257 apply to any such agreement or provision to arbitrate in which
 2258 it is stipulated that this law shall not apply or to any
 2259 arbitration or award thereunder.

2260 Section 27. Section 373.71, Florida Statutes, is
 2261 renumbered as section 373.69, Florida Statutes.

2262 Section 28. Sections 373.0361, 373.0391, 373.0831,
 2263 373.196, 373.1961, 373.1962, and 373.1963, Florida Statutes, are
 2264 repealed.

2265 Section 29. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1109 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Military & Local Affairs Policy
2 Committee

3 Representative(s) Williams, T. offered the following:

4

5 **Amendment**

6 Remove line 2065 and insert:

7

8 alternative water supply program as provided in s. 373.707

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1157 Local Government Prompt Payment Act
SPONSOR(S): Eisnaugle and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1056

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee		Noriega	Hoagland
2) Economic Development & Community Affairs Policy Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Current law states that it is the policy of this state that "payment for all purchases by local governmental entities be made in a timely manner." The purpose of this policy is to provide for:

- prompt payments by local governmental entities and their institutions and agencies;
- interest payments on late payments made by local governmental entities and their institutions and agencies; and
- a dispute resolution process for payment of obligations.

This bill revises provisions relating to the timely payment for purchases of construction services and prohibits assessment of damages against contractors if the list of items remaining to be completed (generally known as a "punch list") is not provided to the contractor in a timely manner.

The bill requires that disputes be resolved according to procedures in invitations to bid or requests for proposals (RFPs), and revises provisions relating to the resolution of disputes concerning improper payment request or invoice.

This bill provides that, in cases of payment disputes, a local governmental entity must notify the vendor in writing within 10 days after the improper payment request is received. Also, a local governmental entity waives its objection if it fails to begin a dispute resolution procedure within 45 days.

The bill removes language related to court proceedings, which broadens the ability of the prevailing party to be awarded court costs and attorney's fees.

The bill also revises definitions and makes several minor, stylistic changes to ch. 218, F.S.

Staff estimates that local governments, including school districts, may incur some costs as a result of this bill. These expenses may include additional staffing costs to meet the conditions and deadlines provided in the bill, payment for construction services that may not meet the contract requirements if the deadlines are not met, and payment of court costs and attorney's fees if, as the losing party, a local government had a reasonable basis in law or fact to dispute such payments, but ultimately did not prevail.

It does not appear that the provisions of this bill will have an impact on state government.

This bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Prompt Payment Act

Part VII of ch. 218, F.S., known as the "Local Government Prompt Payment Act" (Act) was enacted in 1989, and applies to local governments. The Act states that it is the policy of this state that "payment for all purchases by local governmental entities be made in a timely manner." The purpose of the act is to provide for:

- prompt payments by local governmental entities and their institutions and agencies;
- interest payments on late payments made by local governmental entities and their institutions and agencies; and
- a dispute resolution process for payment of obligations.

"Local governmental entity" is defined by the Act to mean a county or municipal government, school board, school district, authority, special taxing district, other political subdivisions, or any office, board, bureau, commission, department, branch, division or institution thereof.

The Act provides for timely payment for purchases of construction services and non-construction services, procedures for calculation of payment due dates, payment of interest at the rate of one percent per month (or the rate specified by contract, whichever is greater), and resolution of disputes. Local governmental entities must provide payment for construction services no later than 20 business days after the date on which the invoice is received, or within 25 business days if the invoice is subject to agent approval. Current law allots 15 days for both contractors and subcontractors to pay downstream to their subcontractors and suppliers once they have received payment from local governments.

Retainage

Retainage is a common construction contracting practice whereby a certain percentage of payment is withheld by the project owner from the general contractor and, in turn, by the general contractor from the subcontractors, to ensure satisfactory completion of a project. Payments for construction services usually are made incrementally, with a certain percentage withheld. Retainage is established by contract between the contractor and the entity contracting for the project.

Current law does not provide a limit on the amount of retainage state or local governments may withhold from payments for construction services.¹

Definitions (section 218.72, F.S.)

Section 218.72, F.S., provides the following definitions:

- “Proper invoice” refers to an invoice which conforms with all statutory requirements and with all requirements that have been specified by the local governmental entity to which the invoice is submitted;
- “Payment request” refers to a request for payment for construction services which conforms with all statutory requirements and with all requirements specified by the local governmental entity to which the payment request is submitted; and
- “Agent” refers to a project architect, project engineer, or any other agency or person acting on behalf of the local governmental entity.

Proposed Changes

The bill revises the definitions of “proper invoice” and “payment request” to provide that these requirements must be included in the invitation to bid or request for proposal (RFP) for the project for which the invoice or payment is requested, respectively.

The bill revises the definition of “agent” to provide that the agent who is required to review invoices or payment requests must be identified in the invitation to bid or RFP for the project for which payment request or invoices are submitted. This provision would result in having one receiving agent that would be identified in advance in the RFP.

Timely Payment For Purchases of Construction Services (section 218.735, F.S.)

Due Date

Present Situation

Section 218.735, F.S., provides guidelines for the timely payment for construction services purchases. Under this section, if an agent must approve the payment request or invoice prior to the payment request or invoice being submitted to the local governmental entity, payment is due 25 business days after the date on which the payment request or invoice is stamped as received.

Proposed Changes

The bill provides that “if the payment request or invoice is not rejected before the due date, it shall be deemed accepted.”

Payment Rejection

Present Situation

Section 218.735, F.S., states that the local governmental entity may reject the payment request or invoice within 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), F.S.² The rejection must be written and must specify the deficiency in the payment request or invoice and the action necessary to make the payment request or invoice proper.

¹ In an e-mail dated March 15, 2010, the Department of Management Services (DMS) indicated that the standard amount of retainage throughout the construction industry for a project starts at 10 percent, but that there is an allowance for a reduction to 5 percent when 50 percent of the project has been completed.

² Section 218.74, F.S., refers to “procedures for calculation of payment due dates.”

Proposed Changes

The bill provides that if the payment request or invoice does not meet the contract requirements, the local entity must reject the payment request or invoice within 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1), F.S.

Dispute Resolution

Present Situation

Section 218.735, F.S., provides that if a dispute between the local governmental entity and the contractor cannot be resolved by the procedure in s. 218.735(3), F.S., the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract or in any applicable ordinance. In the absence of a prescribed procedure, the dispute must be resolved by the procedure specified in s. 218.76(2), F.S.³

Proposed Changes

The bill provides that the applicable dispute resolution procedure is that which is included in the invitation to bid or RFP for the project for which the payment request or invoice is submitted. Also, the bill removes the statutory reference to s. 218.76(2), F.S. Therefore, this statutory guideline would no longer apply.

List of Items (Punch List)

Present Situation

Section 218.735, F.S., provides that each contract for construction services between a local governmental entity and a contractor must provide for the development of a list of items (generally known as a "punch list") required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity.

Proposed Changes

The bill adds language to provide that the contract must provide for the development of a single punch list for the construction services purchased by the local governmental entity.

This bill also adds language which provides that the final contract completion date must be at least 30 days after the delivery of the punch list. If the punch list is not timely provided to the contractor, the contract time for completion must be extended by at least 30 days after the contractor receives the punch list. Also, damages may not be assessed against a contractor for failing to complete a project within the time required by the contract if the punch list has not been provided to the contractor in a timely manner.

Retainage

Present Situation

Section 218.735, F.S., provides that warranty items may not affect the final payment of retainage as provided in this section or as provided in the contract between the contractor and its subcontractors and suppliers.

In addition, if a local governmental entity fails to comply with its responsibilities to develop the punch list for the construction services purchased by the local governmental entity, as defined in the contract within statutory limitations,⁴ the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section. The local governmental entity need

³ Section 218.76, F.S., refers to "improper payment request or invoice; resolution of disputes."

⁴ Section 218.735(7)(a), F.S., provides for a 30-day timeline for construction projects having an estimated cost of less than \$10 million. Section 218.735(7)(b), F.S., provides for a 30-day timeline for construction projects having an estimated cost of \$10 million or more, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the local governmental entity in the development of the punch list or failed to perform its contractual responsibilities, if any, with regard to the development of the punch list or if s. 218.735(8)(f), F.S.,⁵ applies.

Proposed Changes

The bill provides that items not included in the punch list as required by statute may not be used to withhold final payment of retainage. In addition, the bill includes language to require final retainage payment within 20 business days unless the local governmental entity has provided a written notice to the contractor specifying the failure of the contractor to meet contract requirement in the development of the punch list.

Improper Payment Request or Invoice; Resolution of Disputes (section 218.76, F.S.)

Dispute Resolution Process

Present Situation

Section 218.76, F.S., provides for a dispute resolution process if a government entity files an objection to a request for payment. In addition, s. 218.76, F.S., provides that, in an action to recover amounts due under the Act, the court shall award court costs and reasonable attorney's fees, including fees incurred through any appeal, to the prevailing party, if the court finds that the nonprevailing party withheld any portion of the payment that is the subject of the action without any reasonable basis in law or fact to dispute the prevailing party's claim to those amounts.

Proposed Changes

The bill provides that if an improper payment request or invoice is submitted by a vendor, the local governmental entity must notify the vendor in writing within 10 days after the improper payment request is received.

The bill adds language to provide that if the local governmental entity does not begin the dispute resolution procedure within 45 days, the objection to payment shall be deemed to have been waived. Also, the time for dispute resolution may be extended upon the written agreement of the affected parties.

This bill removes language related to court proceedings. Under this bill, prevailing parties in legal disputes related to the Act would be awarded court and legal fees, even in cases when the losing party claimed to have a reasonable basis in law or fact to dispute such payments.

Other Comments

The bill makes several minor, stylistic changes to ch. 218, F.S., and provides an effective date of July 1, 2010.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 218.72, F.S., relating to definitions.
- Section 2.** Amends s. 218.735, F.S., relating to timely payment for the purchases of construction services.
- Section 3.** Amends s. 218.76, F.S., relating to improper payment request or invoice; resolution of disputes.

⁵ Section 218.735(8)(f), F.S., does not require the local governmental entity to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, F.S., or otherwise the subject of a claim or demand by the local governmental entity or contractor refers to "improper payment request or invoice; resolution of disputes."

Section 4. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Staff estimates that local governments, including school districts, may incur some costs as a result of this bill. These expenses may include additional staffing costs to meet the conditions and deadlines provided in the bill, payment for construction services that may not meet the contract requirements if the deadlines are not met, and payment of court costs and attorney's fees if, as the losing party, a local government had a reasonable basis in law or fact to dispute such payments, but ultimately did not prevail.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may result in more timely payments to contractors, subcontractors and suppliers who provide services or supplies for construction projects. In addition, contractors, subcontractors and suppliers could earn interest payments if local governments are unable to meet the required payment timelines. Also, because the number of instances when local governments may not meet the established payment timelines cannot be predicted, neither can the amount of interest that would accumulate.

Contractors, subcontractors, and suppliers could also incur expenditures when filing suit to enforce the provisions of this bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill may require counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditures is indeterminate at this time, and therefore it is unclear if an exemption would apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue

The bill's proposed language for s. 218.735(7)(i), F.S., requires final retainage payment within 20 business days. The bill does not specify when the proposed 20-day period would begin.

Other Comments

Associated Builders and Contractors, Inc., Florida, (ABC) is a proponent of this bill. According to ABC, the commercial construction industry has observed that local government is oftentimes anything but "prompt" in their payment for services/goods received, in part because of unnecessary and cumbersome procedures. In addition, ABC has stated that, ironically, the failure of government to abide by the Prompt Pay Act disproportionately hurts Florida small businesses (which have the most difficult "cash flow" challenges). Therefore, ABC is a proponent of streamlining these procedures and increasing efficiencies.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to the Local Government Prompt Payment
 3 Act; amending s. 218.72, F.S.; revising definitions;
 4 amending s. 218.735, F.S.; revising provisions relating to
 5 the timely payment for purchases of construction services;
 6 requiring that a dispute be resolved according to
 7 procedures in the invitation to bid or request for
 8 proposal; prohibiting the assessment of damages against a
 9 contractor if the list of items remaining to complete is
 10 not timely provided to the contractor; amending s. 218.76,
 11 F.S.; revising provisions relating to the resolution of
 12 disputes concerning an improper payment request or
 13 invoice; providing that a local governmental entity waives
 14 its objection in a payment dispute if it fails to commence
 15 the dispute resolution procedure within the time required;
 16 providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 218.72, Florida Statutes, is reordered
 21 and amended to read:

22 218.72 Definitions.—As used in this part, the term:
 23 ~~(8)(1)~~ "Proper invoice" means an invoice that ~~which~~
 24 conforms with all statutory requirements and ~~with~~ all
 25 requirements ~~that have been~~ specified by the local governmental
 26 entity to which the invoice is submitted. Such requirements must
 27 be included in the invitation to bid or request for proposal for
 28 the project for which the invoice is submitted.

29 (5)~~(2)~~ "Local governmental entity" means a county or
 30 municipal government, school board, school district, authority,
 31 special taxing district, other political subdivision, or any
 32 office, board, bureau, commission, department, branch, division,
 33 or institution thereof.

34 (4)~~(3)~~ "County" means a political subdivision of the state
 35 established pursuant to s. 1, Art. VIII of the State
 36 Constitution.

37 (6)~~(4)~~ "Municipality" means a municipality created
 38 pursuant to general or special law and metropolitan and
 39 consolidated governments as provided in s. 6(e) and (f), Art.
 40 VIII of the State Constitution.

41 (9)~~(5)~~ "Purchase" means the purchase of goods, services,
 42 or construction services; the purchase or lease of personal
 43 property; or the lease of real property by a local governmental
 44 entity.

45 (10)~~(6)~~ "Vendor" means any person who sells goods or
 46 services, sells or leases personal property, or leases real
 47 property directly to a local governmental entity. The term
 48 includes any person who provides waste hauling services to
 49 residents or businesses located within the boundaries of a local
 50 government pursuant to a contract or local ordinance.

51 (2)~~(7)~~ "Construction services" means all labor, services,
 52 and materials provided in connection with the construction,
 53 alteration, repair, demolition, reconstruction, or ~~any~~ other
 54 improvements to real property.

55 (7)~~(8)~~ "Payment request" means a request for payment for
 56 construction services which conforms with all statutory

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57 requirements and ~~with~~ all requirements specified by the local
 58 governmental entity to which the payment request is submitted.
 59 Such requirements must be included in the invitation to bid or
 60 request for proposal for the project for which payment is
 61 requested.

62 ~~(1)(9)~~ "Agent" means the project architect, project
 63 engineer, or ~~any~~ other agency or person acting on behalf of the
 64 local governmental entity. The agent who is required to review
 65 invoices or payment requests must be identified in the
 66 invitation to bid or request for proposal for the project for
 67 which payment requests or invoices are submitted.

68 ~~(3)(10)~~ "Contractor" or "provider of construction
 69 services" means the ~~any~~ person who contracts directly with a
 70 local governmental entity to provide construction services.

71 Section 2. Subsections (1) through (7) of section 218.735,
 72 Florida Statutes, are amended to read:

73 218.735 Timely payment for purchases of construction
 74 services.—

75 (1) The due date for payment for the purchase of
 76 construction services by a local governmental entity is
 77 determined as follows:

78 (a) If an agent must approve the payment request or
 79 invoice before ~~prior to~~ the payment request or invoice is being
 80 submitted to the local governmental entity, payment is due 25
 81 business days after the date on which the payment request or
 82 invoice is stamped as received as provided in s. 218.74(1). If
 83 the payment request or invoice is not rejected before the due
 84 date, it shall be deemed accepted.

85 (b) If an agent need not approve the payment request or
 86 invoice ~~which is~~ submitted by the contractor, payment is due 20
 87 business days after the date on which the payment request or
 88 invoice is stamped as received as provided in s. 218.74(1).

89 (2) If a payment request or invoice does not meet the
 90 contract requirements, the local governmental entity must ~~may~~
 91 reject the payment request or invoice within 20 business days
 92 after the date on which the payment request or invoice is
 93 stamped as received as provided in s. 218.74(1). The rejection
 94 must be written and must specify the deficiency ~~in the payment~~
 95 ~~request or invoice~~ and the action necessary to make the payment
 96 request or invoice proper.

97 (3) If a payment request or an invoice is rejected under
 98 subsection (2) and the contractor submits a ~~corrected~~ payment
 99 request or invoice that ~~which~~ corrects the deficiency ~~specified~~
 100 ~~in writing by the local governmental entity,~~ the corrected
 101 payment request or invoice must be paid or rejected on the later
 102 of:

103 (a) Ten business days after the date the corrected payment
 104 request or invoice is stamped as received as provided in s.
 105 218.74(1); or

106 (b) If the local governmental entity ~~governing body~~ is
 107 required by ordinance, charter, or other law to approve or
 108 reject the corrected payment request or invoice, the first
 109 business day after the next regularly scheduled meeting of the
 110 local governmental entity ~~governing body~~ held after the
 111 corrected payment request or invoice is stamped as received as
 112 provided in s. 218.74(1).

113 (4) If a dispute between the local governmental entity and
 114 the contractor cannot be resolved by the procedure in subsection
 115 (3), the dispute must be resolved in accordance with the dispute
 116 resolution procedure prescribed in the invitation to bid or
 117 request for proposal for the project for which the payment
 118 request or invoice is submitted ~~construction contract or in any~~
 119 ~~applicable ordinance. In the absence of a prescribed procedure,~~
 120 ~~the dispute must be resolved by the procedure specified in s.~~
 121 ~~218.76(2).~~

122 (5) If a local governmental entity disputes a portion of a
 123 payment request or an invoice, the undisputed portion shall be
 124 paid timely, in accordance with subsection (1).

125 (6) If ~~When~~ a contractor receives payment from a local
 126 governmental entity for labor, services, or materials furnished
 127 by subcontractors and suppliers hired by the contractor, the
 128 contractor must ~~shall~~ remit payment due to those subcontractors
 129 and suppliers within 10 days after the contractor's receipt of
 130 payment. If ~~When~~ a subcontractor receives payment from a
 131 contractor for labor, services, or materials furnished by
 132 subcontractors and suppliers hired by the subcontractor, the
 133 subcontractor must ~~shall~~ remit payment due to those
 134 subcontractors and suppliers within 7 days after the
 135 subcontractor's receipt of payment. This subsection does not
 136 ~~Nothing herein shall~~ prohibit a contractor or subcontractor from
 137 ~~disputing, pursuant to the terms of the relevant contract, all~~
 138 ~~or~~ any portion of a payment alleged to be due to another party
 139 if the contractor or subcontractor notifies the party whose
 140 payment is disputed, in writing, of the amount in dispute and

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141 the actions required to cure the dispute. The contractor or
 142 subcontractor must pay all undisputed amounts due within the
 143 time limits imposed by this section.

144 (7)~~(a)~~ Each contract for construction services between a
 145 local governmental entity and a contractor must provide for the
 146 development of a single list of items required to render
 147 complete, satisfactory, and acceptable the construction services
 148 purchased by the local governmental entity.

149 (a) The contract must specify the process for developing
 150 ~~the development of~~ the list, including the responsibilities of
 151 the local governmental entity and the contractor in developing
 152 and reviewing the list and a reasonable time for developing the
 153 list, ~~as follows:~~

154 1. For construction projects having an estimated cost of
 155 Less than \$10 million, within 30 calendar days after reaching
 156 substantial completion of the construction services purchased as
 157 defined in the contract, or, if not defined in the contract,
 158 upon reaching beneficial occupancy or use; or

159 2. For construction projects having an estimated cost of
 160 \$10 million or more, within 30 calendar days, or, if unless
 161 ~~otherwise~~ extended by contract, up to ~~not to exceed~~ 60 calendar
 162 days, after reaching substantial completion of the construction
 163 services purchased as defined in the contract, or, if not
 164 defined in the contract, upon reaching beneficial occupancy or
 165 use.

166 (b) If the contract between the local governmental entity
 167 and the contractor relates to the purchase of construction
 168 services on more than one building or structure, or involves a

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169 multiphased project, the contract must provide for the
 170 development of a list of items required to render complete,
 171 satisfactory, and acceptable all the construction services
 172 purchased pursuant to the contract for each building, structure,
 173 or phase of the project within the time limitations provided in
 174 paragraph (a).

175 (c) The final contract completion date must be at least 30
 176 days after the delivery of the list of items. If the list is not
 177 timely provided to the contractor, the contract time for
 178 completion must be extended by at least 30 days after the
 179 contractor receives the list. Damages may not be assessed
 180 against a contractor for failing to complete a project within
 181 the time required by the contract if the list of items has not
 182 been timely provided to the contractor.

183 ~~(d)(e)~~ The failure to include any corrective work or
 184 pending items not yet completed on the list developed pursuant
 185 ~~to this subsection~~ does not alter the responsibility of the
 186 contractor to complete all the construction services purchased
 187 pursuant to the contract.

188 ~~(e)(d)~~ Upon completion of all items on the list, the
 189 contractor may submit a payment request for all remaining
 190 retainage withheld by the local governmental entity pursuant to
 191 this section. If a good faith dispute exists as to whether one
 192 or more items identified on the list have been completed
 193 pursuant to the contract, the local governmental entity may
 194 continue to withhold up to an amount not to exceed 150 percent
 195 of the total costs to complete such items.

196 ~~(f)(e)~~ All items that require correction under the

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197 contract and that are identified after the preparation and
 198 delivery of the list remain the obligation of the contractor as
 199 defined by the contract.

200 ~~(g)(f)~~ Warranty items or items not included in the list of
 201 items required under paragraph (a) may not affect the final
 202 payment of retainage as provided in this section or as provided
 203 in the contract between the contractor and its subcontractors
 204 and suppliers.

205 ~~(h)(g)~~ Retainage may not be held by a local governmental
 206 entity or a contractor to secure payment of insurance premiums
 207 under a consolidated insurance program or series of insurance
 208 policies issued to a local governmental entity or a contractor
 209 for a project or group of projects, and the final payment of
 210 retainage as provided in this section may not be delayed pending
 211 a final audit by the local governmental entity's or contractor's
 212 insurance provider.

213 ~~(i)(h)~~ If a local governmental entity fails to comply with
 214 its responsibilities to develop the list required under
 215 paragraph (a) or paragraph (b), ~~as defined in the contract,~~
 216 within the time limitations provided in paragraph (a), the
 217 contractor may submit a payment request for all remaining
 218 retainage withheld by the local governmental entity pursuant to
 219 this section and payment of any remaining contract amount must
 220 be paid within 20 business days. If the local governmental
 221 entity has provided written notice to the contractor specifying
 222 the failure of the contractor to meet contract requirements in
 223 the development of the list of items to be completed, the local
 224 governmental entity need not pay or process any payment request

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225 for retainage if the contractor has, in whole or in part, failed
 226 to cooperate with the local governmental entity in the
 227 development of the list, ~~or~~ failed to perform its contractual
 228 responsibilities, if any, with regard to the development of the
 229 list, or if paragraph (8)(f) applies.

230 Section 3. Section 218.76, Florida Statutes, is amended to
 231 read:

232 218.76 Improper payment request or invoice; resolution of
 233 disputes.—

234 (1) ~~If In any case in which~~ an improper payment request or
 235 invoice is submitted by a vendor, the local governmental entity
 236 shall, within 10 days after the improper payment request or
 237 invoice is received ~~by it~~, notify the vendor, in writing, that
 238 the payment request or invoice is improper and indicate what
 239 corrective action on the part of the vendor is needed to make
 240 the payment request or invoice proper.

241 (2) ~~If In the event~~ a dispute arises ~~occurs~~ between a
 242 vendor and a local governmental entity concerning payment of a
 243 payment request or ~~an~~ invoice, the dispute ~~such disagreement~~
 244 shall be finally determined by the local governmental entity
 245 pursuant to ~~as provided in this section.~~ ~~Each local governmental~~
 246 ~~entity shall establish~~ a dispute resolution procedure
 247 established ~~to be followed~~ by the local governmental entity ~~in~~
 248 ~~cases of such disputes.~~ Such procedure must ~~shall~~ provide that
 249 proceedings to resolve the dispute are ~~shall be~~ commenced within
 250 ~~not later than~~ 45 days after the date ~~on which~~ the payment
 251 request or proper invoice was received by the local governmental
 252 entity and ~~shall be~~ concluded by final decision of the local

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253 governmental entity within ~~not later than~~ 60 days after the date
 254 ~~on which~~ the payment request or proper invoice was received by
 255 the local governmental entity. Such procedures are ~~shall~~ not be
 256 subject to chapter 120~~7~~, and do ~~such procedures shall~~ not
 257 constitute an administrative proceeding that ~~which~~ prohibits a
 258 court from deciding de novo any action arising out of the
 259 dispute. If the dispute is resolved in favor of the local
 260 governmental entity, ~~then~~ interest charges ~~shall~~ begin to accrue
 261 15 days after the local governmental entity's final decision. If
 262 the dispute is resolved in favor of the vendor, ~~then~~ interest
 263 begins ~~shall begin~~ to accrue as of the original date the payment
 264 became due. If the local governmental entity does not commence
 265 the dispute resolution procedure within the time required, the
 266 objection to payment shall be deemed to have been waived. The
 267 time for dispute resolution may be extended upon the written
 268 agreement of the affected parties.

269 (3) In an action to recover amounts due under this part
 270 ~~ss. 218.70-218.80~~, the court shall award court costs and
 271 reasonable attorney's fees, including fees incurred through any
 272 appeal, to the prevailing party, ~~if the court finds that the~~
 273 ~~nonprevailing party withheld any portion of the payment that is~~
 274 ~~the subject of the action without any reasonable basis in law or~~
 275 ~~fact to dispute the prevailing party's claim to those amounts.~~

276 Section 4. This act shall take effect July 1, 2010.

HB 1485

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1485

Hillsborough County

SPONSOR(S): Glorioso

TIED BILLS:

IDEN./SIM. BILLS: SB 2360

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Noriega <i>TN</i>	Hoagland <i>[Signature]</i>
2)	Economic Development & Community Affairs Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

Chapter 2001-299, Laws of Florida, created the Hillsborough County Public Transportation Commission (PTC) to regulate and supervise the operation of taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers used for government purposes on public highways within all municipalities and unincorporated areas in Hillsborough County.

This bill revises the PTC’s chapter law definition of “wreckers” to conform to the current statutory definition and to include those entities contracted to perform “non-consensual” or private property towing. In doing so, the bill makes these types of wreckers subject to the application, licensing, and fee provisions of the PTC. The bill specifies that these provisions apply to any person regularly engaged in towing or storing vehicles or vessels in Hillsborough County pursuant to Florida Statutes.

The bill makes minor, stylistic changes to the definition of “basic life support ambulance.”

This bill has an effective date of upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Chapter 2001-299, Laws of Florida, created the Hillsborough County Public Transportation Commission (PTC) to regulate and supervise the operation of public vehicles on the public highways of Hillsborough County and its municipalities, and all other matters affecting the relationship between the operation of public vehicles and the traveling public.

The PTC is an independent special district, and except as otherwise provided by ch. 2001-299, L.O.F., the PTC must comply with all applicable provisions of ch. 189, F.S.,¹ and any other general law relating to special districts.

Regulated Vehicles

Among the public vehicles regulated by the PTC are certain "for-hire" vehicles such as taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers contracted for use by, through, or for any unit of local, county, or state government as requested by those entities as needed on a "rotation" basis. Examples of these wreckers are those primarily used by local police and government agencies within Hillsborough County, including police departments in the cities of Tampa, Plant City, and Temple Terrace; the Hillsborough County Sheriff's Office; the Florida Highway Patrol; and local Code Enforcement departments operating within Hillsborough County. These wreckers are also referred to as "on-rotation" or "government tows."

Membership

The PTC currently consists of seven elected public officials representing the municipalities and governments within Hillsborough County. The membership consists of three members from the Hillsborough County Board of County Commissioners appointed by this board, two members from the Tampa City Council appointed by this council, one member from the Plant City Commission appointed by this city commission, and one member from the Temple Terrace City Council appointed by this council. Each member must serve without compensation, and the term of the office is for a period of two years. In addition, each governing body must also appoint an alternate member to the PTC to serve during the absence of any regular member.

¹ Chapter 189, F.S., addresses "Special Districts: General Provisions."

Application and Licensing Process

The PTC requires companies, their owners and operators, and their vehicles and drivers, to submit to an application and review process that requires minimum standards, as set forth by the PTC, before obtaining a "permit" or "certificate" from the PTC to operate. These "Operator Permit" rules include a "Certificate Of Public Convenience and Necessity" (COPCN) application process that includes a business plan, good credit, insurance, a valid Florida driver's license and driver history, Florida Department of Law Enforcement (FDLE) and National Crime Information Center (NCIC) criminal history background checks for business owners, and other requirements such as minimum vehicle standards. An independent "Hearing Master" at an advertised public hearing reviews COPCN operator permit applications. The Hearing Master then submits the findings and recommendations to the full PTC Board at the PTC monthly public Commission meeting for final approval.

Fees

According to the PTC, there were 59 towing companies licensed by the PTC to do government and law-enforcement-requested towing as of October 2009. Each of these companies currently pays an annual fee of \$290.00 for the first vehicle and \$75.00 for each additional vehicle. The PTC has stated that no fee increase has taken place since 1984.

Types of Towing Services Available in Florida

According to the PTC, there are several types of towing services currently available in Florida. These are as follows:

1.) Repossession or "Repo" Towers

Repossession or "repo" towers can operate throughout Florida and are strictly regulated and licensed directly by the state under a separate statute² that supersedes and precludes any local government regulation. Repossession towers are licensed by the Florida Department of Agriculture and Consumer Services and are not subject to PTC regulations, except when providing "government tows",³

2.) AAA Peninsular Motor Club and Other Similar "Auto Club" Roadside Services Towers

Roadside services towers provide what is known as "consensual" services. These services are used in situations where drivers or motorists contact a wrecker or tower to pick up a disabled vehicle for transport to the closest service station for repairs. The service rates for "consensual" services towers are not regulated and their overall level of regulation may vary based on local jurisdictional requirements. In addition, these "consensual" services towers are not subject to PTC regulations, except when providing "government tows";

3.) "On-Rotation" Towers

The term "on-rotation" refers to towing companies dispatched by local police agencies from a list of towers that respond to accidents or abandoned vehicles. This type of towing is available in Hillsborough County, and responding towers are regulated by the PTC. Also, "on-rotation" towing has traditionally been covered by the PTC's "Special Act" under the statutory definition of "government tows," and, as such, is governed by the PTC's rules, regulations and fee structure; and

4.) "Non-Consensual" Towers and Impound Companies

"Non-consensual" towers remove a person's vehicle "without his or her consent" from the "private property" of a commercial or private owner. This type of towing entity then takes the offending vehicle to a locked, fenced-in area where the vehicle is then held until the owner of the vehicle visits the tower's place of business to pay a fee to retrieve and reclaim that vehicle.

² Chapter 493, Part IV, F.S.

³ All wreckers providing "government tows" are required to be licensed by the PTC.

Wrecker services or towers not providing "government tows," such as those providing "non-consensual" tows, are currently not subject to PTC regulations. However, Florida Statutes regulate certain aspects of roadside services wreckers and "non-consensual" towing. For example, s. 715.07, F.S.,⁴ identifies the conditions and restrictions required to perform a "non-consensual" tow. Some violations of the conditions and restrictions are subject to criminal prosecution. A person that improperly causes a vehicle to be towed is liable to the vehicle owner for certain costs, damages, and fees.

Pursuant to s. 125.0103, F.S.,⁵ counties have the authority to set rates for "non-consensual" towing. Hillsborough County has adopted the maximum authorized rates for "non-consensual" towing services.

The PTC has estimated that the number of towing and impound companies within Hillsborough County currently performing "non-consensual" towing is between 10 and 20.

Proposed Changes

This bill revises the PTC's chapter law definition of "wreckers" to conform to the current definition found in s. 713.78, F.S.⁶ This statutory definition includes those entities that tow, carry, or otherwise transport motor vehicles or vessels upon the public streets or highways and that are equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

This bill revises the PTC's chapter law definition of "wreckers" to conform to the current statutory definition and to include those entities contracted to perform "non-consensual" or private property towing. In doing so, the bill makes these types of wreckers subject to the application, licensing, and fee provisions of the PTC. The bill specifies that these provisions apply to any person regularly engaged in towing or storing vehicles or vessels in Hillsborough County pursuant to s. 715.07, F.S.

The bill does not affect the three other types of towing addressed in the "Current Situation" section of this analysis (repossession or "repo" wreckers, roadside services wreckers, and "on-rotation" towers), and also makes minor, stylistic changes to the definition of "basic life support ambulance."

This bill has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1. Revises the definitions of "basic life support ambulance" and "wrecker."

Section 2. Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 8, 2010

WHERE? *La Gaceta*, a weekly newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

⁴ Section 715.07, F.S., addresses "vehicles or vessels parked on private property; towing."

⁵ Section 125.0103, F.S., addresses "ordinances and rules imposing price controls; findings required; procedures."

⁶ Section 713.78, F.S., addresses "liens for recovering, towing, or storing vehicles and vessels."

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

The PTC notes that increased enforcement of "non-consensual" towing will greatly benefit the traveling public and relieve city, county, and state law enforcement agencies that currently have to deal with non-emergency complaints against an increasing strain of dwindling revenues and funding cuts to law enforcement. The PTC also notes that taxpayers will not be affected because user fees paid by the towing companies performing "non-consensual" towing in Hillsborough County (estimated to be about \$10,000 in fiscal year 2011-12) will offset the PTC's expenses associated with increased enforcement. Therefore, it appears that the provisions of this bill will be revenue-neutral to the PTC.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

According to the PTC, "non-consensual" towing leads to most of the complaints that local police agencies have to address. Because of this, the PTC has stated that the purpose of this bill is to provide enforcement and that this bill does not take any authority away from local jurisdictions.

The PTC recently proposed a fee increase following an advertised public hearing. This fee increase would result in a current annual fee of \$350.00 per company for the first vehicle and \$100.00 for each additional vehicle. Prior to final approval, these proposed fees are subject to Administrative Procedure Act (APA) guidelines.⁷ At present, the PTC has not formally adopted the rules associated with these fee increases.

The PTC has also stated that several entities are proponents of this bill, including the Hillsborough County Sheriff's Office, three Police Chiefs within Hillsborough County, the Hillsborough County Consumer Protection Agency, AAA Auto Club South, and two large towing associations in Florida (the Professional Wrecker Operators of Florida and the Hillsborough County Towing Association). While individual membership in these towing associations is voluntary, the PTC has indicated that it has received widespread support from the towing industry and other groups at public meetings and workshops in Hillsborough County that were properly noticed and videotaped. In addition, the PTC has stated that there are no known opponents of this bill.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁷ Chapter 120, F.S.

Publisher's Affidavit

LA GACETA

PUBLISHED WEEKLY
Tampa, Hillsborough County, Florida

State of Florida

County of Hillsborough, ss.

Before the undersigned authority personally appeared

Patrick Manteiga

who under oath says he is the Publisher of La Gaceta, a weekly newspaper published at Tampa, in Hillsborough County, Florida, that the attached copy of advertisement, being a

NOTICE OF LEGISLATION

in the matter of

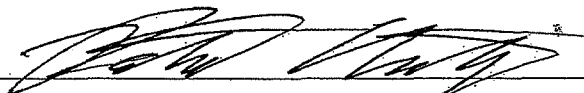
AMENDING CHAPTER 2001-299, LAWS OF FLORIDA, RELATING TO THE PUBLIC TRANSPORTATION COMMISSION; REVISING DEFINITIONS; PROVIDING AN EFFECTIVE DATE.

DATED AT TAMPA, FLORIDA, THE 6TH-DAY OF JANUARY, 2010

In the Circuit Court of the Thirteenth Judicial Circuit

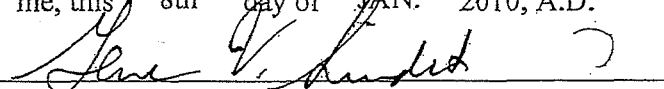
was published in said newspaper in the issues of 1/8/2010

Affiant further says that the said La Gaceta is a newspaper published at Tampa, in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each week and has been entered as second class mailing matter at the post office in Tampa, in said Hillsborough County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

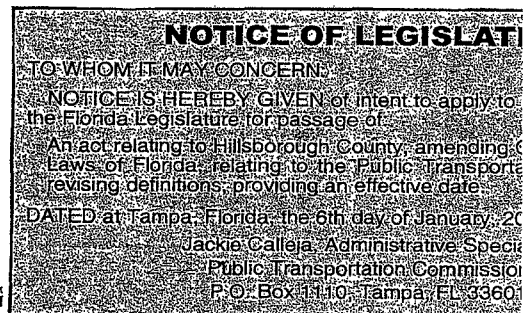


personally known sworn to and subscribed before me, this 8th day of JAN. 2010, A.D.

(SEAL)



GENE V. SIUDUT
Commission DD 652977
Expires March 20, 2011
Bonded Thru Troy Fall Insurance 800-988-7019



NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN of intent to apply to the 2010 Session of the Florida Legislature for passage of

An act relating to Hillsborough County, amending Chapter 2001-299, Laws of Florida, relating to the Public Transportation Commission, revising definitions, providing an effective date.

DATED at Tampa, Florida, the 6th day of January, 2010.

Jackie Calleja, Administrative Specialist
Public Transportation Commission
P. O. Box 1110, Tampa, FL 33601

1/8/10:JT

HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1485

SPONSOR(S): Representative Glorioso

RELATING TO: Hillsborough County
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Hillsborough County Legislative Delectiona

CONTACT PERSON: Victor DiMaio

PHONE NO.: (813) 361-1922 E-Mail: DiMaioAssociates@aol.com

I. *House local bill policy requires that three things occur before a council or a committee of the House considers a local bill: (1) the members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: 12/18/2010

Location: Sam & Martha Gibbons Alumni Center

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES NO DATE 01/08/2010

Where? La Gaceta County Hillsborough

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.



Delegation Chair (Original Signature)

3/15/2010

Date

Rep Will Weatherford

Printed Name of Delegation Chair

2010 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL#: 1485

SPONSORS: State Representative Richard "Rich" Glorioso.....House District 62
State Senator Victor Crist.....Senate District 12

RELATING TO: Hillsborough County Public Transportation Commission (PTC)

Indicate Area Affected (City, County, Special District) and Subject:

Independent Special District within Hillsborough County, Florida / Transportation

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	<u>FY 10-11</u>	<u>FY11-12</u>
Expenditures:	\$0.00	\$10,000.00(est.) (more or less)

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 10-11</u>	<u>FY11-12</u>
Federal: None	N/A	N/A

State: None

Local: The PTC is strictly fee supported. No ad valorem taxes fund the PTC.

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 10-11</u>	<u>FY11-12</u>
Revenues:	\$0.00	\$10,000.00 (est.) (more or less)

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:

Increased enforcement of non-consensual towing will greatly benefit the traveling public and relieve our current city, county and state law enforcement agencies who currently have to deal with these non-emergency complaints against an increasing strain of dwindling revenues and funding cuts to law enforcement. Taxpayers will not be affected because user fees paid by the towing companies performing non-

Economic Impact Statement

PAGE 2

consensual towing in Hillsborough County will pay the revenues for increased enforcement.

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: None

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCE[S] OF DATA:

Estimated number of towing and impound companies within Hillsborough County currently performing non-consensual towing is between 10 and 20. The number of towing companies currently licensed by the PTC to do government and law enforcement requested towing as of October 2009 is 59. The current annual fee per company as of October 2009 is \$290.00 for the first vehicle and \$75.00 for each subsequent vehicle thereafter. The PTC has not had an increase of these fees since 1984. The PTC is proposing a fee increase, after having recently held an advertised public hearing, and is expected to adopt an increase in November 2009 to the above fees of \$350.00 for the first vehicle and \$100.00 for each subsequent vehicle thereafter. Those fees will be subject to the Administrative Procedures Act (APA) Chapter 120, FS, before final adoption.

PREPARED BY (#3):


Cesar Padilla

Date:

11-13-09

TITLE: Interim Executive Director

REPRESENTING: Hillsborough County Public Transportation Commission

PHONE: (813) 272-5814

E-MAIL: padillac@hillsboroughcounty.org

(#3) Original signature required.

1 A bill to be entitled
 2 An act relating to Hillsborough County; amending chapter
 3 2001-299, Laws of Florida, relating to the Public
 4 Transportation Commission; revising definitions; providing
 5 an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsections (1) and (34) of section 3 of
 10 chapter 2001-299, Laws of Florida, are amended to read:

11 Section 3. Definitions.—As used in this act:

12 (1) "Basic life support ambulance" means any privately or
 13 publicly owned vehicle, except those operated by any
 14 municipality, that is designed, constructed, reconstructed,
 15 maintained, equipped, or operated for and is used for or
 16 intended to be used for transportation of a sick or injured
 17 person ~~persons~~ requiring or likely to require medical attention
 18 during transport by a qualified person ~~persons~~ through the use
 19 of techniques such as patient assessment, cardiopulmonary
 20 resuscitation, splinting, obstetrical assistance, bandaging,
 21 administration of oxygen, application of medical anti-shock
 22 trousers, administration of a subcutaneous injection using a
 23 premeasured autoinjector of epinephrine to a person suffering an
 24 anaphylactic ~~anaphylactic~~ reaction, and other techniques
 25 described in the Emergency Medical Technician Basic Training
 26 Course Curriculum of the United States Department of
 27 Transportation or the Florida Department of Health and the
 28 requirements of chapter 401, Florida Statutes.

HB 1485

2010

29 (34) "Wrecker" means any truck or other ~~privately owned~~
 30 ~~motor driven~~ vehicle that is used to tow, carry, or otherwise
 31 transport motor vehicles or vessels upon the streets and
 32 highways of this state and that is equipped for that purpose
 33 with a boom, winch, car carrier, or other similar equipment and
 34 is in the recovery, towing, or removal of wrecked, disabled,
 35 ~~stolen, and abandoned motor vehicles~~ and contracted for use by,
 36 through, or for any unit of local, county, or state government,
 37 and not authorized to transport passengers for hire or any
 38 person regularly engaged in towing or storing vehicles or
 39 vessels in Hillsborough County pursuant to section 715.07,
 40 Florida Statutes.

41 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1625 Brevard County
SPONSOR(S): Workman
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Tecler <i>AT</i>	Hoagland <i>BAK</i>
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill authorizes the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation (Division) to issue a special alcoholic beverage license to the East Coast Zoological Society of Florida, Inc., (the Corporation) for use solely within the Brevard Zoo. The bill requires the Corporation to pay the applicable license fee provided in s. 565.02, F.S.

The license authorized by this bill allows the Corporation to sell alcoholic beverages for consumption within the grounds of the Brevard Zoo, but not off the premises. Further, the bill allows the Corporation to transfer the license to qualified applicants authorized by contract with the Corporation to provide food services on the premises. According to the Economic Impact Statement, the bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder.

This bill has an effective date of upon becoming law.

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.17, F.S.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapters 561-568, F.S., comprise Florida's Beverage Law. Section 561.02, F.S., provides that the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation (Division) is responsible for the enforcement of these statutes. The Beverage Law requires the Division to conduct background investigations on potential licensees and requires that licensees meet prescribed standards of moral character. Further, the Beverage Law prohibits certain business practices and relationships. Alcoholic beverage licenses are subject to fines, suspensions and/or revocations for violations of the Beverage Law.

Section 561.17, F.S., requires a business entity or person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages.¹ The sale of alcoholic beverages is generally considered to be a privilege and, as such, licensees² are held to a high standard of accountability.

Unless sold by the package for consumption off the licensed premises, the sale and consumption of alcoholic beverages by the drink is limited to the "licensed premises" of a retail establishment over which the licensee has dominion or control. The Beverage Law does not allow a patron to leave an establishment with an open alcoholic beverage and/or enter another licensed premises with an alcoholic beverage.

Section 565.02(1)(b), F.S., provides that a vendor must pay an annual license fee of \$1,820 if it operates a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared pursuant to s. 186.901, F.S.,³ for such county.

No alcoholic beverage license is currently issued to the East Coast Zoological Society of Florida, Inc., a not-for-profit corporation.

¹ According to s. 561.01(4)(a), F.S., "alcoholic beverages" are defined as distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

² According to s. 561.01(14), F.S., "licensee" is defined as a legal or business entity, person, or persons that hold a license issued by the division and meets the qualifications set forth in s. 561.15, F.S.

³ Section 186.901, F.S., addresses "population census determination."

Effect of Proposed Changes

Notwithstanding the limitations contained in the Beverage Law, this bill authorizes the Division to issue a special alcoholic beverage license to the East Coast Zoological Society of Florida, Inc., (the Corporation) for use solely within the Brevard Zoo.

The bill requires the Corporation to pay the applicable license fee provided in s. 565.02, F.S.

The license authorized by this bill allows the Corporation to sell alcoholic beverages for consumption within the grounds of the Brevard Zoo, but not off the premises.

Further, the bill allows the Corporation to transfer the license to qualified applicants authorized by contract with the Corporation to provide food services on the premises. However, upon termination of a transferee's authorization or contract, the license automatically reverts to the Corporation by operation of law.

According to the Office of Economic and Demographic Research, the 2009 population estimate for Brevard County is 555,657. Therefore, the license fee of \$1,820 listed in s. 565.02(1)(b), F.S., would apply to the Corporation.

This bill has an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1. Authorizes the Division to issue an alcoholic beverage license to the East Coast Zoological Society of Florida, Inc. in accordance with s. 561.17, F.S., upon application and payment of the appropriate license fee.

Section 2. Authorizes the sale of alcoholic beverages to be consumed on the premises of the Brevard Zoo. The authorized license prohibits the sale of alcoholic beverages in sealed containers for consumption outside the premises.

Section 3. Authorizes the transfer of the license and provides for subsequent reversion of the license under certain circumstances.

Section 4. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 3, 2010.

WHERE? The Florida Today, a daily newspaper of general circulation published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.17, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

Mailed to:

Brevard Zoo
8225 N Wickham Road
Melbourne, Fl. 32940
Attn: Keith Winsten

A daily publication by:



STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared **KATHY CICALA**, who on oath says that she is LEGAL ADVERTISING SPECIALIST of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a

LEGAL NOTICE

AD#17671502/03/2010
LEGAL NOTICE
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2010 session of the Florida Legislature for passage of an act relating to Brevard County authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the East Coast Zoological Society of Florida, Inc., dba Brevard Zoo, for use within the Brevard Zoo buildings and grounds providing for payment of the license fee; providing for sale of beverages for consumption within the Brevard Zoo buildings and grounds; providing for transfer of the license.
Date at Melbourne, FL this 3rd day of February, 2010.
Representative Rich Workman
Brevard County
Legislative Delegation
33 Suntree Place
Suite D
Melbourne, FL 32940

Ad # (176715)	S	9518	the matter of:
BREVARD ZOO				
the		Court		LEGAL NOTICE
ALCOHOLIC BEVERAGE LICENSE				

as published in the FLORIDA TODAY in the issue(s) of:

February 3, 2010

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Kathy Cicala

(Signature of Affiant)

Sworn to and subscribed before this:



MARY GRIFFIN
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD0933769
Expires 10/19/2013

Mary Griffin

(Signature of Notary Public)

Mary Griffin

(Name of Notary Typed, Printed or Stamped)

Personally Known or Produced Identification _____
Type Identification Produced: _____

**HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM**

BILL #: 1625

SPONSOR(S): Ritch Workman

RELATING TO: Brevard Zoo, Brevard County
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Brevard County

CONTACT PERSON: Rob Feltner (Rep. Workman's office)

PHONE NO.: 850-488-9720 **E-Mail:** rob.feltner@myfloridahouse.gov

I. *House local bill policy requires that three things occur before a council or a committee of the House considers a local bill: (1) the members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: November 30, 2009

Location: Brevard County Gov. Center 2725 Judge Fran Jamieson Way Melbourne, FL 32940

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES NO **DATE** 2/3/2010

Where? Melbourne **County** Brevard

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

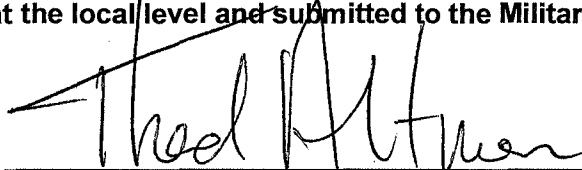
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.



Delegation Chair (Original Signature)

3/8/2010

Date

Sen. Thad Altman

Printed Name of Delegation Chair

Economic Impact Statement

HOUSE OF REPRESENTATIVES
2010 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no local bill will be considered by a council or a committee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL whether or not there is an economic impact. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

BILL #: 1625
SPONSOR(S): Ritch Workman
RELATING TO: Brevard Zoo, Brevard County
[Indicate Area Affected (City, County or Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures:	<u>FY 10-11</u>	<u>FY 11-12</u>
NA		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 10-11</u>	<u>FY 11-12</u>
Federal:	0	0
State:	0	0
Local:	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues:	<u>FY 10-11</u>	<u>FY 11-12</u>
Taxes on Liquor, Functions	\$5,000	\$7,500

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: - Supports Zoo audits \$18 million + local economic impact
- Supports local catering and rental businesses

Disadvantages:

Economic Impact Statement

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

There are no other function facilities in Brevard County that offer similar programs at events

There are no other accredited zoos in Brevard County

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

- ① 2007 Economic Impact of Brevard Zoo was generated by Space Coast Economic Development Commission
- ② Association of Zoos and Aquariums

PREPARED BY:  3/9/18
[Must be signed by Preparer] Date

TITLE: Executive Director

REPRESENTING: Brevard Zoo

PHONE: (321) 223-7366

E-Mail Address: KWinsten@brevardzoo.org

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29 | alcoholic beverages in sealed containers for consumption outside
30 | the Brevard Zoo.

31 | Section 3. The corporation may transfer the license from
32 | time to time to qualified applicants who are either authorized
33 | by or under contract with the corporation to provide food
34 | services at the Brevard Zoo. Upon termination of a transferee's
35 | authorization or contract, the license shall automatically
36 | revert by operation of law to the corporation.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1627

Hardee County Economic Development Authority, Hardee County

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Tecler <i>AT</i>	Hoagland <i>MK</i>
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Hardee County Economic Development Authority (the Authority) was created in 2004 by chapter 2004-394, Laws of Florida, in accordance with s. 211.3103(3)(b)3., F.S. The Authority solicits, ranks, and funds projects that provide economic development opportunities and infrastructure within the geographic boundaries of Hardee County.

The bill amends Section 1 and Section 7 in chapter 2004-394, L.O.F. The bill provides the Hardee County Economic Development Authority with greater flexibility in funding projects and corrects a typographical error. Further, the bill strikes a provision requiring equitable geographic and demographic distribution of funds.

The bill will take effect upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Hardee County Economic Development Authority (the Authority) was created in 2004 by chapter 2004-394, Laws of Florida, in accordance with s. 211.3103(3)(b)3., F.S.¹ The Authority solicits, ranks, and funds projects that provide economic development opportunities and infrastructure within the geographic boundaries of Hardee County.

Located in a county designated as a Rural Area of Critical Economic Concern, the Authority is eligible for a portion of the revenues collected through an excise tax on locally mined phosphate rock. The criteria for evaluating grants-in-aid applicants and dispersing grant-in-aid funds are prescribed in law.

The Authority is administered by a governing board of nine members serving staggered 3-year terms. Chapter 2006-349 amended chapter 2004-394, L.O.F., and revised the membership of the Authority by removing the Secretary of the Florida Department of Community Affairs and replaced the member of the Authority with the director of the Agency for Workforce Innovation.

Effect of Proposed Changes

The bill amends section 1 and section 7 in chapter 2004-394, L.O.F. The bill provides the Hardee County Economic Development Authority with greater flexibility in funding projects by striking "**and**" and inserting "**or**" in "**fund projects that provide economic development opportunities and infrastructure**". Further, the bill corrects a typographical error and strikes a provision requiring equitable geographic and demographic distribution of funds.

The bill will take effect upon becoming law.

B. SECTION DIRECTORY:

Section 1. The bill amends subsection (2) of section 1 and strikes a provision in paragraph (e) 10 of subsection (2) of section 7 in chapter 2004-394, L.O.F., to provide greater funding flexibility to the Authority.

Section 2. The bill will take effect upon becoming law.

¹ This reference was changed to 211.3103(2)(b)3, F.S., by s. 2, ch. 2008-150, L.O.F.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 4, 2010

WHERE? *The Herald Advocate*

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The notice incorrectly cites that HB1627 will amend Chapter 2006-349, Laws of Florida. However, this error does not appear to affect the substance of the notice.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Chapter 2004-394, L.O.F., provides, in section 1(1) that the authority is created in accordance with s. 211.3103(3)(b)2, F.S. Chapter 2008-150, L.O.F. amended this section. As such, a technical amendment is recommended to correct the reference to s. 211.3103(2)(b)3, F. S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

AFFIDAVIT OF PUBLICATION
The Herald-Advocate
Published Weekly at Wauchula, Florida

STATE OF FLORIDA,
COUNTY OF HARDEE

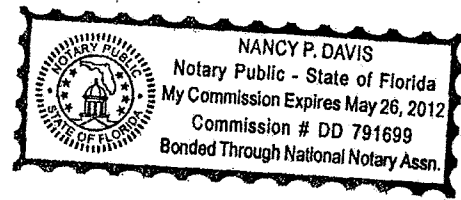
Before the undersigned authority personally appeared Kim Beas
who on oath says he is the Secretary of The Herald-Advocate, a
newspaper published at Wauchula, in Hardee County, Florida; that the attached copy of advertise-
ment, being a Notice of Legislation
in the matter of 2010 Legislature Special Extraordinary
in the Session amending act Chapter 2006-349
of Feb. 4, 2010 Court, was published in said newspaper in the issues

Affiant further says that the said Herald-Advocate is a newspaper published at Wauchula, in
said Hardee County, Florida, and that the said newspaper has heretofore been continuously published
in said Hardee County, Florida, each week and has been entered as second class mail matter at the
post office in Wauchula, in said Hardee County, Florida, for a period of one year next preceding the
publication of the attached copy of advertisement; and affiant further says that he has neither paid nor
promised any person, firm or corporation any discount, rebate, commission or refund for the purpose
of securing this advertisement for publication in the said newspaper.

Kim Beas

Sworn to and subscribed before me this 4th day of February
A.D. 20 10
Nancy P. Davis
Notary Public
My Commission Expires May 26, 20 12

NOTICE OF LEGISLATION
TO WHOM IT MAY CONCERN:
NOTICE IS HEREBY GIVEN of the intent to
apply to the 2010 Legislature and any Special or
Extended Sessions for passage of an act relating to
Hardee County, amending Chapter 2006-349, Laws of
Florida relating to the revision of the stated purpose of
the authority to clarify the funding of projects, to
eliminate incorrect cross references, and to amend the
criteria related to public benefit, and provide for an
effective date.
Dated at Wauchula, Florida, this 04th day of
February, 2010.
Representative Baxter Troutman 02:04



**HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM**

BILL #: 11627

SPONSOR(S): Representative Troutman

RELATING TO: Hardee County Economic Development Authority
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Hardee County

CONTACT PERSON: Andrea Bass

PHONE NO.: 850-488-9465 E-Mail: andrea.bass@myfloridahouse.gov

I. *House local bill policy requires that three things occur before a council or a committee of the House considers a local bill: (1) the members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: December 1, 2009

412 Orange St Wauchula, FL 33873

Location: Hardee County Board of County Commission Chambers

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES NO DATE 2-4-10

Where? Newspaper County Hardee

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

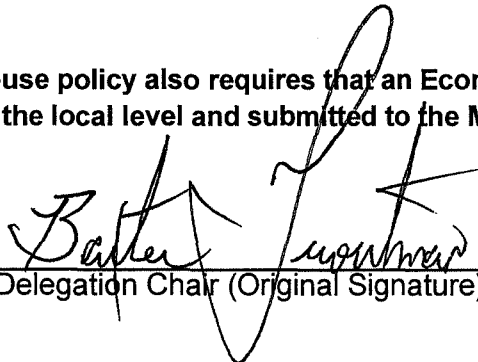
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.


Delegation Chair (Original Signature)

3/16/2010
Date

Baxter G. Troutman
Printed Name of Delegation Chair

Economic Impact Statement

HOUSE OF REPRESENTATIVES
2010 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no local bill will be considered by a council or a committee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL whether or not there is an economic impact. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

BILL #: 1627

SPONSOR(S):

RELATING TO: Hardee County Economic Development Authority
[Indicate Area Affected (City, County or Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: FY 10-11 FY 11-12
None

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: None FY 10-11 FY 11-12
State:
Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: FY 10-11 FY 11-12
None

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:
None

Disadvantages:
None

Economic Impact Statement

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

None

PREPARED BY:  02/02/10
[Must be signed by Preparer] Date

TITLE: Chairman

REPRESENTING: Hardee Co. EDA

PHONE: 863-773-9430

E-Mail Address: directorbill@embarqmail.com

1 A bill to be entitled
 2 An act relating to the Hardee County Economic Development
 3 Authority, Hardee County; amending chapter 2004-394, Laws
 4 of Florida; revising provisions relating to the
 5 authority's purpose and grant application criteria;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (2) of section 1 and paragraph (e)
 11 of subsection (2) of section 7 of chapter 2004-394, Laws of
 12 Florida, are amended to read:

13 Section 1. Creation.—

14 (2) The purpose of the authority is to solicit, rank, and
 15 fund projects that provide economic development opportunities or
 16 ~~and~~ infrastructure within the geographic boundaries of Hardee
 17 County and to otherwise maximize the use of federal, local, and
 18 private resources as provided by section 211.3103~~(4)~~(5), Florida
 19 Statutes, as amended from time to time, and for its
 20 administrative and other costs as further provided by this act.

21 Section 7. Grants; application; review; awards.—

22 (2) APPLICATION REVIEW.—

23 (e) Thereafter, the authority shall evaluate each
 24 application based on the criteria relating to the site involved,
 25 the prospective grantee, and the anticipated public benefit as
 26 follows:

27 1. Criteria related to the site shall be established by
 28 the authority prior to any solicitation for grant applications.

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- 29 2. Criteria related to the grantee:
- 30 a. Administrative capability, including personnel,
- 31 facilities, and organization, adequate to complete the project
- 32 and meet the administrative requirements of the grant.
- 33 b. Financial resources adequate to carry project costs as
- 34 necessary pending receipt of reimbursements from grant funds.
- 35 c. Availability of professional and technical services
- 36 required to carry out the project work.
- 37 3. Criteria related to public benefit:
- 38 a. Compatibility with countywide economic development and
- 39 infrastructure priorities, ~~including equitable geographic and~~
- 40 ~~demographic distribution of available funds.~~
- 41 b. Anticipated economic benefits, including direct impact
- 42 on the local economy and the stimulation of additional private-
- 43 sector interest and investment in the county.
- 44 c. Public use or other public good resulting from the
- 45 project.
- 46 Section 2. This act shall take effect upon becoming a law.

Amendment No.1

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Military Affairs and Domestic
2 Security
3 Representative(s) Troutman offered the following:

Amendment (with directory and title amendments)

Between lines 13 and 14, insert:

7 (1) The Hardee County Economic Development Authority is
8 created in accordance with section 211.3103(2)(b)3.
9 ~~211.3103(3)(b)3.~~, Florida Statutes, as amended from time to
10 time, as a body corporate. The powers granted by this act are
11 declared to be public and governmental functions exercised for
12 public purposes and are matters of public necessity.

14 -----
15 **D I R E C T O R Y A M E N D M E N T**

Remove line 10 and insert:

17 Section 1. Subsections (1) and (2) of section 1 and
18 paragraph (e)

Amendment No.1

20

21

22

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

23

Remove line 6 and insert:

24

correcting statutory cross references; providing an effective

25

date.