Policy and Budget Council

April 14, 2008
3:15 p.m.
212 Knott Building

Meeting Packet
(1 of 2)

Marco Rubio
Speaker

Ray Sansom
Chair

The Florida House of Representatives

Policy & Budget Council

Marco Rubio
Speaker

Ray Sansom
Chair

Meeting Agenda
Monday, April 14, 2008
212 Knott Building
3:15 p.m.

I. **Call to Order**

II. **Roll Call**

III. **Consideration of the following bills:**

CS/HB 19 – Optional Coverage for Mental and Nervous Disorders by Healthcare Council and Representative Homan

CS/HB 21 – State Aid to Public Libraries by Economic Expansion & Infrastructure Council and Representative D. Davis

HB 51 – Partial Payment of Property Taxes by Representative McKeel

CS/HB 111 – Hurricane Preparedness by Economic Expansion & Infrastructure Council and Representative Nehr

CS/HB 127 – Property Appraisers by Government Efficiency & Accountability Council and Representative Hooper

CS/HB 217 – Tax on Sales, Use, and Other Transactions by Economic Expansion & Infrastructure Council and Representative Altman

CS/HB 225 – Telephone Caller Identification by Safety & Security Council and Representative Kiar

CS/HB 235 – Community Colleges by Schools & Learning Council and Representative Heller

CS/HB 293 – Corporate Income Tax Credits by Economic Expansion & Infrastructure Council & and Representative Weatherford

CS/HB 405 – Health Insurance Claims Payments by Healthcare Council and Representative Galvano

418 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300
850-488-1601 Fax: 850-414-6879

CS/HJR 421 – Additional Homestead Exemption by Government Efficiency & Accountability Council and Representative Simmons

CS/HB 491 – Certification of Public School Educators by Schools & Learning Council and Representative Carroll

CS/HB 593 – Florida Research Commercialization Matching Grant Program by Economic Expansion & Infrastructure Council and Representative Precourt

CS/HB 699 – Affordable Housing by Economic Expansion & Infrastructure Council and Representative Aubuchon

CS/HB 793 – Transitional Services for Young Adults with Disabilities by Healthcare Council and Representative D. Davis

CS/HB 861 – Direct-Support Organizations by Healthcare Council and Representative Reagan

CS/HB 863 – Pub. Rec./Direct-Support Organization/DVA by Heathcare Council and Representative Reagan

CS/HB 903 – Registration of Paid Petition Circulators by Economic Expansion & Infrastructure Council and Representative Dorworth

CS/HB 1163 – Physical Education by Schools & Learning Council and Representative Dorworth and others

CS/HB 1245 – Regional Transportation Authorities by Economic Expansion & Infrastructure Council and Representative Galvano

CS/HB 1259 – Education by Schools & Learning Council and Representative Flores and Representative Legg

CS/HB 1373 – Qualified Defense Contractor Tax Refund Program by Economic Expansion & Infrastructure Council and Representative Altman

CS/HB 1379 – Tax on Sales, Use and Other Transactions by Economic Expansion & Infrastructure Council and Representative Poppell

HB 7021 – Florida Hurricane Catastrophe Fund by Jobs & Entrepreneurship Council and Representative Reagan

HB 7057 – Distinguished Educator Retirement Option Program by Government Efficiency & Accountability Council and Representative Attkisson

IV. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 19 Coverage for Mental, Nervous, and Substance-related Disorders
SPONSOR(S): Healthcare Council; Homan and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 164

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation	6 Y, 1 N	Calamas	Calamas
2) Healthcare Council	18 Y, 0 N, As CS	Calamas/Massengale	Gormley
3) Policy & Budget Council		Leznoff JL	Hansen MPH
4)			
5)			

SUMMARY ANALYSIS

Council Substitute for House Bill 19 amends s. 627.6688, F.S., to create a second category of mandated offering for mental health services. The offering must be made to the policyholder for an appropriate additional premium, as part of the application for a group hospital and medical expense-incurred insurance policy under a group prepaid health care contract or a group health maintenance organization contract.

The bill specifically defines those mental health conditions that must be covered within the new mandated offering, generally including all diagnostic categories of mental health conditions listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders and as listed in the mental and behavioral disorders section of the current International Classification of Diseases.

The bill requires that the mental health benefits may not be more restrictive than the treatment limitations and cost-sharing requirements that are applicable to other diseases, illnesses, and medical conditions, and imposes some utilization limits. The bill authorizes plans to provide the mental health benefits in a managed care setting, and exempts plans from the requirement that the coverage be on par with physical benefits coverage which would experience a cost increase of more than 2 percent.

Dependent upon interpretation, the bill may have an indeterminate negative fiscal impact on the State Employees' Group Health Self-Insurance Trust Fund (see fiscal comments).

The effective date of the bill is January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited government-The bill increases government's role in private sector health insurance by imposing a mandated offering.

Empower families-The bill may increase access for individuals and families to mental and nervous disorder and substance abuse treatment. Employers choosing to cover mental health and substance abuse services will be required to provide, and individuals and families obtaining health insurance through their employers will only be able to purchase health plans that provide mental health parity in accordance with this bill. Employers and families may incur higher costs when purchasing small group insurance.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Regulation of Health Plans

Health plans are regulated at both the state and federal level. At the federal level, the Employee Retirement Income and Security Act (ERISA) regulates the operation of voluntary employer-sponsored benefits including pension plans and health plans. Congress also has enacted several laws that regulate the operation of all health benefits regardless of the method insurance including the Health Insurance Portability and Accountability Act of 1996; the Newborns' and Mothers' Health Protection Act of 1996; and the Mental Health Parity Act of 1996.ERISA provides an explicit exemption from state regulation for health plans that are self-funded. State regulations apply to health benefits purchased through private health insurance plans and health maintenance organizations (HMOs).

Health Insurance Mandates and Mandated Offerings

A health insurance mandate is a legal requirement that an insurance company or health plan cover services by particular health care providers, specific benefits, or specific patient groups.

Mandated offerings, on the other hand, do not mandate that certain benefits be provided. Rather, a mandated offering law can require that insurers offer an option for coverage for a particular benefit or specific patient groups, which may require a higher premium and which the insured is free to accept or reject. A mandated offering law in the context of mental health can: require that insurers offer an option of coverage for mental illness, which may require a higher premium and which the insured is free to accept or reject; or, require that if insurers offer mental illness coverage, the benefits must be equivalent to other types of benefits.

Florida currently has at least[1] 48 mandates, ranking 13th highest in the nation for the number of mandates.[2] Each adds to the cost of a plan's premiums, in a range of less than 1 percent to 10 percent, depending on the mandate.[3] Higher costs resulting from mandates are most likely to be experienced in the small group market since these are the plans that are subject to state regulations.

---

[1] Depending on how liberally the term is defined, an alternate count indicates that there are 51 health insurance mandates in Florida. "Expanding Opportunities for Health Insurance Coverage in Florida" 11, Michael Bond, Ph.D., James Madison Institute; located on March 2, 2008 at http://www.jamesmadison.org/pdf/materials/548.pdf.

[2] "Health Insurance Mandates in the States 2008," Council for Affordable Health Insurance; located on March 2, 2008 at http://www.cahi.org/cahi_contents/resources/pdf/HealthInsuranceMandates2008.pdf.

[3] Id.

Costs of insurance in Florida average $10,848 per year for a family in the small group market. This amount is somewhat higher than the national average of $9,768[4]

Florida enacted section 624.215, F.S., to take into account the impact of insurance mandates and mandated offerings on premiums when making policy decisions. That section requires that any proposal for legislation that mandates health benefit coverage or mandatorily offered health coverage must be submitted with a report to AHCA and the legislative committee having jurisdictions. The report must assess the social and financial impact of the proposed coverage, including, to the extent information is available, the following:

(a) To what extent is the treatment or service generally used by a significant portion of the population.
(b) To what extent is the insurance coverage generally available.
(c) If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment.
(d) If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship.
(e) The level of public demand for the treatment or service.
(f) The level of public demand for insurance coverage of the treatment or service.
(g) The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
(h) To what extent will the coverage increase or decrease the cost of the treatment or service.
(i) To what extent will the coverage increase the appropriate uses of the treatment or service.
(j) To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service.
(k) To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.
(l) The impact of this coverage on the total cost of health care.

Committee staff has not received the report required by section 624.215, F.S., from the proponents of HB 19.

Mental Health Parity

Parity in mental health coverage generally refers to equivalent benefits and limits for mental illness as compared to medical and surgical benefits. According to the United States General Accounting Office, most private health insurance plans limit mental health coverage in three areas:

- Lower annual or lifetime dollar limits;
- Lower service limits, including number of covered hospital days or outpatient office visits; and
- Higher cost-sharing for mental health benefits.

According to the National Conference of State Legislators, 46 states currently regulate the provision of mental health services in three categories:

- Mental health parity;
- Minimum mental health benefits; and
- Mandated mental health offering.

[4] America's Health Insurance Plans, "Health Insurance: Overview and Economic Impact in the States" November, 2007

As of 2007, a majority of states now provide a variety of forms of mental health parity.[5]
Mental Health Parity Act of 1996

Congress enacted the Mental Health Parity Act of 1996 to require group health plans (employer-sponsored and private-sector) that provide medical and surgical benefits to provide the same annual or lifetime dollar limits for mental health benefits. The Act does not, however, require the provision of such benefits. Two exceptions are provided:

- Small employers. The Act does not apply to employers who employed at least 2, but not more than 50, employees during the preceding calendar year.
- Increased cost. The Act does not apply where the result would be an increase in the cost under the plan of at least 1 percent.

The Centers for Medicare & Medicaid Services (CMS) has primary enforcement of the Act in states that do not have legislation that meets or exceeds federal standards, or states that have failed to substantially enforce federal standards. The General Accounting Office has found by nationwide survey that most employers are complying with the Act, with 14 percent reporting that they were not compliant. Data from the private-sector market is not available. The Act expired December 31, 2007, and Congress is currently debating reenactment and revisions.

Mental Health and Substance Abuse Coverage in Florida

Section 627.668, F.S., regulates the provision of mental and nervous disorder services by insurers, health maintenance organizations, and nonprofit hospital and medical service plan corporations providing group health insurance or prepaid health care. Specifically, these entities must make mental and nervous disorder services available to a policyholder for an additional premium. Florida's law is a mandated offering law.

Mental health services must generally include the "necessary care and treatment of mental and nervous disorders, as defined in the standard nomenclature of the American Psychiatric Association."

The Florida mandated offering does not provide full mental health parity.[6] With regard to group policies or contracts, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits with durational limits, any dollar amounts deductibles and coinsurance factors may not be "less favorable" than those for treatment of physical illness. However, Florida law creates exceptions to parity. Such policies may limit mental and nervous disorder benefits as follows:

- Inpatient benefits may be limited to 30 days per benefit year;
- Outpatient benefits may be limited to $1,000 for consultations with a physician, psychologist, mental health counselor, marriage and family therapist, and a clinical social worker;
- Partial hospitalization benefits must be provided under the direction of a physician, including services offered by a program accredited by the Joint Commission such as alcohol rehabilitation and licensed drug abuse rehabilitation; and
- Partial hospitalization services, or a combination of inpatient and partial hospitalization services, are limited to the cost of 30 days of inpatient hospitalization for psychiatric services, including physician fees.

---

5 National Conference of State Legislators, State Laws Mandating or Regulating Mental Health Benefits, December, 2007, available at http://www.ncsl.org/programs/health/mentalben.htm.
6 Prior Florida law imposed a limited mental health parity mandated offering. Section 627.6685, F.S., required parity between mental health benefits and medical/surgical benefits as to lifetime limits and annual limits, if any. The parity requirement expressly did not apply to other terms and conditions, such as cost-sharing, visits or days limits, medical necessity requirements and limits on amount, duration and scope of mental health benefits. The statute did not apply to benefits offered after September 2001, and was repealed in 2005. S. 627.6685(5), F.S.; Ch. 2005-2, § 119, Laws of Florida.

Section 627.669, F.S., regulates the provision of substance abuse services by insurers, HMOs, and nonprofit health care services plans providing group health insurance or prepaid hospital and medical service plan corporations providing group health insurance or prepaid health care. Specifically, these entities must make substance abuse services available to a policyholder. Florida's law is a mandated offering law.

The substance abuse mandated offering does not provide any form of parity with other kinds of coverage. Rather, it requires coverage entities to provide a specific level of benefits, subject to the group policyholder's right to select alternative benefits or level of benefits offered, as follows:

- Minimum lifetime benefit of $2000
- Outpatient visits may be limited to a maximum of 44
- The benefit payable for an outpatient visit shall not exceed $35
- Detoxification shall not be considered an outpatient benefit

<u>Cost of Mental Health Parity</u>

According to the Substance Abuse and Mental Health Services Administration (SAMHSA) within the United States Department of Health and Human Services, four actuarial studies have predicted an increase in health insurance premiums for full parity for mental health benefits. These predictions ranged from 3.2 percent to 8.7 percent.[7] Increased costs are likelier for smaller group plans, as these plans have smaller enrollee pools over which to spread risk. Many studies have examined the effect of mental health parity laws on the cost of health care coverage, with varying results.

For example, the Office of the Insurance Commissioner for the State of West Virginia examined mental health parity in that state. The Office found, of 31 insurance companies studied, four experienced significant cost increases (100 percent, 90 percent or 80 percent) as a result of parity. These companies represented less than 5 percent of the market; other companies experienced small or no increases.[8] West Virginia's parity provisions contain authority for plans to use additional cost containment measures if parity would result in a premium cost increase of 2 percent or more. Some insurers incurred such increased costs, but none exercised their option to use additional cost containment measures.[9] Similarly, the Mental Health Parity Act of 1996 contains an exemption for plans that would incur a premium cost increase of at least 1 percent as a result of parity.

One study analyzed the impact of mental health parity in an unnamed state on a large employer group.[10] That study looked at a fee for service insurer which responded to a state parity mandate by instituting a managed care carve-out for those services. In a managed care carve-out, the insurer carves out the mental health benefits and manages them separately from the physical benefits, perhaps by contracting with a behavioral managed care company to perform that service. The insurer in the study used network management, prior authorization and concurrent utilization review to manage the mental health benefits. The study found that while costs were expected to increase substantially as a result of a state parity mandate, costs actually declined, as a result of managed care techniques. While treatment prevalence rose 50 percent, per member plan costs declined almost 40 percent. The study found this was primarily due to reduced lengths of stay for inpatient treatment, attributable to the managed care carve-out. The study concluded that the increased case management offset the costs of parity's increased benefits. This study looked at a large employer group with over 100,000 enrollees. Smaller group plans will likely experience parity differently.

---

[7] Merrile Sing, et al, The Costs and Effects of Parity for Mental Health and Substance Abuse Insurance Benefits, DHHS Publication No. MC99-80 (1998), Substance Abuse and Mental Health Services Administration, available at http://mentalhealth.samhsa.gov/publications/allpubs/Mc99%2D80/Prtyfnix.asp.

[8] Office of the Insurance Commissioner, State of West Virginia, Mental Health Parity Analysis Report, December 2006.

[9] Id.

[10] See Samuel H. Zuvekas, et al, The Impacts of Mental Health Parity and Managed Care In One Large Employer Group, 21 *Health Affairs* 3 (2002).

The Substance Abuse and Mental Health Services Administration (SAMHSA) studied the effect of a parity law for both mental health and substance abuse in Vermont.[11] For one plan, spending for mental health and substance abuse services increased 4 percent; for the other plan which utilized managed care to achieve the purposes of the parity requirement, spending for those services decreased 9 percent. Consumers' share in spending dropped as well. The SAMHSA study found while more people received outpatient mental health services under parity, fewer people received any substance abuse services. The Vermont statute specifically authorized a managed care carve-out.[12] Significantly, the SAMHSA study found that managed care for these services was an important factor in controlling the costs of parity.

The Maryland Health Care Commissioner produced a report finding that Maryland's mental health and substance abuse mandate was the most expensive mandate imposed on insurers, with a cost ranging from 4.9 percent to 6.6 percent of the premium.[13] The Commissioner found parity was the second most expensive mandate on a marginal cost basis (after IVF), and noted that the actual cost varies based on the level of managed care or whether a managed care carve-out is used.[14] Older data on Maryland found parity raised costs .6%, which was attributed to high levels of managed care.[15]

The staff of the Senate Banking and Insurance Committee issued an interim project report, The Effect of Mandating Coverage for Mental and Nervous Disorders (Florida Senate Interim Project 2008-103). After distinguishing between mandated offers and mandated coverage, Senate staff recommended that group insurers and HMOs be required to offer coverage for mental and nervous disorders that is on par with benefits for physical illness, and that any benefit limitations should not be more restrictive than those applied to medical and surgical benefits under the plan. However, the recommendation was to limit this parity requirement to biologically-based mental and nervous disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of the American Psychological Association, including, or specifically limited to, schizophrenia, schizoaffective disorder, bipolar disorder, major depression, panic disorder, and obsessive-compulsive disorder.[16] For mental and nervous disorders not covered in this category or not specifically listed in statute, the current requirements of ss. 627.668 and 627.669, F.S., should continue to apply, which allow for specified benefit limitations.

The interim project report also recommended a cost exemption that would exempt group plans from the requirement of offering full parity if such coverage would result in a cost increase over a specified percentage. If the exemption applied, then the current requirements and allowable benefit limitations of ss. 627.668, F.S., would apply to all mental and nervous disorders, as defined in the standard nomenclature of the American Psychiatric Association.

---

[11] See Margo Rosenbach, et al, Effects of the Vermont Mental Health and Substance Abuse Parity Law, DHHS Pub. No. (SMA) 03-3822 (2003), Substance Abuse and Mental Health Services Administration, available at http://mentalhealth.samhsa.gov/publications/allpubs/sma03-3822/default.asp.

[12] See 8 V.S.A. § 4089b (2008).

[13] Maryland Health Commission, Study of Mandated Health Insurance Services: A Comparative Evaluation, January 2008, available at http://mhcc.maryland.gov/health_insurance/required_benefits.html.

[14] Id. Maryland's parity statute specifically authorizes the use of managed care. MD Code, Insurance, § 15-802 (2008).

[15] Bruce Lubotsky Levin, Dr.P.H., et al, Mental Health Parity: National and State Perspectives 1999, Louis de la Parte Florida Mental Health Institute and College of Public Health University of South Florida, available at www.fmhi.usf.edu/institute/pubs/pdf/**parity/parity1999**.pdf.

[16] The Diagnostic and Statistics Manual of the American Psychiatric Association (DSM) includes universally accepted definitions and descriptions of mental illnesses and conditions. There are 13 DSM diagnoses commonly referred to as biologically-based mental illnesses by mental health providers and consumer organizations. Between 3 and 13 of these diagnoses are referred to in various state parity laws. For example, in Alabama, mental illness is defined as: 1) schizophrenia, schizophrenia form disorder, schizo-affective disorder; 2) bipolar disorder; 3) panic disorder; 4) obsessive-compulsive disorder; 5) major depressive disorder; 6) anxiety disorders; 7) mood disorders; 8) Any condition or disorder involving mental illness, excluding alcohol and substance abuse, that falls under any of the diagnostic categories listed in the mental disorders section of the International Classification of Disease, as periodically revised. See, "State Laws Mandating or Regulating Mental Health Benefits," National Conference of State Legislatures, December 2007, available at http://www.ncsl.org/programs/health/mentalben.htm.

Effect of Proposed Changes

House Bill 19 amends s. 627.6688, F.S., to impose a mandated offering for medically necessary treatment of serious mental illness at full parity with coverage offered for physical illness. Specifically, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits with duration limits and cost-sharing must be the same for serious mental illness as for physical illness. The bill makes an exception to parity by allowing insurers and HMOs to limit hospital inpatient services to 45 days per year and outpatient services to 60 visits per year.

"Serious mental illness" is specifically limited to the following "biologically-based" mental illnesses, as defined by the American Psychiatric Association in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

- schizophrenia
- schizo-affective disorders
- bipolar affective disorders
- panic disorders
- specific obsessive-compulsive disorder
- major depressive disorder

Under the provisions in the bill, policyholders may choose to purchase coverage for serious mental illness on par with physical benefits, or no coverage for serious mental illness at all. The bill maintains the existing mandated offering provisions, which would now apply only to mental and nervous disorders not specifically addressed in the bill.

The mandated offering applies to every insurer and HMO transacting group health insurance or provided prepaid health care in Florida, and allows insurers to charge an additional premium, but does not apply to group health plans for any plan year of a small employer. The bill attempts to mitigate potential premium increases by allowing insurers and HMOs to provide the benefits through an exclusive provider of care, and may condition payment on use of the exclusive provider. In addition, the bill allows insurers and HMOs to provide the benefits in the context of managed care, by allowing financial incentives, utilization requirements and other management methods to reduce costs without compromising quality. Finally, the bill exempts group insurance coverage and plans if the bill's parity requirements result in an increase in the cost of the plan by at least 2 percent, as determined and certified by the insurer's or HMO's actuary.

The effective date of the bill is July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 627.668, F.S.; relating to optional coverage for mental and nervous disorders required; relating to exceptions.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Employers purchasing small group insurance may incur additional costs because policies must include coverage for mental, nervous and substance-related disorders on a par with coverage for medical care, through increased utilization and claims costs. Any increased costs will likely be passed through to policyholders in the form of increased premiums.

D. FISCAL COMMENTS:

The interpretation of the term "policyholder" is key to the fiscal analysis of the bill. If the term "policyholder" is construed to be the state, there is no fiscal impact to the bill upon the State's health insurance plan as the State has the option to reject the additional benefit offering. In the context of this bill the policyholder is likely to be the state and the individual enrollee is likely to be the subscriber. However, the term policyholder is not defined and has been used to refer to the state or the enrollee dependent upon context. However, if it is interpreted that the policyholder is the enrollee the following applies with respect to fiscal impact:

The Department of Management Services typically issues notification to state plan enrollees for any benefit changes. Such notification may result in additional administrative processes and unbudgeted costs if such notification cannot be included in the regular annual open enrollment period documentation. Historically the annual open enrollment period is mid-September through mid-October, for benefits effective January 1. This bill has an effective date of July 1, 2008. If required, the notification would cost the department $73,920. This non-recurring or start-up expenditure estimate is based on an approximate health insurance enrollment of 176,000 and a production/rate mailing cost of $0.42 per piece of mail.

The expansion of the covered benefits under the State Employees' PPO Plan and Health Maintenance Organization contracts may result in additional costs to the self-insured PPO and fully insured HMO plans. This would have an indeterminate negative fiscal impact on the State Employees' Group Health Self-Insurance Trust Fund.

However, the coverage prescribed in the bill does not apply to any group health insurer or health maintenance organization that can provide an actuarial analysis certifying that the expanded coverage will result in an increase of the cost of the plan of 2% or more and the bill limits the list of mental health conditions that must be covered within the mandated offering to schizophrenia, schizo-affective disorders, bipolar affective disorders, panic disorders, specific obsessive-compulsive disorder, and major depressive disorder.

The bill also attempts to mitigate potential premium increases by allowing insurers and HMOs to provide the benefits through an exclusive provider of care, and may condition payment on use of the exclusive provider. In addition, the bill allows insurers and HMOs to provide the benefits in the context of managed care, by allowing financial incentives, utilization requirements and other management methods to reduce costs.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Credit to the staff for their analysis of a short bill that has large implications for patients, employers, and health insurance companies. The bill attempts to equalize all diseases of the brain and require that they be treated equally in the eyes of the health insurance carrier. Brain tumors, Parkinson's disease, epilepsy, schizophrenia, and depression should all have the same health insurance benefits if the "Parity" bill becomes law.

There are some inconsistencies in the staff analysis that I would like to point out. The federal SAMSHA (Substance Abuse and Mental Health Services Administration) is footnoted twice, once in the 1998 prediction that parity would cause health insurance premiums to increase between 3.2 and 8.7 percent. What SAMSHA actually found in 2003 was that percent increase for mental health benefits actually only increased .17% from 2.30% to 2.47% of the total health care premium.

A statement is made "those 48 mandates could add as much as 48% to the cost of health insurance in Florida". This sentence is listed from an insurance company advocacy coalition pamphlet that gives no documentation to back up the statement. A similar statement has been made that a 1% increase in premium results in a 1% increase in the uninsured. If this were true, then 100% of the people should be uninsured because there has been a 100% increase in the cost of health insurance in the last ten years. Statements without data are statements, not facts.

One of the examples of the "costs" of "Parity" was a West Virginia report that would suggest in the analysis that the premium doubled because of parity. What doubled was the part of the premium that went to pay for mental health benefits in companies that had no or little mental health benefits before the legislation passed. I recommend that you review the data of the thirty-one health insurance companies in West Virginia where the MH ratio dropped on the average from 2.77% to 2.29% after "Parity". These reports can be found on the www.edhomn.com website.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Health Innovation Committee adopted one strike-all amendment to the bill. This amendment:

- amends s. 627.6688, F.S., to specifically define those mental health conditions that must be covered within the mandated offering, generally including all diagnostic categories of mental health conditions listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

- amends s. 627.6688, F.S., to provide that the offered benefits shall not be less than the level of benefits required by that section;

- creates a new s. 627.6688(2), F.S., to require that coverage for certain conditions shall not be less favorable than for physical illness generally. Those conditions are: schizophrenia, schizo-affective disorders, major depression, bipolar disorders, panic disorders, generalized anxiety disorders, posttraumatic stress disorders, substance abuse disorders, eating disorders, delirium, dementia, childhood ADD/ADHD, developmental disorders, borderline personality disorder, and mental disorder due to a medical condition;

- renumbers s. 627.6688(2),F.S., as s. 627.688(3), F.S., and amends s. 627.6688(3), F.S., to require that coverage for mental health disorders not listed in s. 627.688(2), F.S., shall not be less favorable than for physical illness generally, except that inpatient benefits may be limited to not less than 45 days per benefit year and outpatient benefits may be limited to $5,000 for certain services, and allowing for non-parity durational limits and cost-sharing if coverage over the limits is provided;

- repeals s. 627.669, F.S., and conforms a cross-reference in s. 627.6675, F.S.

The bill was reported favorably with one amendment.

On April 8, 2008, the Healthcare Council adopted one strike-all amendment to the bill. This amendment:

- amends s. 627.6688, F.S., to require a mandated offering for coverage of medically necessary treatment of serious mental illness, on par with benefits on par with coverage for physical illness generally.

- amends s. 627.6688, F.S., to provide an exclusive list of mental health conditions that must be covered within the mandated offering: schizophrenia, schizo-affective disorders, bipolar affective disorders, panic disorders, specific obsessive-compulsive disorder, and major depressive disorder.

- amends s. 627.6688, F.S., to provide authority for insurers and plans to use exclusive provider networks and care management methods to reduce service costs, and provide an exemption from the parity requirements for group plans and insurance coverage if parity will result in increased costs of at least 2 percent.

The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.

A bill to be entitled

An act relating to optional coverage for mental and nervous disorders; amending s. 627.668, F.S.; revising requirements for optional coverage for mental and nervous disorders; revising certain benefits limitations; limiting applicability; providing a definition; permitting benefits to be provided by an exclusive provider or group of exclusive providers; permitting benefits to be provided through a contract with exclusive providers; providing for care management; providing an exemption; providing an effective date.

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

Section 1. Present subsection (3) of section 627.668, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to that section to read:

627.668 Optional coverage for mental and nervous disorders required; exception.--

(3)(a) Every insurer and health maintenance organization transacting group health insurance or providing prepaid health care in this state shall make available to the policyholder, for an appropriate additional premium, as part of the application for a group hospital and medical expense-incurred insurance policy under a group prepaid health care contract or a group health maintenance organization contract, coverage for the treatment of serious mental illness, which treatment is determined to be medically necessary.

<u>(b) Under group policies or contracts, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors must be the same for serious mental illness as for physical illness generally. Notwithstanding the provisions of this subsection, an insurer or health maintenance organization may limit inpatient coverage to 45 days per year and may limit outpatient coverage to 60 visits per year.</u>

<u>(c) This subsection does not apply to any group health plan or group health insurance covered in connection with a group health plan for any plan year of a small employer as defined in s. 627.6699.</u>

<u>(d) As used in this subsection, the term "serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders: schizophrenia, schizoaffective disorder, panic disorder, bipolar affective disorder, major depressive disorder, and obsessive-compulsive disorder.</u>

<u>(e) Notwithstanding other provisions of this section, chapter 641, s. 627.6471, or s. 627.6472, an insurer or health maintenance organization may require that the covered services required by this subsection be provided by an exclusive provider of health care or a group of exclusive providers of health care which has entered into a written agreement with the insurer or health maintenance organization to provide benefits under this subsection. The insurer or health maintenance organization may</u>

condition the payment of such benefits, in whole or in part, on the use of such exclusive providers.

(f) The insurer or health maintenance organization may directly or indirectly enter into a contract with an exclusive provider of health care or a group of exclusive providers of health care to provide benefits under this subsection. In providing benefits under this subsection, the insurer or health maintenance organization may impose other appropriate financial incentives, peer review, utilization requirements, and other methods used for the management of benefits provided for other medical conditions or by management methods unique to mental health benefits to reduce service costs and utilization without compromising quality of care.

(g) This subsection does not apply with respect to a group health plan or health insurance coverage offered in connection with a group health plan if the application of this subsection to such plan or coverage results in an increase in the cost under the plan or for such coverage of at least 2 percent, as determined and certified by an insurer's or health maintenance organization's actuary.

Section 2. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 21 State Aid to Public Libraries
SPONSOR(S): Economic Expansion & Infrastructure Council, Davis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 82

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Tourism & Trade	5 Y, 0 N	McGill	Hoagland
2) Economic Expansion & Infrastructure Council	14 Y, 0 N, As CS	McGill/Madsen	Tinker
3) Policy & Budget Council		Martin	Hansen
4)			
5)			

SUMMARY ANALYSIS

CS/HB 21 amends the State Aid to Libraries grant program by revising eligibility criteria for multicounty and equalization grants. The bill revises the determination for and amount of multicounty base grants and changes the process for calculating equalization grants. The bill also limits the amount of equalization grants counties can receive under specified conditions. The bill changes the formula for equalization and multicounty grants which directs more of the State Aid appropriation to operating grants, benefiting counties of all sizes.

The bill does not have a fiscal impact on state government, as the bill only changes calculations affecting the distribution of State Aid funding that are appropriated in the General Appropriations Act. No additional funding is allocated.

The bill does have a fiscal impact on local governments. Under the new calculations based on Fiscal Year (FY) 2007-08 funding levels and anticipated local effort, all but 4 counties would receive a slight (2% decrease) in funding. Transitioning counties will receive additional funding for a three year period. Some counties, with significant local effort, will have a reduction in funds due to the 10 percent cap for equalization grants under the new formula. In addition, one multicounty library will receive additional funds through the addition of a base funding eligibility for a two county service of $50,000 in addition to the per capita funding allocation.

The bill provides an effective date of July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Public libraries are governed by chapter 257, F.S. Specific provisions for State Aid Grants to Libraries relating to this bill are in ss. 257.17, 257.171, 257.172, and 257.18, F.S. The State Aid to Libraries program was established in 1961 and was the intent of the Legislature to aid and encourage the establishment and development of free library service throughout the state, by grants of money to counties maintaining a free library or free library service. The State Aid to Libraries grant program is comprised of three interrelated grants: equalization, multicounty and operating. The funding given to each grant area is based upon local expenditures. The grants and criteria are below:

- Equalization grants- awarded to county library systems that also meet the requirements for operating grants that have limited financial resources.
- Multicounty grants- awarded to systems of two or more counties that have joined together to provide library service to their residents.
- Operating grants- awarded to any county or municipality that meets basic criteria for professional library service.

State Aid funding has remained at essentially the same level, $32 million, since FY 2001-02. In FY 2001-02 State Aid was matching local expenditures at 9.18 cents per local dollar. This amount in FY 2006-07 has fallen to 4.6 cents per local dollar due to increased local expenditures. The State Aid resources have been increasingly going to equalization grants over the past six years, in part due to the way the grant funds are calculated. The proportion of State Aid that has gone to equalization grants has increased from 11% of the total State Aid appropriation in FY 2000-01 to nearly 31% in FY 2007-08. Based on FY 2007-08 funding, under the current formula, operating grants total $19,689,564 or 62%; equalization grants total $9,915,823 or 31%; and multicounty grants total $2,393,846 or 7%.

Section 257.18, F.S., provides that any county qualifying for an operating grant is eligible to receive an equalization grant when the value of 1 mill adjusted to reflect the average statewide level of assessment is below the median amount for all counties in the state and the per capita local funds expended for library support during the second preceding year is below the average for all counties. The current formula does not limit the percentage of equalization grant funds that can go to a single county, enabling a few counties to receive large grants, further reducing the funds available for operating grants that benefit all qualified libraries. The formula does not have a mechanism for a gradual phase-out for libraries who no longer qualify for the equalization grant, nor does it prevent counties from moving in and out of eligibility.

Library support is also provided by several other state and federal funding grants in addition to the three programs under the State Aid to Libraries. These include:

- <u>Public Library Construction Grants</u> provide state funding for the construction of public libraries. A dollar-for-dollar match is required for all construction grants. Grants are awarded from $10,000 to $500,000. During FY 2007-2008, $5 million was awarded for 10 projects.
- <u>Library Cooperative Grants</u> provide state funding to multitype library cooperatives to assist them in meeting the educational and informational needs of Florida residents by encouraging and assuring cooperation among libraries of all types for the development of library service. Eligible

multitype Library Cooperative organizations may apply for an annual grant of up to $400,000. This program was funded at $2.4 million in FY 2007-08.

- Library Services & Technology Act (LSTA) Grants is a federal grant program for libraries. It is a state based competitively awarded grant program with a broad mandate to use technology to bring information to people in innovative and effective ways, and to assure that library service is accessible to all. In FY 2007-2008, Florida received $8,429,449.
- Community Libraries in Caring assists small, rural public libraries to improve library collections and services, improve adult and family literacy, and develop the economic viability in targeted counties and communities. The Florida Legislature determines the amount appropriated annually for the program. Applicants may apply for a grant of $3,000 to $10,000 per county or community. This program received $100,000 in FY 2007-08.

Proposed changes

CS/HB 21 amends the State Aid to Libraries grant program by revising eligibility criteria for multicounty and equalization grants. The bill revises the determination for and amount of multicounty base grants and changes the process for calculating equalization grants.

The criteria used for awarding multicounty library grants found in s. 257.172, F.S., is amended to:

- Restrict multicounty grants to systems serving a population of 50,000 or more and that include at least one county that is eligible for an equalization grant;
- Establish a multicounty base grant of $50,000 for systems serving two counties, which will come from the State Aid appropriation;
- Increase the multicounty base grant for systems serving three or more counties from $250,000 to $350,000, which will come from the State Aid appropriation if appropriations are increased from the FY 2007-08 amount by 3 percent.

The criteria used for awarding equalization library grants found in s. 257.18, F.S., is amended to:

- Limit equalization grants only to counties that received an equalization grant in FY 2007-08 and have been continuously eligible since that period;
- Determine the need for an equalization grant by using the county's operating millage or per capita income in relation to the average for all counties rather than by using the county's expenditures for library services;
- Establish a three year phase out from the equalization grants for counties that become ineligible;
- Limit the amount of equalization that can go to any single county, restricting the county to no more than 10% of the total amount required to fund equalization grants to all eligible counties;
- Provide that equalization grants shall not exceed 15% of the amount appropriated for operating, multicounty, and equalization grants or $8,877,057 whichever is greater.

Based on FY 2007-08 funding of $31,999,233 and using the criteria established by this bill, operating grants will represent 65% of total aid, equalization grants will decrease to 28% of total aid, and multicounty grants will slightly increase to 8% of total aid.

Assuming FY 2007-08 appropriation levels and estimating local effort expectations, all but 4 counties would receive a slight (2% decrease) in funding. Transitioning counties will receive additional funding for a three year period. Some counties, with significant local effort, will have a reduction in funds due to the 10 percent cap for equalization grants under the new formula. In addition, one multicounty library will receive additional funds through the addition of a base funding eligibility for a two county service of $50,000 in addition to the per capita funding allocation. Specifically, Clay County would receive additional funds for three years under the new formula's provision for transitioning out of eligibility for equalization grants. Under the new formula, Nassau County will enter the three-year transition period. This will result in a slight increase under the new formula's direction to provide the same funding as last year in the first transition year, based on the assumption that their local effort will be reduced from the previous year. In the future, other counties will also receive an additional three years of transition funds as they lose eligibility for equalization grants. Hernando and Santa Rosa counties lose some funding due to the 10 percent cap for equalization grants under the new formula.

The bill eliminates the reference that the Chief Financial Officer shall issue warrants to the eligible political subdivisions. This is reflected in current practice and is seen as removing an unnecessary reference to the current practice.

C. SECTION DIRECTORY:

Section 1: Amends section 257.172, F.S., changes the determination and base grant for multicounty grants.
Section 2: Amends section 257.18, F.S., changes the process for determining eligibility for equalization grants, limits the amount of equalization grant funds that can go to any one county, and provides a maximum amount of State Aid that can go to equalization grants.
Section 3: Amends section 257.22, F.S., removes the provision that the Chief Financial Officer shall issue warrants to the eligible political subdivisions.
Section 4: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None. The bill changes the formula for State Aid funding to be distributed if appropriated. It does not appropriate additional monies.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Assuming FY 2007-08 appropriation levels and estimating local effort expectations, all but 4 counties would receive a slight (2% decrease) in funding. Transitioning counties will receive additional funding for a three year period. Some counties, with significant local effort, will have a reduction in funds due to the 10 percent cap for equalization grants under the new formula. In addition, one multicounty library will receive additional funds through the addition of a base funding eligibility for a two county service of $50,000 in addition to the per capita funding allocation. Specifically, Clay County would receive additional funds for three years under the new formula's provision for transitioning out of eligibility for equalization grants. Under the new formula Nassau County will enter the three-year transition period. This will result in a slight increase under the new formula's direction to provide the same funding as last year in the first transition year, based on the assumption that their local effort will be reduced from the previous year. In the future, other counties will also receive an additional three years of transition funds as they lose eligibility for equalization grants. Hernando and Santa Rosa counties lose some funding due to the 10 percent cap for equalization grants under the new formula.

   According to the Department of State, the table below shows the total grant funds for each county and participating municipality for Fiscal Year 2008-2009, assuming the same $31.9 million level of funding as was provided for FY 2007-2008, under the current law formula as compared to the formula proposed by this bill:

COUNTY	CURRENT LAW	PROPOSED FORMULA	Difference	COUNTY	CURRENT LAW	PROPOSED FORMULA	Difference
ALACHUA	542,984	531,039	(11,945)	OSCEOLA	310,428	303,599	(6,829)
BAKER	74,938	73,682	(1,256)	PALM BEACH	1,368,642	1,338,535	(30,108)
BAY	81,618	79,822	(1,795)	PASCO	287,519	281,195	(6,325)
BRADFORD	418,992	412,048	(6,945)	PINELLAS	1,107,513	1,083,150	(24,363)
BREVARD	718,135	702,338	(15,798)	POLK	388,026	379,490	(8,536)
BROWARD	2,469,387	2,415,065	(54,322)	PUTNAM	421,003	413,937	(7,067)
CALHOUN	199,480	196,174	(3,306)	SAINT JOHNS	185,971	181,880	(4,091)
CHARLOTTE	124,889	122,142	(2,747)	SAINT LUCIE	176,918	173,026	(3,892)
CITRUS	140,806	137,709	(3,097)	SANTA ROSA	1,141,744	965,105	(176,639)
CLAY *	144,590	1,014,579	869,989	SARASOTA	411,115	402,071	(9,044)
COLLIER	279,502	273,354	(6,149)	SEMINOLE	251,765	246,226	(5,538)
COLUMBIA	786,026	772,993	(13,033)	SUMTER	579,765	570,028	(9,737)
DESOTO	112,133	110,252	(1,880)	SUWANNEE	203,147	199,741	(3,406)
DIXIE	79,234	77,906	(1,328)	TAYLOR	148,373	145,885	(2,487)
DUVAL	1,272,826	1,244,826	(28,000)	UNION	100,932	99,259	(1,673)
ESCAMBIA	181,041	177,058	(3,983)	VOLUSIA	705,157	689,645	(15,512)
FLAGLER	43,139	42,190	(949)	WAKULLA	145,969	143,522	(2,447)
FRANKLIN	110,301	108,450	(1,852)	WALTON	36,830	36,020	(810)
GADSDEN	441,865	434,541	(7,325)	WASHINGTON	93,079	91,518	(1,560)
GILCHRIST	55,452	54,523	(929)	**Municipalities:**			-
GLADES	21,180	20,825	(355)	ALTAMONTE SPRINGS	16,481	16,118	(363)
GULF	86,821	85,364	(1,456)	BOYNTON BEACH	82,904	81,080	(1,824)
HAMILTON	219,700	216,058	(3,641)	DELRAY BEACH	70,280	68,734	(1,546)
HARDEE	105,443	103,675	(1,768)	FORT MYERS BEACH	44,506	43,527	(979)
HENDRY	324,123	318,685	(5,438)	HIALEAH	86,645	84,739	(1,906)
HERNANDO	1,169,987	970,018	(199,969)	LAKE PARK	14,902	14,574	(328)
HIGHLANDS	363,087	356,985	(6,102)	LAKE WORTH	21,554	21,080	(474)
HILLSBOROUGH	1,394,680	1,364,000	(30,680)	LANTANA	7,118	6,961	(157)
HOLMES	143,424	141,047	(2,377)	LIGHTHOUSE POINT	19,487	19,059	(429)
INDIAN RIVER	163,007	159,421	(3,586)	MAITLAND	26,622	26,036	(586)
JACKSON	162,291	159,570	(2,721)	NEW PORT RICHEY	30,278	29,612	(666)
JEFFERSON	78,996	77,672	(1,324)	NORTH MIAMI	72,516	70,921	(1,595)
LAFAYETTE	147,782	145,333	(2,449)	NORTH MIAMI BEACH	44,133	43,162	(971)
LAKE	316,843	309,873	(6,970)	NORTH PALM BEACH	27,163	26,565	(598)
LEE	1,027,168	1,004,572	(22,596)	OAKLAND PARK	32,775	32,054	(721)
LEON	233,071	227,944	(5,127)	PALM SPRINGS	22,131	21,645	(487)
LEVY	109,953	108,109	(1,844)	WEST PALM BEACH	130,801	127,924	(2,877)
LIBERTY	83,792	82,403	(1,389)	WILTON MANORS	20,987	20,525	(462)
MADISON	214,888	211,326	(3,562)	WINTER PARK	96,349	94,230	(2,120)
MANATEE	263,060	257,273	(5,787)	**Multicounty:**			-
MARION	285,608	279,325	(6,283)	CHARLOTTE-GLADES	50,000	100,000	50,000
MARTIN	158,164	154,685	(3,479)	HEARTLAND	400,000	400,000	-
MIAMI-DADE	2,892,419	2,828,791	(63,628)	NEW RIVER	315,053	315,053	-
MONROE	105,280	102,964	(2,316)	NORTHWEST REGIONAL	350,000	350,000	-
NASSAU **	506,628	515,605	8,977	PANHANDLE PUBLIC LIBRARY COOP	373,068	373,068	-
OKALOOSA	158,281	154,799	(3,482)	SUWANNEE RIVER REGIONAL	331,500	331,500	-
OKEECHOBEE	193,567	190,320	(3,247)	THREE RIVERS REGIONAL	289,723	289,723	-
ORANGE	1,436,597	1,404,995	(31,602)	WILDERNESS COAST	315,182	315,182	-

2. Expenditures:

Expenditures by local governments will likely need to be adjusted to reflect the change in state revenues received by local libraries.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

CS/HB 21 makes revisions in criteria for library multicounty and equalizations grants. This will prove to level the playing field and provide equality in funding for those counties that receive state aid for their public libraries. Although in all but 4 counties state aid will decrease by 2%, those counties that are not adequately funded will receive more monies, and those counties who are transitioning out of eligibility will receive three years of funding to compensate for the changes.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On January 24, 2008, the Committee on Tourism and Trade adopted an amendment that does the following:

- Corrects a technical error in the bill with the cap on the amount for equalization grants and clarifies how to factor in the cap of $8,877,057 when the state aid appropriation does not fully fund equalization grants.

A bill to be entitled

An act relating to state aid to public libraries; amending s. 257.172, F.S.; revising grant eligibility criteria for multicounty libraries; revising determination for and amount of base grants; amending s. 257.18, F.S.; revising eligibility criteria, calculation, and determination for equalization grants; limiting grants and grant amounts under specified conditions; amending s. 257.22, F.S.; removing a requirement for issuance of warrants to political subdivisions eligible for certain funding; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 257.172, Florida Statutes, are amended to read:

257.172 Multicounty library grants.--

(1) The administrative unit of a multicounty library that serves a population of 50,000 or more <u>and serves two</u>~~, or has three~~ or more counties, <u>at least one of which qualifies for an equalization grant,</u> is eligible for an annual grant from the state. The grant funds are to be used for the support and extension of library service in participating counties. The grant must be computed by the division on a state matching basis up to $1 million in local expenditures by all participating counties for operation and maintenance of a library during the second preceding year. The administrative unit of a multicounty library with:

(a) Two participating counties is eligible for a grant equal to 5 cents on each local dollar of expenditure.

(b) Three participating counties is eligible for a grant equal to 10 cents on each local dollar of expenditure.

(c) Four participating counties is eligible for a grant equal to 15 cents on each local dollar of expenditure.

(d) Five participating counties is eligible for a grant equal to 20 cents on each local dollar of expenditure.

(e) Six or more participating counties is eligible for a grant equal to 25 cents on each local dollar of expenditure.

(2) In addition, to support multicounty library service, the administrative unit of a multicounty library with:

(a) Two participating counties is eligible to receive a base grant of $50,000, effective July 1, 2008.

(b) Three or more participating counties is eligible to receive a base grant of a minimum of $250,000. Such amount shall be increased to $350,000 when the appropriation from state funds for operating, multicounty, and equalization grants is at least 3 percent more than the appropriation from state funds for those grants for fiscal year 2007-2008 ~~to support multicounty library service. That amount may be adjusted by the division based on the percentage change in the state and local government price deflator for purchases of goods and services, all items, 1983 equals 100, or successor reports for the preceding calendar year as initially reported by the Bureau of Economic Analysis of the United States Department of Commerce, as certified by the Florida Consensus Estimating Conference~~.

Section 2. Section 257.18, Florida Statutes, is amended to read:

257.18 Equalization grants.--

(1) Any county qualifying for an operating grant is eligible to receive an equalization grant <u>if it meets the following criteria:</u>

<u>(a) The county was eligible for an equalization grant in fiscal year 2007-2008.</u>

<u>(b)</u> ~~When~~ The value of 1 mill adjusted to reflect the average statewide level of assessment is below the median amount for all counties in the state ~~and the per capita local funds expended for library support during the second preceding year is below the average for all counties~~.

<u>(c) The county operating millage subject to the 10-mill cap is equal to or above the average for all counties. If the county does not meet this millage requirement, the per capita income for the county must be equal to or below the average for all counties.</u>

<u>(d) The county has been eligible for an equalization grant each fiscal year since fiscal year 2007-2008.</u>

<u>(2) If a county fails to meet the eligibility criteria for an equalization grant in any one year, the county shall be notified that its equalization grant funding will be phased out over a 3-year period as follows:</u>

<u>(a) In the first year, the county shall receive the grant amount for which it qualified the previous year.</u>

<u>(b) In the second year, the county shall receive two-thirds of the grant amount it received under paragraph (a).</u>

(c) In the third year, the county shall receive one-third of the grant amount it received under paragraph (a).

(d) In subsequent years, the county shall not be eligible to receive an equalization grant.

(3) An equalization grant to an eligible county is calculated in the following manner:

(a) The equalization factor is computed by subtracting the value of 1 mill adjusted to reflect the average statewide level of assessment for each county from the average adjusted value of 1 mill for all counties and then dividing that amount by the average adjusted value of 1 mill for all counties.

(b) An equalization grant is computed by multiplying the equalization factor times the total local funds expended for library support by that county during the second preceding year and adding that amount to the actual total local funds expended for library support by that county during the second preceding year. The result is the adjusted value for the local funds expended for library service. The amount of the equalization grant is equal to 25 cents of the adjusted value of local funds expended for library service.

(c) ~~(2)~~ When the adjusted mill equivalent of actual local funds expended for library support by the county during the second preceding year is above the statewide average adjusted mill equivalent of actual local funds expended by all counties receiving operating grants, the amount of the equalization grant is equal to 50 cents of the adjusted value of local funds expended for library service.

(4) A county may not receive an equalization grant that is equal to more than 10 percent of the total amount required to fund equalization grants to all eligible counties.

(5)~~(3)~~ The Division of Library and Information Services shall calculate equalization grants based on the amount of local funds expended for library service the second preceding year as certified by the appropriate county officials and information on the level of assessment of property in each county, ~~and~~ the taxable value of property in each county, the county operating millage subject to the 10-mill cap, and the per capita income as reported by the ~~state~~ agency authorized by law~~, which shall certify the results of such determination to the division~~.

(6)~~(4)~~ Equalization grants shall not exceed 15 percent of the amount appropriated for operating, multicounty, and equalization grants or $8,877,057, whichever is greater. Any reductions in equalization grants necessary to meet this requirement shall be applied to all equalization grants on a prorated basis. This includes grants subject to the 10-percent cap or grants in the phase-out period. If the total appropriation for operating, multicounty, and equalization grants is less than $31,999,233, then ~~For the purposes of this section,~~ s. 257.21 shall ~~does not~~ apply.

Section 3. Section 257.22, Florida Statutes, is amended to read:

257.22 Division of Library and Information Services; allocation of funds.--Any moneys that may be appropriated for use by a county, a municipality, a special district, or a special tax district for the maintenance of a library or library service shall be administered and allocated by the Division of Library and Information Services in the manner prescribed by law. On or before December 1 of each year, the division shall certify to the Chief Financial Officer the amount to be paid to each county, municipality, special district, or special tax district~~, and the Chief Financial Officer shall issue warrants to the eligible political subdivisions~~.

Section 4. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 51 Partial Payment of Property Taxes
SPONSOR(S): McKeel and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on State Affairs	10 Y, 0 N	Levin	Williamson
2) Government Efficiency & Accountability Council	13 Y, 0 N	Levin/Dykes	Cooper
3) Policy & Budget Council		Diez-Arguelles	Hansen
4)			
5)			

SUMMARY ANALYSIS

Section 197.373, F.S. governs the payment of a portion of taxes due to a county tax collector. The section currently permits the payment of a part of a tax notice when the part to be paid can be ascertained by the legal description and the portion of the property representing the part to be paid is under contract for sale or has been transferred to a new owner.

The bill amends s.197.373, F.S., and requires tax collectors to accept any payment that is a portion of the total amount of taxes owed, regardless of whether the portion of the tax notice to be paid can be ascertained by the legal description. Consistent with the new requirement, interest and penalties are applied only to the amount of taxes that remain unpaid. The tax procedures for the sale of tax certificates, cancellations of void tax certificates, and other processes of law pursuant to ss.197.432,197.442 and 197.443, F.S., are modified to require full payment of the taxes. Taxpayer rights to redress also are clarified to require payment in full before a taxpayer may redeem real property and tax certificates prior to the issuance of a tax deed.

The Revenue Estimating Conference adopted a negative indeterminate fiscal impact on local governments from the provisions of this bill.

This bill may be a mandate requiring a two-thirds vote of the membership. See MANDATES section of analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates new requirements for tax collectors regarding acceptance of payments of portions of amounts billed in tax notices.

Ensure lower taxes – The bill decreases the amount of interest and penalties owed by taxpayers under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 197.373, F.S., governs the payment of a portion of taxes due to a county tax collector. The section currently permits the payment of a part of a tax notice when the part to be paid can be ascertained by the legal description and the portion of the property representing the part to be paid is under contract for sale or has been transferred to a new owner.

Effect of Bill

The bill amends s. 197.373, F.S., to require tax collectors to accept any payment that is a portion of the total amount of taxes owed. Consistent with the new requirement, interest and penalties are applied only to the amount of taxes that remain unpaid. The tax procedures for the sale of tax certificates, cancellations of void tax certificates, and other processes of law, pursuant to ss. 197.432, 197.442, and 197.443, F.S., are modified to require full payment of the taxes. Taxpayer rights to redress found in s. 192.0105, F.S., also are amended to require payment in full before a taxpayer may redeem real property and tax certificates prior to the issuance of a tax deed.

Section 197.432,F.S., relating to the sale of tax certificates for unpaid taxes, is amended to require tax collectors to commence the sale of a tax certificate on any lands on which the taxes have not been paid fully.

Section 197.442, F.S., is amended to clarify that taxes must be paid fully, on land in which tax collectors sell tax certificates, before an aggrieved taxpayer is entitled to:

- Cancellation of an improperly issued tax certificate or deed;
- Legitimate expenses in clearing his or her title, should the tax collector fail to act within a reasonable amount of time;
- The tax collector being responsible to the publisher for the costs of advertising lands on which the taxes have been fully paid; and
- The property appraiser being responsible to the publisher for the costs of advertising lands doubly assessed or assessed in error.

Section 197.443, F.S., is amended to require tax collectors to forward tax certificates that have been rendered void, because taxes on land had been fully paid at the time of sale, to the Department of Revenue for review and then cancellation or correction by the tax collector.

Taxpayer rights to redress contained within s. 192.0105, F.S., also are clarified to require payment in full before a taxpayer may exercise the right to redeem real property and tax certificates prior to the issuance of a tax deed.

The effective date of the bill is July 1, 2008.

C. SECTION DIRECTORY:

Section 1 amends s. 192.0105, F.S., to make conforming changes.

Section 2 amends s. 197.373, F.S., to require tax collects to accept payments of portions of amounts billed in tax notices.

Section 3 amends s. 197.432, F.S., to make conforming changes.

Section 4 amends s. 197.442, F.S., to make conforming changes.

Section 5 amends s. 197.443, F.S., to make conforming changes.

Section 6 provides an effective date of July 1, 2008.

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:
2. The Revenue Estimating Conference adopted a negative indeterminate fiscal impact on local governments from the provisions of this bill. Local government revenues will decline due to the loss of interest payments when taxpayers make partial payments.
3. Expenditures:

   Tax collectors will experience an increase in workload and other expenses as a result of the requirement that they accept all partial payments of ad valorem taxes. The amount of additional expenditures is unknown at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers making a partial payment of ad valorem taxes, including those who make minor mistakes in the checks they write, will pay a smaller amount in interest and penalties.

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 the expenditure of funds by tax collectors. If these expenditures exceed $1.9 million statewide, the bill will not be exempt from the mandates provision and the legislature must determine that the law fulfills an important state interest and the law must be passed by a two-thirds vote of the membership of each house.

   Also, the mandates provision may apply because the bill reduces the authority that cities and counties have to raise revenues. The amount of the loss cannot be determined at this time. Therefore, it is not clear whether the insignificant fiscal impact exemption from the mandates provision applies.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to partial payment of property taxes; amending s. 197.373, F.S.; requiring tax collectors to accept payments of portions of amounts billed in tax notices; subjecting unpaid amounts to penalties, interest, and other processes of law; amending ss. 192.0105, 197.432, 197.442, and 197.443, F.S.; conforming provisions; providing an effective date.

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

Section 1. Paragraph (f) of subsection (3) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(3) THE RIGHT TO REDRESS.--

(f) The right to redeem real property and redeem tax certificates at any time before a tax deed is issued, and the right to have tax certificates canceled if sold where taxes had been <u>fully</u> paid or if other error makes it void or correctable. Property owners have the right to be free from contact by a certificateholder for 2 years (see ss. 197.432(14) and (15), 197.442(1), 197.443, and 197.472(1) and (7)).

Section 2. Section 197.373, Florida Statutes, is amended to read:

197.373 Payment of portion of taxes.--

(1)<u>(a)</u> The tax collector of the county is authorized to allow the payment of a part of a tax notice when the part to be paid can be ascertained by legal description, such part is under a contract for sale or has been transferred to a new owner, and the request is made by the person purchasing the property or the new owner or someone acting on behalf of the purchaser or owner.

<u>(b)</u>~~(2)~~ The request must be made at least 15 days prior to the tax certificate sale.

<u>(c)</u>~~(3)~~ The property appraiser shall within 10 days after request from the tax collector apportion the property into the parts sought to be paid or redeemed.

(d) ~~(4)~~ This subsection ~~section~~ does not apply to assessments and collections made pursuant to the provisions of s. 192.037.

(2) The tax collector of the county shall accept any payment consisting of any portion of the total amount of taxes specified in the tax notice by the deadline specified in the tax notice. Any portion of the total amount of taxes specified in the tax notice remaining unpaid after the deadline specified in the tax notice shall be subject to interest and penalties as provided by law and other processes of law as provided in this chapter.

Section 3. Subsection (1) of section 197.432, Florida Statutes, is amended to read:

197.432 Sale of tax certificates for unpaid taxes.--

(1) On the day and approximately at the time designated in the notice of the sale, the tax collector shall commence the sale of tax certificates on those lands on which taxes have not been fully paid, and he or she shall continue the sale from day to day until each certificate is sold to pay the unpaid taxes, interest, costs, and charges on the parcel described in the certificate. In case there are no bidders, the certificate shall be issued to the county. The tax collector shall offer all certificates on the lands as they are assessed.

Section 4. Section 197.442, Florida Statutes, is amended to read:

197.442 Tax collector not to sell certificates on land on which taxes have been fully paid; penalty.--

(1) If a tax collector sells tax certificates on land upon which the taxes have been <u>fully</u> paid, upon written demand by the aggrieved taxpayer alleging the circumstances, the tax collector shall initiate action to cancel any improperly issued tax certificate or deed in accordance with the provisions of s. 197.443. If the tax collector fails to act within a reasonable time, his or her office shall be liable for all legitimate expenses which the aggrieved taxpayer may spend in clearing his or her title, including a reasonable attorney's fee.

(2) The office of the tax collector shall be responsible to the publisher for costs of advertising lands on which the taxes have been <u>fully</u> paid, and the office of the property appraiser shall be responsible to the publisher for the costs of advertising lands doubly assessed or assessed in error.

Section 5. Paragraph (a) of subsection (1) of section 197.443, Florida Statutes, is amended to read:

197.443 Cancellation of void tax certificates; correction of tax certificates; procedure.--

(1) When a tax certificate on lands has been sold for unpaid taxes and:

(a) The tax certificate evidencing the sale is void because the taxes on the lands have been <u>fully</u> paid;

the tax collector shall forward a certificate of such error to the department and enter upon the list of certificates sold for taxes a memorandum of such error. The department, upon receipt of such certificate, if satisfied of the correctness of the certificate of error or upon receipt of a court order, shall notify the tax collector, who shall cancel or correct the certificate.

Section 6. This act shall take effect July 1, 2008.

CS/HB 111

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 111 Hurricane Preparedness

SPONSOR(S): Economic Expansion & Infrastructure, Nehr & others

TIED BILLS: **IDEN./SIM. BILLS:** SB 86

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	10 Y, 0 N	Rojas	Croom
2) Economic Expansion & Infrastructure Council	13 Y, 0 N, As CS	Rojas/Madsen	Tinker
3) Policy & Budget Council		Jacobik BSJ	Hansen MJH
4)			
5)			

SUMMARY ANALYSIS

This bill provides that no sales tax will be collected on specified hurricane preparedness items from June 1, 2008, through June 7, 2008. This coincides with the beginning of hurricane season (June 1). Chapter 2007-25, Laws of Florida, authorized a similar sales tax exemption for hurricane preparedness items from June 1, 2007, through June 12, 2007.

The bill authorizes the Department of Revenue (DOR) to adopt rules in order to administer the provisions and provides an appropriation to DOR, in the amount of $289,100 for the current fiscal year (2007-08); these funds will be used to print and mail Tax Information Publications (TIPs) to sales and use tax dealers prior to the start of the holiday. DOR has stated that no rulemaking was required to implement the tax-exemption period in 2005, 2006, or 2007.

The bill is estimated to reduce state revenues by $12.3 million and local revenues by $2.8 million in FY 08-09.

The bill reduces the authority that local governments have to raise revenues. No exemption applies, therefore the bill must have a 2/3 vote of the membership of each house.

The bill provides an effective date of upon becoming law.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill creates a 7-day sales tax holiday, beginning June 1, 2008, on specified hurricane preparedness supplies purchased in Florida to prepare for hurricane season.

B. EFFECT OF PROPOSED CHANGES:

Ch. 212, F.S., imposes a state sales tax on the sale of tangible personal property and authorizes local option taxes on such sales. This bill provides that no sales tax will be collected on certain items from June 1, 2008, through June 7, 2008. This coincides with the first day of hurricane season (June 1).

The list of exempt items includes: (a) any portable self-powered light source selling for $20 or less; (b) any portable self-powered radio, two-way radio, or weatherband radio selling for $75 or less; (c) any tarpaulin or other flexible waterproof sheeting selling for $50 or less; (d) any ground anchor system or tie-down kit selling for $50 or less; (e) any gas or diesel fuel tank selling for $25 or less; (f) any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less; (g) any cell phone battery selling for $60 or less and any cell phone charger selling for $40 or less; (h) any nonelectric food storage cooler selling for $30 or less; (i) any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less; (j) any storm shutter device selling for $200 or less; (k) any carbon monoxide detector selling for $75 or less; (l) any re-usable ice selling for $10 or less; (m) any single product consisting of two or more of the items listed in (a)-(l) selling for $75 or less; and (n) any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less.

The bill defines "storm shutter device" as any materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms.

The bill defines "missile resistant, impact-rated garage door" as garage door materials and products manufactured, rated, and marketed specifically for the purpose of preventing housing structural damage from storms and debris.

The provisions of this bill do not apply to sales within an airport as defined in s. 330.27, F.S., within a public lodging establishment as defined in s. 509.013, F.S., or within a theme park or entertainment complex as defined in s. 509.013, F.S.

The bill authorizes the Department of Revenue (DOR) to adopt rules in order to administer the provisions and provides an appropriation to DOR, in the amount of $289,100 for the current fiscal year (2007-08); these funds will be used to print and mail Tax Information Publications (TIPs) to sales and use tax dealers prior to the start of the holiday. DOR has stated that no rulemaking was required to implement the tax-exemption period in 2005, 2006, or 2007.

Chapter 2007-25, Laws of Florida, authorized a similar sales tax exemption for hurricane preparedness items from June 1, 2007, through June 12, 2007.

C. SECTION DIRECTORY:

Section 1. Provides a sales tax exemption for certain supplies from June 1, 2008, through June 7, 2008; provides exceptions to this exemption; provides rule-making authority to the Department of Revenue.

Section 2. Appropriates $289,100 from General Revenue to the Department of Revenue to administer this sales tax holiday.

Section 3. Provides that the act will become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference estimates the impact of this bill to have a negative fiscal impact of $12.3 million to General Revenue.

2. Expenditures:

   The bill provides an appropriation of $289,100 to administer the sales tax holiday in the current fiscal year. The Department of Revenue states that they require $300,843.

Tax Information Publication (TIP) Printing Costs	$75,943
1st Class Postage	$224,900
Total	$300,843

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference estimates that this bill will have a $2.8 million negative fiscal impact on local governments.

	2007-08
Revenue Sharing	($0.4m)
Local Gov't. Half Cent	($1.2m)
Local Option	($1.2m)
Total Local Impact	($2.8m)

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons that purchase the items covered by this bill during the specified periods will save money by not having to pay a sales tax on the items covered by this bill. In addition, the availability of the sales tax exemption may prompt some consumers to purchase more of the items eligible for the exemption, thereby causing an increase in the number of sales by Florida retailers. The reduced costs of acquiring hurricane preparedness items may lead to reductions in the loss of life and damage to property in the event of a hurricane.

D. FISCAL COMMENTS:

The bill provides a FY 2007-08 appropriation of $289,100 for the Department of Revenue to administer the bill's provisions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes. No exemption applies. Therefore, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

This bill gives the Department of Revenue authority to adopt rules concerning this tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The applicable time period for the sales tax exemption during 2008 is June 1 through June 7. Depending upon when the bill potentially becomes a law (after passage by the Legislature and approval of the Governor), the bill may not be effective during some portion, or all, of that time period. This may reduce the fiscal impact of the bill for FY 2007-08.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On Thursday, March 13, 2008, the Committee on Economic Development adopted one amendment which was adopted without objection. The amendment eliminates the following exemptions from the bill:

- Any boat anchor selling for $100 or less; any marine battery; or any fender, anchor chain, dock line, or similar device used to protect a boat tied up at a dock and selling for $300 or less.
- Any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less.

On Tuesday April 1, 2008, the Economic Expansion and Infrastructure Council adopted two amendments. The first was an amendment to the prior amendment, which was adopted without objection. The amendment restored the exemptions to the bill relating to any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less. A second amendment was adopted without objection, to shorten the duration of the sales tax-exemption period from 12 days to 7 days.

This analysis has been updated to reflect these changes.

A bill to be entitled

An act relating to hurricane preparedness; providing an exemption from the sales and use tax for sales of certain tangible personal property for a certain period; providing an exception for sales within a public lodging establishment, theme park, entertainment complex, or airport; authorizing the Department of Revenue to adopt rules; providing an appropriation; providing an effective date.

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

Section 1. <u>(1) Effective June 1, 2008, through June 7, 2008, the tax levied under chapter 212, Florida Statutes, may not be collected on the sale of:</u>

<u>(a) Any portable self-powered light source selling for $20 or less;</u>

<u>(b) Any portable self-powered radio, two-way radio, or weatherband radio selling for $75 or less;</u>

<u>(c) Any tarpaulin or other flexible waterproof sheeting selling for $50 or less;</u>

<u>(d) Any item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for $50 or less;</u>

<u>(e) Any gas or diesel fuel tank selling for $25 or less;</u>

<u>(f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;</u>

<u>(g) Any cell phone battery selling for $60 or less or any</u>

cell phone charger selling for $40 or less;

(h) Any nonelectric food storage cooler selling for $30 or less;

(i) Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less;

(j) Any storm shutter device selling for $200 or less. As used in this paragraph, the term "storm shutter device" means materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms;

(k) Any carbon monoxide detector selling for $75 or less;

(l) Any reusable ice selling for $10 or less;

(m) Any single product consisting of two or more of the items listed in paragraphs (a)-(l) selling for $75 or less; or

(n) Any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less. As used in this paragraph, the term "missile resistant, impact-rated garage door" means garage door materials and products manufactured, rated, and marketed specifically for the purpose of preventing housing structural damage from storms and debris.

(2) This section does not apply to sales within a public lodging establishment as defined in s. 509.013, Florida Statutes, within a theme park or entertainment complex as defined in s. 509.013, Florida Statutes, or within an airport as defined in s. 330.27, Florida Statutes.

(3) The Department of Revenue may adopt rules pursuant to

ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

Section 2. The sum of $289,100 is appropriated from the General Revenue Fund to the Department of Revenue to administer the exemption provided for in section 1 during the 2007-2008 fiscal year.

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

Amendment No. 1

Bill No. **CS/HB 111**

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 ______

Council/Committee hearing bill: Policy & Budget Council

Representative Nehr offered the following:

Amendment

Remove lines 44-50 and insert:

(n) Any single garage door selling for $500 or less or double garage door selling for $1,000 or less complying with the High Velocity Hurricane Zone Impact Tests for Wind-Borne Debris, Section 1626, Florida Building Code, Building.

Amendment No. 2

Bill No. **CS/HB 111**

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	____

Council/Committee hearing bill: Policy & Budget Council

Representative Nehr offered the following:

Amendment

Remove line 59 and insert:

Section 2. The sum of $300,843 is appropriated from the

CS/HB 127

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 127 Property Appraisers
SPONSOR(S): Government Efficiency & Accountability Council, Hooper and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on State Affairs	10 Y, 0 N	Levin	Williamson
2) Government Efficiency & Accountability Council	14 Y, 0 N, As CS	Levin/Dykes	Cooper
3) Policy & Budget Council		Diez/Arguelles	Hansen
4)			
5)			

SUMMARY ANALYSIS

Current law confers upon property appraisers certain duties in assessing property; but the law does not address the potential conflict of interest that arises when a property appraiser assesses property that he or she owns.

The bill does not permit a property appraiser to appraise property that he or she owns. In these instances, the property appraiser must provide for an independent appraisal. The appraisal must be performed by the Department of Revenue (DOR) or by a property appraiser other than the appraiser of the county where the property is located.

The DOR maintains it may incur substantial expenses if the DOR is required to perform the appraisals. In addition, local property appraisers may expend additional funds appraising property owned by other Florida property appraisers. The bill does not provide who is responsible for paying for the appraisals.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires an independent property appraisal on any property owned individually or jointly by a Florida property appraiser.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law confers upon property appraisers certain duties in assessing property; but the law does not address the potential conflict of interest that arises when a property appraiser assesses property that he or she owns.

Effect of Bill

The bill does not permit a property appraiser to appraise property that he or she owns. In these instances, the property appraiser must provide for an independent appraisal. The appraisal must be performed by the Department of Revenue (DOR) or by a property appraiser other than the appraiser of the county where the property is located.

The bill has an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1 amends s. 193.023, F.S., to require property appraisers to provide for independent appraisals of certain property by the Department of Revenue or certain other property appraisers.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The DOR indicates it may have additional expenditures if it is required to appraise properties owned by property appraisers. *See* FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   Property Appraisers may have to make additional expenditures in order to have the department or another appraiser assess the property owned by the appraiser. Alternatively, property appraisers may expend additional funds appraising property owned by other Florida property appraisers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The bill states that a Property Appraiser must provide for either the Department of Revenue or another Property Appraiser. However, the bill does not state who should pay for the costs of conducting the appraisal.

According to the Department of Revenue:

> Appraisals are costly and time-consuming. The Department does not have on hand the number and type of parcels currently owned by each of the 67 Property Appraisers. The parcel count could easily number in the hundreds and the operational impact of this proposal would likely be substantial. Without knowing the number and type of parcels, the Department has no basis for quantifying the operational impact.[1]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Article VII, subsection 18 (a) may apply, if it is determined that a Property Appraiser's office must pay for the expense of providing for appraisals on property owned by the Property Appraiser. The amount of these expenditures is not known at this time.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill's intent appears to be that the Department of Revenue or another Property Appraiser should assess property owned by a Property Appraiser in the county where he or she serves. However, the language of the bill prohibits a county's Property Appraiser from assessing property located in the county that is owned by another Property Appraiser.

<u>Other Comments: Department of Revenue</u>

The Department of Revenue raised the following issues and concerns, which are quoted verbatim:[2]

- The bill does not provide for the owner's disclosure of parcels owned jointly or individually by the 67 Property Appraisers. It is unlikely that the Department could identify all of these parcels independently of disclosure and such attempts would be inefficient and difficult.
- The bill does not provide the intended use of the Department's appraisal . . . The intended use should be specified (based on legislative intent) to avoid the inefficiencies and difficulties associated with varying perceptions of what the intended use should be.

---

[1] Department of Revenue 2008 Bill Analysis of HB 127, October 8, 2007, at 2 and 3 (on file with the Committee on State Affairs).
[2] *Id.* at 2.

- The bill does not provide for administrative appeal of the Department's appraisals – chapter 194 provides for administrative appeals of the Property Appraiser's values but not for these appraisals by the Department. Also, the bill does not provide for resolution of disagreements between the Department and the Property Appraiser (and other local government participants)...
- The bill would move the Department into an administrative role by directly involving the Department in the local administration of the ad valorem tax. The Department's established role is oversight since the property tax is administered locally. The proposed dual roles for the Department could lead to conflicts when the Property Appraiser and the Department disagree over the value of the Property Appraiser's parcels at the same time the Department is performing its oversight role of the tax roll as a whole, or vice versa.
- The Department's appraisals could be perceived as biased if local interested parties disagree with the Department's appraisals. If so, this could cause conflict between local parties and state agencies.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Committee on State Affairs adopted an amendment and reported the bill favorable with amendment. The amendment clarifies that a property appraiser may not appraise real property in any county within the State of Florida in which an appraiser holds the title, either as an owner or joint owner.

On April 8, 2008, the Government Efficiency & Accountability Council reported HB 127 favorably with a Council Substitute to incorporate the amendment adopted by the Committee on State Affairs.

A bill to be entitled

An act relating to property appraisers; amending s. 193.023, F.S.; requiring property appraisers to provide for independent appraisals of certain property by the Department of Revenue or certain other property appraisers; prohibiting property appraisers from appraising certain lands owned by the property appraiser; authorizing the department and property appraisers to conduct certain appraisals of certain property appraiser's property; providing an effective date.

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

Section 1. Subsection (7) is added to section 193.023, Florida Statutes, to read:

193.023 Duties of the property appraiser in making assessments.--

(7) For any property owned individually or jointly by a property appraiser in this state, the property appraiser shall provide for an independent appraisal of the property by the Department of Revenue or the property appraiser of a county other than the county in which the property is located. In no event may a property appraiser appraise property owned individually or jointly by the property appraiser. The department or a property appraiser may conduct an appraisal of the property of another property appraiser to comply with this subsection.

Section 2. This act shall take effect July 1, 2008.

CS/HB 217

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 217 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Economic Expansion & Infrastructure, Altman & others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	10 Y, 0 N	West	Croom
2) Economic Expansion & Infrastructure Council	11 Y, 3 N, As CS	West/Madsen	Tinker
3) Policy & Budget Council		Jacobik BSJ	Hansen MH
4)			
5)			

SUMMARY ANALYSIS

CS/HB 217 creates an exemption from state and local sales and use taxes for:

- An aircraft that primarily will be used in a fractional aircraft ownership program; and
- Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program.

Additionally, the bill provides for a maximum tax of $300 on the sale or use in this state of a fractional aircraft ownership interest in aircraft pursuant to a fractional ownership program. This maximum tax applies to the total consideration paid for the fractional ownership interest, including amounts paid by the fractional owner as monthly management or maintenance fees.

The bill defines a "fractional aircraft ownership program" as a program that meets the requirements in the Federal Aviation Administration regulation Title 14, chapter I, part 91, subpart K, C.F.R., except the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program.

The bill is estimated to reduce state revenues by $0.8 million and local revenues by $0.2 million.

The bill provides an effective date of July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill creates an exemption from the state sales and use tax for fractional aircraft and related parts and labor. Also, the bill provides a maximum sales and use tax on ownership interest related to fractional aircraft ownership programs.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Aviation-related State Tax Exemptions
Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's six-percent sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Florida law currently provides more than 200 exemptions.

A number of sales and use tax exemptions related to aviation exist in s. 212.08, F.S.:

- Aircraft repair and maintenance labor charges – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.
- Equipment used in aircraft repair and maintenance – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.
- Aircraft sales and leases – For qualified aircraft and for aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations.
- Aircraft that is purchased in Florida, but will not be used or stored in this state, qualifies for either a full or partial sales tax exemption, depending on the circumstances.

"Qualified aircraft" is defined in s. 212.02(33), F.S., as:

- Any aircraft having a maximum certified takeoff weight of less than 10,000 pounds;
- Is equipped with twin turbofan engines that meet Stage IV noise requirements;
- Is used by a business operating as an on-demand air carrier under Federal Aviation Administration Regulation Title 14, chapter I, part 135, Code of Federal Regulations; and
- Is used by a business that owns and operates a fleet of at least 25 such aircraft in Florida.

Fractional Aircraft Ownership Programs
In a "fractional aircraft ownership program," individuals or entities purchase an undivided interest in a specific, serial-numbered aircraft, and are guaranteed availability of the plane (or a similar one) within a time-frame specified by contract. Typically, fractional aircraft ownership contracts also require fractional owners to pay management fees for the operation, upkeep, and storage of the planes.

Fractional ownership operations began in 1986 with the creation of a program that offered aircraft owners increased flexibility in the ownership and operation of aircraft, and provided for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agreed not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program (called a "dry lease exchange"). The aircraft owners used a common management company to provide aviation management services including maintenance of the aircraft, pilot training and assignment, and administration of the leasing of the aircraft among the owners.

During the 1990s, the growth of fractional aircraft ownership programs was substantial in terms of size, numbers, and complexity of operations and issues. In 2001, the Federal Aviation Administration (FAA) adopted new rules on fractional aircraft ownership. The new rules established that an aircraft's fractional owners and the aircraft management company share the responsibility for aircraft operations and passenger safety. The new rules also established ownership definitions and clarified certain administrative requirements for fractional aircraft ownership. For example, the rules define "fractional ownership interest" as equal to, or greater than, 1/16th of a subsonic, fixed-winged, or powered-lift program aircraft; for a helicopter, the ownership interest can be as small as 1/32nd.

Fractional aircraft ownership continues to grow in popularity. According to the General Aviation Manufacturers Association, fractional aircraft programs comprised almost 14 percent of the business jets purchased worldwide in 2006. The number of aircraft operating in fractional programs increased from 949 in 2005 to 984 in 2006 (a 3.7-percent increase) and the number of entities and individuals involved in fractional ownership rose to 4,903 in 2006 (a 4.5-percent increase over 2005 figures). Similarly, the FAA's Aerospace Forecast for Fiscal Years 2006-2007 noted that flights by fractional aircraft are outpacing the rest of the aviation industry, up nearly 3 percent in the first nine months of 2006 over the same time period in 2005.

Florida has one fractional aircraft ownership program: Avantair, which relocated from New Jersey to Clearwater, Florida. But some of the airplanes typically used in fractional aircraft ownership programs fall between the current 10,000-pound and the 15,000-pound certified takeoff weight thresholds, so Avantair and other fractional companies that have expressed interest in moving to Florida are ineligible for the tax exemptions.

Sales and Use Taxes

Chapter 212, F.S., imposes a 6-percent tax on the retail sale of tangible personal property. County governments may impose discretionary sales surtaxes. A number of exemptions exist, many of them in section 212.08, F.S. Fractional aircraft are not currently defined in Chapter 212, F.S. Section 212.08, F.S. does not provide sales and use tax exemptions for: a) the sale or use of an aircraft in a fractional ownership program; or b) the maintenance, repair, or overhaul of an aircraft sold or used pursuant to such a program. Chapter 212, F.S., currently does not provide a maximum tax on the sale or use in Florida of a fractional ownership interest in aircraft pursuant to a fractional ownership program.

Effects of Proposed Changes

The bill creates a 100 percent exemption from the state sales and use tax for:

- An aircraft that primarily will be used in a fractional aircraft ownership program; and
- Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program.

Additionally, the bill provides for a maximum tax of $300 on the sale or use in this state of a fractional aircraft ownership interest in aircraft pursuant to a fractional ownership program. This maximum tax applies to the total consideration paid for the fractional ownership interest, including amounts paid by the fractional owner as monthly management or maintenance fees.

The bill defines a "fractional aircraft ownership program" as a program that meets the requirements set forth in FAA regulation Title 14, chapter I, part 91, subpart K, C.F.R., except the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program. According to s. 911.1001(5), C.F.R.:

A fractional ownership program or program means any system of aircraft ownership and exchange that consists of all of the following elements:

- The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners;
- Two or more airworthy aircraft;
- One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner;
- Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner;
- A dry-lease aircraft exchange arrangement among all of the fractional owners; and
- Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

To qualify for the exemption a purchaser must provide the proper eligibility certification in a form determined by the Department of Revenue.

C. SECTION DIRECTORY:

<u>Section 1</u>: Amends s. 212.02, F.S., to provide a definition for a "fractional aircraft ownership program."

<u>Section 2</u>: Amends s. 212.08, F.S., to provide sales and use exemptions for an aircraft for primary use pursuant to a fractional aircraft ownership program and for the parts and labor used in the maintenance, repair and overhaul of such an aircraft.

<u>Section 3</u>: Creates s. 212.0597, to provide a maximum tax on the sale or use of fractional aircraft ownership interests.

<u>Section 4</u>: Provides the act will take effect July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 08-09	FY 09-10	FY 10-11
General Revenue	($0.8M)	($1M)	($1.1M)
Trust Funds	Insignificant	Insignificant	Insignificant

2. Expenditures:

   The Department of Revenue may incur expenses administering the program but the department will be able to absorb these costs with current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   According to the Revenue Impact Estimating Conference, the bill will have a recurring negative fiscal impact on local government revenues of $200,000.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies interested in offering fractional aircraft ownership programs in Florida, and individuals or entities wishing to purchase interests in these aircraft, will benefit from not having to pay certain sales taxes related to their purchases and operations.

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 reduces the authority that municipalities or counties have to raise revenues; however, an exemption applies because the fiscal impact is insignificant.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

The fiscal impact should be zero or even have a positive fiscal impact.

Without this tax exemption it is likely existing fractional aircraft companies will leave Florida and new ones will not move into the State. Under present law existing companies can legally avoid the tax by holding newly purchased aircraft out of the State for a period of six months. If we lose these companies we will lose the tax benefit of having the fastest growing sector of the aircraft industry as a part of our economy.

The impact conference analysis recognizes that the negative fiscal impact "is assuming the planes are initially domiciled (in Florida) in the first 6 months. If legal tax avoidance is 100%, the current revenue impact could be zero." It does not seem reasonable to assume that everyone would voluntarily pay taxes that they can legally avoid.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On Thursday March 13, 2008, the Committee on Economic Development reported the bill favorably with an amendment. The amendment:

- Clarified the definition for "fractional aircraft ownership program" by referencing s. 1504(a) of the Internal Revenue Code of 1986, as amended;
- Replaced the term "exclusive use" with "primary use" relating to the requirement of a purchaser or lessee to provide an aircraft dealer with certain information; and
- Clarified language relating to the maximum sales and use tax that may be imposed on a fractional aircraft ownership program.

On Tuesday April 8, 2008, the Economic Expansion and Infrastructure Council reported the bill favorably as a Council Substitute.

This analysis has been updated to reflect these changes.

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.02, F.S.; defining the term "fractional aircraft ownership program"; amending s. 212.08, F.S.; providing exemptions for the sale or use of an aircraft for primary use pursuant to a fractional aircraft ownership program and for the parts and labor used in the maintenance, repair, and overhaul associated with aircraft sold or used pursuant to such a program; creating s. 212.0597, F.S.; providing a maximum tax on the sale or use of fractional aircraft ownership interests; providing application; providing limitations; providing an effective date.

WHEREAS, Florida has identified aviation and aerospace as targeted industries for economic development purposes, and

WHEREAS, Florida has determined that the synergy in the space, aerospace, and aviation industries attracts the world's leading businesses to the state, and

WHEREAS, Florida employs approximately 80,000 people in the aviation and aerospace industries at an average annual wage of approximately $52,000, and

WHEREAS, Florida has the third-largest aviation maintenance, repair, and overhaul cluster in the United States and has focused strategies for expanding these aviation support services, and

WHEREAS, Florida intends to remain competitive with other states as additional innovative commercial air transportation products are developed, NOW, THEREFORE,

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

Section 1. Subsection (34) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.--The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(34) "Fractional aircraft ownership program" means a program that meets the requirements of Federal Aviation Administration Regulation Title 14, chapter I, part 91, subpart K, C.F.R., except that the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group, as defined by s. 1504(a) of the Internal Revenue Code of 1986, as amended, providing the program. Such aircraft shall be used in the fractional aircraft ownership program providing the program.

Section 2. Subsection (19) is added to section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(19) FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.--Also exempt from the tax imposed by this chapter is the sale or use of:

(a) Aircraft for primary use in a fractional aircraft ownership program.

(b) Any parts or labor used in the completion, maintenance, repair, or overhaul of aircraft for primary use in a fractional aircraft ownership program.

The exemptions provided in paragraphs (a) and (b) are not allowed unless the purchaser or lessee furnishes the dealer with a certificate stating that the lease, purchase, repair, or maintenance to be exempted is for primary use in a fractional aircraft ownership program and that the purchaser or lessee otherwise qualifies for the exemption as provided in this subsection. If a purchaser or lessee makes tax-exempt purchases on a continual basis, the purchaser or lessee may tender the certificate once and allow the dealer to keep the certificate on file. The purchaser or lessee shall inform the dealer that has a certificate on file when the purchaser or lessee no longer qualifies for the exemption. The department shall determine the format of the certificate.

Section 3. Section 212.0597, Florida Statutes, is created to read:

212.0597 Maximum tax on fractional aircraft ownership interests.--The tax imposed under this chapter, including any discretionary sales surtax imposed under s. 212.055, shall be limited to $300 on the sale or use in this state of a fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program. This maximum tax applies to the total consideration paid for the fractional ownership interest,

<u>including amounts paid by the fractional owner as monthly management or maintenance fees. The maximum tax applies only when such fractional ownership interest is sold by or to the operator of the fractional aircraft ownership program or when the fractional ownership interest can be transferred only upon the approval of the operator of the fractional aircraft ownership program.</u>

Section 4. This act shall take effect July 1, 2008.

CS/HB 225

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 225 Telephone Caller Identification
SPONSOR(S): Safety & Security Council; Kiar and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Homeland Security & Public Safety	10 Y, 0 N	Padgett	Kramer
2) Safety & Security Council	15 Y, 0 N, As CS	Padgett/Davis	Havlicak
3) Policy & Budget Council		Leznoff	Hansen
4)			
5)			

SUMMARY ANALYSIS

CS/HB 225 creates the following misdemeanors:

- Entering false information into a caller identification system with the intent to deceive, defraud, or mislead the call recipient.
- Making a telephone call knowing that false information was entered into the caller identification system with the intent to deceive, defraud, or mislead the recipient of the call.

These offenses would not apply to the blocking of caller ID information; to law enforcement agencies; Federal intelligence agencies; or a telecommunications, broadband, or voice-over-internet service provider that is acting solely as an intermediary for the transmission of telephone service between a caller and a recipient.

In addition, the bill provides that if the telephone call using false telephone caller information was placed during the commission of a crime or facilitated a crime, the underlying criminal offense is reclassified to the next higher degree, increasing the maximum penalty exposure accordingly. For the purposes of sentencing, any offense that is reclassified under this section is to be ranked one level above the current ranking specified in the offense severity ranking chart. The offense severity ranking in part determines lowest permissible sentence under the Criminal Punishment Code.

In addition to criminal penalties, CS/HB 225 specifies that a violation of this section is also an unlawful trade practice under Florida's Deceptive and Unfair Trade Practices Act found in Ch. 501, Part II, F.S. Thus, a person who violates this section could also be subject to injunctions, fines, and civil penalties.

On January 17, 2008 the Criminal Justice Impact Conference considered the bill to have an indeterminate impact upon the prison population. Therefore the fiscal impact is unknown. The bill takes effect on October 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: The bill provides for criminal penalties if a person enters or causes to be entered false information into a telephone caller identification system with the intent to mislead or defraud the recipient of the call. The bill also provides for enhanced penalties for the underlying criminal offense if the misleading information was used to further a crime.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Spoofing

Caller identification (ID) "spoofing" is the practice of changing the telephone number that appears on the call recipient's caller ID to disguise the identity of the person making the telephone call. There are several spoofing websites that allow a person the ability to change the information that appears on the call recipient's caller ID[1]. The sites charge a fee in exchange for the ability to alter the information on a caller ID.

Spoofing technology can be used for legitimate purposes. These include:

- Businesses use spoofing to display an employee's work telephone number when the employee is using another phone, such as a cell phone
- Federal, State, and local law enforcement use spoofing for various investigative purposes
- Domestic violence shelters use spoofing to conceal the location of the shelter
- Bounty hunters and private investigators use spoofing technology to track individuals

Spoofing can be used for fraudulent or undesirable purposes as well. Examples include:

- Bomb threats
- Phone Phishing, which is the practice of acquiring personal information over the telephone by posing as a trusted business or organization
- Wire transfer fraud
- Prank calls

Section 501.059, F.S. addresses the requirements for telephone solicitation calls. Section 501.059(7), F.S. requires all telephone solicitors to allow the correct name and telephone number of the solicitor to appear on the caller ID of the call recipient. Violations of this statute are subject to civil penalties and/or injunctive relief, in an amount not to exceed $10,000 per violation.

Criminal penalties

The Criminal Punishment Code is the state's sentencing policy for non-capital felony offenses. Under the code all felony offenses are ranked in level of severity from 1 (the least severe) to 10 (the most severe). Points are assigned to each severity level in the distinct areas of primary offense, additional

[1] See www.spoofcard.com, www.telespoof.com, www.phonegangster.com, www.teltechcorp.com

offense and prior record. The code also scores other factors relevant at sentencing such as victim injury and probation violations. The score is computed pursuant to a formula established in statute[2] and the score derives the lowest permissible sentence in months. The maximum state prison sentence is determined by the felony degree as follows:

3rd degree felony – up to 5 years
2nd degree felony – up to 15 years
1st degree felony – up to 30 years
Life – life

Misdemeanors offenses are eligible to receive county jail sentences. A misdemeanor of the first degree is punishable for up to one year imprisonment and a second degree misdemeanor is punishable to a maximum of sixty days imprisonment.

Proposed Changes

CS/HB 225 provides that a person may not enter[3] or cause to be entered false information[4] into a telephone caller identification system[5] with the intent to deceive, defraud, or mislead the call recipient. Additionally, the bill provides that the caller[6] may not make a telephone call[7] knowing that false information was entered into the caller identification system with the intent to deceive, defraud, or mislead the recipient of the call. The bill does not apply to:

- The blocking of caller identification information
- Any law enforcement agency
- Any Federal intelligence or security agency
- A telecommunications, broadband, or voice-over-internet service provider that is acting solely as an intermediary for the transmission of telephone service between the caller and the recipient.

A person who violates this section commits a first degree misdemeanor[8].

In addition, CS/HB 225 provides that if the telephone call using false telephone caller information was made during the commission of a crime or assisted in furthering a crime, the underlying offense would be reclassified as follows:

- A second degree misdemeanor would be reclassified to a first degree misdemeanor

---

[2] S. 921.0024 Florida Statutes, Criminal Punishment Code; worksheet computations; scoresheets

[3] The bill provides the term "'enter' means to input data by whatever means into a computer or telephone system."

[4] The bill provides the term "'false information' means data that misrepresents the identity of the caller to the recipient of the call or to the network itself; however, when a person making an authorized call on behalf of another person inserts the name, telephone number, or name and telephone number of the person on whose behalf the call is being made, such information shall not be deemed false information."

[5] The bill provides that "'telephone caller identification system' means a listing of a caller's name, telephone number, or name and telephone number that is shown to a recipient of a call when it is received."

[6] The bill provides that "'caller' means a person who places a call, whether by telephone, over a telephone line, or on a computer."

[7] The bill provides the term "'call' means any type of telephone call made using a public switched telephone network, wireless cellular telephone service, or voice-over-Internet protocol (VoIP) service that has the capability of accessing users on the public switched telephone network or a successor network."

[8] A first degree misdemeanor is punishable by up to one year in jail and a $1,000 fine. ss. 775.082, 775.083, F.S.

- A first degree misdemeanor would be reclassified as a third degree felony
- A third degree felony would be reclassified as a second degree felony
- A second degree felony would be reclassified as a first degree felony
- A first degree felony would be reclassified as a life felony

For purposes of sentencing, a first degree misdemeanor that is reclassified is ranked in level 2 of the offense severity ranking chart. For all felony offenses that are reclassified, the offense level is ranked one level above the level of the underlying offense in the offense severity ranking chart[9].

The bill also provides that a violation of this section is also a violation of Ch. 501, Part II, F.S., relating to deceptive and unfair trade practices. Ch. 501 provides various remedies the State of Florida can pursue including injunctions, fines[10], and civil actions to recover actual damages. It also allows private citizens to recover damages and seek injunctions against a person who violates Ch. 501, F.S.

C. SECTION DIRECTORY:

Section 1 Cites the bill as the Caller ID Anti-spoofing Act.

Section 2 Creates s. 817.487, F.S. relating to telephone caller identification systems.

Section 3 Provides effective date of October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

[9] See ss. 921.0022, 921.0023, F.S.

[10] The fine may not exceed $15,000 for each violation in which the victim is 60 years of age or older or $10,000 for all other violations. ss. 501.2075, 501.2077, F.S.

The Criminal Justice Impact Conference met on January 17, 2008 and determined that the bill will have an indeterminate impact on prison beds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 5, 2008, the Committee on Homeland Security & Public Safety adopted one strike-all amendment and one amendment to the strike-all amendment. The amendments make the following changes:

- amends the definition of "call" to replace the language, "plain old telephone service (POTS)" to "public switched telephone network."
- amends the definition of "false information" to include data that misrepresents the identity of the caller to the telephone network
- expands criminal liability to include a person who causes false information to be entered into a telephone caller identification system; eliminating the need for a person to directly input information into a caller identification system
- reorders ss. 817.487(5), F.S. and 817.487(6), F.S.
- deletes an obsolete reference to gain-time eligibility as it relates to sentencing
- provides that this section does not apply to a telecommunications, broadband, or voice-over-internet service provider that is acting solely as an intermediary for the transmission of telephone service between a caller and a recipient.

On April 1, 2008, the Safety & Security Council made the bill a council substitute.

A bill to be entitled

An act relating to telephone caller identification; providing a short title; creating s. 817.487, F.S.; prohibiting entering or causing to be entered false information into a telephone caller identification system with the intent to deceive, defraud, or mislead; prohibiting placing a call knowing that false information was entered into the telephone caller identification system; providing definitions; providing exceptions; providing penalties; providing that a violation is an unlawful trade practice under specified provisions; providing for enhancement of penalties when a violation is committed during the commission of a criminal offense or when a violation facilitates a criminal offense; providing an effective date.

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

Section 1. This act may be cited as the "Caller ID Anti-spoofing Act."

Section 2. Section 817.487, Florida Statutes, is created to read:

817.487 Telephone caller identification systems.--

(1) As used in this section:

(a) "Call" means any type of telephone call made using a public switched telephone network, wireless cellular telephone service, or voice-over-Internet protocol (VoIP) service that has the capability of accessing users on the public switched telephone network or a successor network.

(b) "Caller" means a person who places a call, whether by telephone, over a telephone line, or on a computer.

(c) "Enter" means to input data by whatever means into a computer or telephone system.

(d) "False information" means data that misrepresents the identity of the caller to the recipient of a call or to the network itself; however, when a person making an authorized call on behalf of another person inserts the name, telephone number, or name and telephone number of the person on whose behalf the call is being made, such information shall not be deemed false information.

(e) "Telephone caller identification system" means a listing of a caller's name, telephone number, or name and telephone number that is shown to a recipient of a call when it is received.

(2) A person may not enter or cause to be entered false information into a telephone caller identification system with the intent to deceive, defraud, or mislead the recipient of a call.

(3) A person may not place a call knowing that false information was entered into the telephone caller identification system with the intent to deceive, defraud, or mislead the recipient of the call.

(4) This section shall not apply to:

(a) The blocking of caller identification information.

(b) Any law enforcement agency of the federal, state, county, or municipal government.

(c) Any intelligence or security agency of the Federal Government.

(d) A telecommunications, broadband, or voice-over-Internet service provider that is acting solely as an intermediary for the transmission of telephone service between the caller and the recipient.

(5)(a) Any person who violates subsection (2) or subsection (3) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any violation of subsection (2) or subsection (3) constitutes an unlawful trade practice under part II of chapter 501 and, in addition to any remedies or penalties set forth in this section, is subject to any remedies or penalties available for a violation of that part.

(6)(a) The felony or misdemeanor degree of any criminal offense shall be reclassified by the court to the next higher degree as provided in this subsection if the offender violated subsection (2) or subsection (3) during the commission of the criminal offense or if a violation by the offender of subsection (2) or subsection (3) facilitated or furthered the criminal offense. The reclassification shall be as follows:

1. In the case of a misdemeanor of the second degree, the offense is reclassified as a misdemeanor of the first degree.

2. In the case of a misdemeanor of the first degree, the offense is reclassified as a felony of the third degree.

3. In the case of a felony of the third degree, the offense is reclassified as a felony of the second degree.

4. In the case of a felony of the second degree, the

offense is reclassified as a felony of the first degree.

5. In the case of a felony of the first degree or a felony of the first degree punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

(b) For purposes of sentencing under chapter 921, the following offense severity ranking levels apply:

1. An offense that is a misdemeanor of the first degree and that is reclassified under this subsection as a felony of the third degree is ranked in level 2 of the offense severity ranking chart.

2. A felony offense that is reclassified under this subsection is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

Section 3. This act shall take effect October 1, 2008.

CS/HB 235

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 235 Community College Finance

SPONSOR(S): Schools & Learning Council, Heller

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 696

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Postsecondary Education	9 Y, 0 N	Tilton	Tilton
2) Schools & Learning Council	14 Y, 0 N, As CS	Tilton/Eggers	Cobb
3) Policy & Budget Council		Langston	Hansen
4)			
5)			

SUMMARY ANALYSIS

CS/HB 235 authorizes community college boards of trustees to enter into short-term financing contracts for goods, materials, and services for a term of not more than five years. Payments on such contracts must be subject to an annual appropriation by the board of trustees.

Community college boards of trustees may pledge capital improvement fee revenues as a dedicated revenue source to the repayment of debt with an overall term of not more than seven years and revenue bonds with a term not exceeding 20 years. The revenue bonds must be issued by the Division of Bond Finance. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds.

A community college board of trustees may also pledge parking fee revenues as a dedicated revenue source for the repayment of debt with an overall term of not more than seven years and revenue bonds with a term not exceeding 20 years. Community colleges must use the services of the Division of Bond Finance to issue any revenue bonds supported by parking fee revenues.

The bill prohibits the use of tuition, financial aid fees, the Community College Program Fund, or any other operating revenues of a community college to secure revenue bonds.

The bill requires community college boards of trustees to authorize all debt incurred by a direct support organization, but permits the boards to delegate to the direct support organization authority to approve short-term loans and lease purchase agreements with a term of five years or less.

The bill renames Daytona Beach Community College as "Daytona Beach College" and Indian River Community College as "Indian River College."

The fiscal impact of the bill is indeterminate. See FISCAL COMMENTS section.

The effective date is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Workforce Education Postsecondary Student Fees

Each community college board of trustees is authorized to establish a separate fee for capital improvements, technology enhancements, or equipping buildings which may not exceed 5 percent of tuition for resident students or 5 percent of tuition and out-of-state fees for nonresident students. Capital improvement fee revenues from workforce education programs must be expended to construct and equip, maintain, improve, or enhance the certificate career education or adult education facilities of the community college. The fee revenues may be used as a dedicated source to the repayment of debt, including lease-purchase agreements and revenue bonds, with a term not to exceed 20 years and not to exceed the useful life of the asset being financed, only for new construction and equipment, renovation, or remodeling of facilities. The community college may use the services of the Division of Bond Finance to issue bonds supported by capital improvement fee revenues. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[1]

Each community college board of trustees is authorized to establish a number of user fees, including parking fees. User fees may not exceed the cost of the services provided and may only be charged to persons receiving the service. Parking fee revenues from workforce education programs may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[2]

Community College Student Fees

Each community college board of trustees is authorized to establish a separate fee for capital improvements, technology enhancements, or equipping student buildings. The fee may not exceed 10 percent of tuition for resident students or 10 percent of the sum of tuition and out-of-state fees for nonresident students. The fee for resident students is limited to an increase of $2 per credit hour over the prior year. Capital improvement fee revenues from college credit programs must be expended to construct and equip, maintain, improve, or enhance the educational facilities of the community college. These fee revenues may be used as a dedicated source to the repayment of debt, including lease-purchase agreements with an overall term of no more than 7 years and revenue bonds, with a term not to exceed 20 years and not to exceed the useful life of the asset being financed, only for the financing

[1] See s. 1009.22(6), F.S.
[2] See s. 1009.22(9), F.S.

or refinancing of new construction and equipment, renovation, or remodeling of facilities. The community college must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds.[3]

Each community college board of trustees is authorized to establish a number of user fees, including parking fees. User fees may not exceed the cost of the services provided and may only be charged to persons receiving the service. Parking fee revenues from college credit programs may be pledged as a dedicated revenue source for the repayment of debt and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[4]

Powers and duties of community college boards of trustees

Community college boards of trustees may contract for the purchase, sale, lease, license, or acquisition of goods, materials, equipment, and services required by the community college. This includes purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased.[5]

Community college boards of trustees are authorized to borrow funds and incur debt, including lease-purchase agreements and the issuance of revenue bonds as specifically authorized and only for the purposes authorized in statutory provisions governing the use of revenues from the capital improvement fees and the parking fees collected pursuant to ss. 1009.22 and 1009.23, F.S. At the option of the board of trustees, bonds may be issued which are secured by a combination of the capital improvement fee revenues from both programs or a combination of parking fee revenues from both programs.

Community College Direct Support Organizations

Section 1004.70, F.S., relates to community college direct support organizations. Community college direct support organizations are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a community college in this state. There are no specific statutory provisions relating to debt management for community college direct support organizations.[6]

Effect of Proposed Changes

The bill revises the authority of community college boards of trustees to enter into debt by providing requirements for short-term and long-term debt.

The bill authorizes community college boards of trustees to enter into short-term financing for the purchase, sale, lease, license, or acquisition of goods, materials, and services required by the community college for a term of not more than five years. Payments on financing contracts must be subject to an annual appropriation by the board of trustees.

---

[3] See s. 1009.23(11), F.S.
[4] See s. 1009.23(12), F.S.
[5] See s. 1001.64(26), F.S.
[6] See s. 1004.70, F.S.

A community college board of trustees may pledge capital improvement fee revenues as a dedicated revenue source to the repayment of debt with an overall term of not more than seven years and revenue bonds with a term not exceeding 20 years and not exceeding the life of the asset being financed only for the new construction and equipment, renovation, or remodeling of educational facilities. The revenue bonds must be requested by the community college board of trustees and issued by the Division of Bond Finance. The requirement that the Division of Bond Finance issues the revenue bonds is a new provision with respect to Workforce Education Postsecondary Student fees. Revenue bonds using Community College Student Fees are already subject to this requirement. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds.

A community college board of trustees may pledge parking fee revenues as a dedicated revenue source for the repayment of debt with an overall term of not more than seven years and revenue bonds with a term not exceeding 20 years and not exceeding the life of the asset being financed. Community colleges must use the services of the Division of Bond Finance to issue any revenue bonds supported by parking fee revenues.

The bill prohibits the use of tuition, financial aid fees, the Community College Program Fund, or any other operating revenues of a community college to secure revenue bonds.

The bill requires a community college board of trustees to authorize all debt incurred by a direct support organization, but authorizes the board of trustees to delegate authority for approval of short-term loans and lease-purchase agreements to the board of directors of the direct support organization. The terms of these agreements must be for five years or less. Trustees must evaluate proposals for debt in accordance with guidelines issued by the Division of Community Colleges. Revenues of the community college may not be pledged to debt issued by a direct support organization.

The bill renames Daytona Beach Community College as "Daytona Beach College" and Indian River Community College as "Indian River College."

C. SECTION DIRECTORY:

Section 1. Amends s. 1001.64, F.S., providing conditions for certain contracting by community college boards of trustees; authorizing board of trustees to enter into certain short-term loans and contracts and make payments subject to appropriation; authorizing boards of trustees to incur long-term debt according to specified requirements; prohibiting a board of trustees from securing or repaying such debt using tuition or certain other revenues.

Section 2. Amends s. 1004.70, F.S., requiring community college boards of trustees to authorize debt incurred by direct-support organizations; authorizing delegation for approval of short-term loans and lease-purchase agreements; providing restrictions.

Section 3. Amends s. 1009.22, F.S., relating to workforce education postsecondary student fees; revising provisions relating to the pledge of fee revenues to repayment of debt by community college boards of trustees; providing requirements for the request, issuance, securing, and payment of bonds; providing for limitation of actions.

Section 4. Amends s. 1009.23, F.S., relating to community college student fees; revising provisions relating to pledge of fee revenues to the repayment of debt by community college boards of trustees; providing requirements for the request, issuance, securing, and payment of bonds; providing for limitation of actions.

Section 5. Amends s. 1000.21, F.S., renaming certain community colleges.

Section 6. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:
See FISCAL COMMENTS section.

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:
See FISCAL COMMENTS section.

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate.

The State Board of Education issues Capital Outlay and Capital Improvement Revenue Bonds on behalf of the community colleges. The Capital Outlay Bonds are secured by a pledge of the institution's portion of the state-assessed motor vehicle license tax. The Capital Improvement Revenue Bonds are secured by a pledge of the college's Capital Improvement Fee (CIF) collections. These bonds are reviewed by the Division of Bond Finance. For Fiscal Year 2006-2007, the Florida Community College

System had total bonds payable of $115.2 million – Capital Outlay Bonds ($62 million) and Capital Improvement Revenue Bonds ($53.2 million).[7]

The community colleges have incurred an additional $31.7 million in long-term debt that was not reviewed by the Division of Bond Finance.[8] Section 1001.64(38), F.S., has been interpreted by some institutions to authorize community colleges to borrow funds and incur debt without the necessity of review by the Division of Bond Finance. Institutions report that they can obtain a better interest rate from local banks or more beneficial terms with a certificate of participation. Concerns have been expressed regarding any potential impact of long-term debt that has not been reviewed by the Division of Bond Finance.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

   This bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

   This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Committee on Postsecondary Education adopted a strike-everything amendment to HB 235. The strike-everything amendment:

---

[7] Florida Community College System Long Term Liabilities Fiscal Year 2006-07

[8] *Id.*

- Prohibits the use of tuition, financial aid fees, the Community College Program Fund (CCPF), or other operating revenues of a community college to secure debt.
- Removes the provision of the bill that authorizes the transfer of CCPF funds to the State Board of Administration if a community college is unable to pay debt service on bonds supported by capital improvement fees.
- Requires the community college boards of trustees to use the services of the Division of Bond Finance when issuing long-term revenue bonds supported by parking fee revenues.
- Renames Daytona Beach Community College as "Daytona Beach College."
- Renames Indian River Community College as "Indian River College."

On March 25, 2008, the Schools & Learning Council reported HB 235 favorable with a CS. CS/HB 235 differs from HB 235 in the following ways:

- CS/HB 235 prohibits the use of tuition, financial aid fees, the CCPF, or other operating revenues of a community college to secure debt.
- CS/HB 235 does not authorize the transfer of CCPF funds to the State Board of Administration if a community college is unable to pay debt service on bonds supported by capital improvement fees.
- CS/HB 235 requires the community college boards of trustees to use the services of the Division of Bond Finance when issuing long-term revenue bonds supported by parking fee revenues.
- CS/HB 235 renames Daytona Beach Community College as "Daytona Beach College" and Indian River Community College as "Indian River College."

A bill to be entitled

An act relating to community colleges; amending s. 1001.64, F.S.; providing conditions for certain contracting by community college boards of trustees; authorizing boards of trustees to enter into certain short-term loans and contracts and make payments subject to appropriation; authorizing boards of trustees to incur long-term debt according to specified requirements; prohibiting a board of trustees from securing or repaying such debt using tuition or certain other revenues; amending s. 1004.70, F.S.; requiring community college boards of trustees to authorize debt incurred by direct-support organizations; authorizing delegation for approval of short-term loans and lease-purchase agreements; providing restrictions; amending s. 1009.22, F.S., relating to workforce education postsecondary student fees, and s. 1009.23, F.S., relating to community college student fees; revising provisions relating to the pledge of fee revenues to the repayment of debt by community college boards of trustees; providing requirements for the request, issuance, securing, and payment of bonds; providing for limitation of actions; amending s. 1000.21, F.S.; renaming Daytona Beach Community College as "Daytona Beach College" and renaming Indian River Community College as "Indian River College"; providing an effective date.

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

Section 1. Subsections (26) and (38) of section 1001.64, Florida Statutes, are amended to read:

1001.64 Community college boards of trustees; powers and duties.--

(26) Each board of trustees is authorized to contract for the purchase, sale, lease, license, or acquisition in any manner, ~~(~~including purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased, subject to the provisions of subsection (38) and ss. 1009.22 and 1009.23,~~)~~ of goods, materials, equipment, and services required by the community college. The board of trustees may choose to consolidate equipment contracts under master equipment financing agreements made pursuant to s. 287.064.

(38) Each board of trustees is authorized to enter into short-term loans and installment, lease-purchase, and other financing contracts for a term of not more than 5 years, including renewals, extensions, and refundings. Payments on short-term loans and installment, lease-purchase, and other financing contracts pursuant to this subsection shall be subject to annual appropriation by the board of trustees. Each board of trustees is authorized to borrow funds and incur long-term debt, including promissory notes, installment sales agreements, lease-purchase agreements, certificates of participation, and other similar long-term financing arrangements, only as specifically provided ~~entering into lease-purchase agreements and the issuance of revenue bonds as specifically authorized and only~~

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

~~for the purposes authorized~~ in ss. 1009.22(6) and (9) and 1009.23(11) and (12). At the option of the board of trustees, bonds issued pursuant to ss. 1009.22(6) and (9) and 1009.23(11) and (12) may be ~~issued which are~~ secured by a combination of revenues authorized to be pledged to bonds pursuant to such subsections ~~ss. 1009.22(6) and 1009.23(11) or ss. 1009.22(9) and 1009.23(12)~~. Revenue bonds may not be secured by or paid from, directly or indirectly, tuition, financial aid fees, the Community College Program Fund, or any other operating revenues of a community college. Lease-purchase agreements may be secured by a combination of revenues as specifically authorized pursuant to ss. 1009.22(7) and 1009.23(10).

Section 2. Paragraph (e) is added to subsection (4) of section 1004.70, Florida Statutes, to read:

1004.70 Community college direct-support organizations.--

(4) ACTIVITIES; RESTRICTIONS.--

(e) A community college board of trustees must authorize all debt, including lease-purchase agreements, incurred by a direct-support organization. Authorization for approval of short-term loans and lease-purchase agreements for a term of not more than 5 years, including renewals, extensions, and refundings, for goods, materials, equipment, and services may be delegated by the board of trustees to the board of directors of the direct-support organization. Trustees shall evaluate proposals for debt according to guidelines issued by the Division of Community Colleges. Revenues of the community college may not be pledged to debt issued by direct-support organizations.

Section 3. Subsections (6) and (9) of section 1009.22, Florida Statutes, are amended to read:

1009.22 Workforce education postsecondary student fees.--

(6)(a) Each district school board and community college board of trustees may establish a separate fee for capital improvements, technology enhancements, or equipping buildings which may not exceed 5 percent of tuition for resident students or 5 percent of tuition and out-of-state fees for nonresident students. Funds collected by community colleges through the fee ~~these fees~~ may be bonded only for the purpose of financing or refinancing new construction and equipment, renovation, or remodeling of educational facilities. The fee shall be collected as a component part of the tuition and fees, paid into a separate account, and expended only to construct and equip, maintain, improve, or enhance the certificate career education or adult education facilities of the school district or community college. Projects funded through the use of the capital improvement fee must meet the survey and construction requirements of chapter 1013. Pursuant to s. 216.0158, each district school board and community college board of trustees shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee. Capital improvement fee revenues may be pledged by a board of trustees as a dedicated revenue source to the repayment of debt, including lease-purchase agreements, with an overall term of not more than 7 years, including renewals, extensions, and refundings, and revenue bonds~~,~~ with a term not exceeding ~~to exceed~~ 20 years~~,~~ and not exceeding ~~to exceed~~ the useful life of the asset being financed, only for the new construction and equipment, renovation, or remodeling of educational facilities. Bonds authorized pursuant to this paragraph shall be requested by the community college board of trustees and shall be issued by the Division of Bond Finance in compliance with s. 11(d), Art. VII of the State Constitution and the State Bond Act. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds. Any project included in the approved educational plant survey pursuant to chapter 1013 is approved pursuant to s. 11(f), Art. VII of the State Constitution. ~~Community colleges may use the services of the Division of Bond Finance of the State Board of Administration to issue any bonds authorized through the provisions of this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act.~~ Bonds issued pursuant to the State Bond Act may ~~shall~~ be validated in the manner provided by chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the district school board or community college board of trustees. The use of capital improvement fees for such purpose shall be subordinate to the payment of any

<u>bonds secured by the fees.</u>

<u>(b) The state does hereby covenant with the holders of the bonds issued under paragraph (a) that it will not take any action that will materially and adversely affect the rights of such holders so long as the bonds authorized by paragraph (a) are outstanding.</u>

(9) Community college boards of trustees and district school boards are not authorized to charge students enrolled in workforce development programs any fee that is not specifically authorized by statute. In addition to tuition, out-of-state, financial aid, capital improvement, and technology fees, as authorized in this section, community college boards of trustees and district school boards are authorized to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines shall not exceed the cost of the services provided and shall only be charged to persons receiving the service. Parking fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements<u>, with an overall term of not more than 7 years, including renewals, extensions, and refundings,</u> and revenue bonds with <u>a term</u> ~~terms~~ not exceeding 20 years and not exceeding the useful life of the

asset being financed. Community colleges shall use the services of the Division of Bond Finance of the State Board of Administration to issue any revenue bonds authorized by ~~the provisions of~~ this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act. Bonds issued pursuant to the State Bond Act <u>may</u> ~~shall~~ be validated in the manner established in chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 4. Subsections (11) and (12) of section 1009.23, Florida Statutes, are amended to read:

1009.23 Community college student fees.--

(11)(a) Each community college board of trustees may establish a separate fee for capital improvements, technology enhancements, or equipping student buildings which may not exceed 10 percent of tuition for resident students or 10 percent of the sum of tuition and out-of-state fees for nonresident students. The fee for resident students shall be limited to an increase of $2 per credit hour over the prior year. Funds collected by community colleges through <u>the fee</u> ~~these fees~~ may be bonded only as provided in this subsection for the purpose of financing or refinancing new construction and equipment, renovation, or remodeling of educational facilities. The fee shall be collected as a component part of the tuition and fees, paid into a separate account, and expended only to construct and equip, maintain, improve, or enhance the educational facilities of the community college. Projects funded through the use of the capital improvement fee shall meet the survey and construction requirements of chapter 1013. Pursuant to s. 216.0158, each community college shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee.

(b) Capital improvement fee revenues may be pledged by a board of trustees as a dedicated revenue source to the repayment of debt, including lease-purchase agreements, with an overall term~~, including renewals, extensions, and refundings,~~ of not more than 7 years, including renewals, extensions, and refundings, and revenue bonds with a term not exceeding ~~to exceed~~ 20 annual maturities and not exceeding ~~to exceed~~ the useful life of the asset being financed, only for financing or refinancing of the new construction and equipment, renovation, or remodeling of educational facilities. Bonds authorized pursuant to ~~through the provisions of~~ this subsection shall be requested by the community college board of trustees and shall be issued by the Division of Bond Finance ~~upon the request of the community college board of trustees~~ in compliance with ~~the provisions of~~ s. 11(d), Art. VII of the State Constitution and the State Bond Act. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds. Any project included in the approved educational plant survey pursuant to chapter 1013 is approved pursuant to s.

11(f)~~(d)~~, Art. VII of the State Constitution.

(c)~~(d)~~ ~~Any validation of the~~ Bonds issued pursuant to this subsection may be validated ~~shall be~~ in the manner provided by chapter 75. Only the initial series of bonds is required to be validated. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

(d)~~(e)~~ A maximum of 15 percent may be allocated from the capital improvement fee for child care centers conducted by the community college. The use of capital improvement fees for such purpose shall be subordinate to the payment of any bonds secured by the fees.

(e)~~(e)~~ The state does hereby covenant with the holders of the bonds issued under this subsection that it will not take any action that will materially and adversely affect the rights of such holders so long as the bonds authorized by this subsection are outstanding.

(12) In addition to tuition, out-of-state, financial aid, capital improvement, student activity and service, and technology fees authorized in this section, each community college board of trustees is authorized to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access

or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines shall not exceed the cost of the services provided and shall only be charged to persons receiving the service. A community college may not charge any fee except as authorized by law or rules of the State Board of Education. Parking fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements<u>, with an overall term of not more than 7 years, including renewals, extensions, and refundings,</u> and revenue bonds with <u>a term</u> ~~terms~~ not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges shall use the services of the Division of Bond Finance of the State Board of Administration to issue any revenue bonds authorized by ~~the provisions of~~ this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act. Bonds issued pursuant to the State Bond Act <u>may</u> ~~shall~~ be validated in the manner established in chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 5. Paragraphs (e) and (k) of subsection (3) of section 1000.21, Florida Statutes, are amended to read:

1000.21 Systemwide definitions.--As used in the Florida K-20 Education Code:

(3) "Community college," except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:

(e) Daytona Beach ~~Community~~ College.

(k) Indian River ~~Community~~ College.

Section 6. This act shall take effect July 1, 2008.

CS/HB 293

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 293 Corporate Income Tax Credits

SPONSOR(S): Economic Expansion & Infrastructure & Weatherford & others

TIED BILLS: **IDEN./SIM. BILLS:** SB 850

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	10 Y, 0 N	West	Croom
2) Economic Expansion & Infrastructure Council	11 Y, 3 N, As CS	West/Madsen	Tinker
3) Policy & Budget Council		Voyles SV	Hansen MPH
4)			
5)			

SUMMARY ANALYSIS

The program provides state tax credits for corporate income tax, under s. 220.11, F.S., and insurance premium tax, under s. 624.509, F.S., for qualified investments in Florida low-income communities.

The intent of CS/HB 293 is to make the state more attractive to national investors who are deciding where to invest funds raised under the federal New Markets Tax Credits program by creating a state New Markets Tax Credit program similar to the federal program.

The credit provided under this CS is 6.5 percent per year for six years after the original date of the investment. Over six years this credit totals 39 percent of the investment. The federal program provides credits totaling 39 percent of the investment over a seven year period. A company with a qualified investment for both the federal and state program would receive 78 percent of the purchase price of the investment in tax credits. If a taxpayer's state tax liability exceeds their tax credit, then the tax credit may be carried forward for future taxable years, however all tax credits expire December 31, 2021. The tax credits are allocated on a first-come, first-serve basis.

A total of $70 million in tax credits may be awarded for the duration of the program with no more than $10 million claimed in each state fiscal year. The estimated revenue impact for Fiscal Year 2008-09 is zero. Beginning in Fiscal Year 2009-10, the impact is estimated to be $10 million per year. To the extent that some credits may be carried forward, the cumulative $70 million revenue impact could be spread across the years through Fiscal Year 2021-22. This could result in the credits for some years being less than $10 million and other years being greater than $10 million.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This CS grants separate rule-making authority to the Department of Revenue (DOR) and the Office of Tourism, Trade, and Economic Development (OTTED) for the purpose of administering the provisions set out in this CS including the recapture provision and the allocation of tax credits issued for qualified equity investments and recapture of these credits.

Ensure Lower Taxes: This CS provides tax credits to entities making investments in low-income communities in Florida.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Federal New Markets Tax Credit

The New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not realize a return on their investments in CDEs prior to the conclusion of the seven-year period.[1]

An organization wishing to receive awards under the NMTC Program must be certified as a CDE by the US Department of Treasury.

To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.[2]

Community Development Entities in Florida, Investment by State

There are 56 CDEs in Florida.[3] Florida trails only New York (121), California (116), Texas (66), Pennsylvania (59), and Illinois (58) in total number of CDEs.[4] The federal program has awarded New

---

[1] Community Development Financial Institutes Fund; the Department of Treasury; information contained in this paragraph can be found at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (visited 3/15/07).
[2] Community Development Financial Institutes Fund; the Department of Treasury; available online at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (visited 3/15/07).
[3] Community Development Financial Institutes Fund; the Department of Treasury; available online at http://www.cdfifund.gov/docs/certification/CDEstate.pdf .
[4] Id.

Markets Tax Credits to at least 179 CDEs nationwide; these CDEs would be eligible to utilize the state program created in this CS.[5]

Under the federal program, loans have been used to finance a range of activities, such as the rehabilitation of historic buildings and the operation of mixed-use real estate development. Other uses include the construction or operation of cultural arts centers, frozen pizza manufacturing, and the construction of daycare centers and charter schools. [6]

Florida ranked 25th in total NMTC investment dollars during fiscal years 2003-2005. The state received 1.23 percent of total loans and investments and eight total projects.[7]

State	Total dollar amount of loans and investment	Percentage of all loans and investment	Number of NMTC projects	Percentage of NMTC projects
1.California	$303,081,270	9.74	58	9.95
2. New York	239,178,566	7.68	25	4.29
3. Ohio	201,857,969	6.49	69	11.84
4. Maine	153,527,250	4.93	13	2.23
5. Wisconsin	149,131,108	4.79	26	4.46
6. Missouri	146,165,868	4.70	22	3.77
7. Massachusetts	145,059,237	4.66	34	5.83
8. Kentucky	135,117,406	4.34	44	7.55
9. North Carolina	126,420,590	4.06	14	2.40
10. Washington	125,703,680	4.04	19	3.26
11. Minnesota	122,587,357	3.94	13	2.23
12. Oklahoma	112,092,186	3.60	24	4.12
13. Oregon	111,464,317	3.58	14	2.40
14. Maryland	106,171,382	3.41	14	2.40
15. New Jersey	83,439,000	2.68	7	1.20
16. Pennsylvania	77,111,177	2.48	21	3.60
17. Arizona	68,476,055	2.20	8	1.37
18. Washington D.C.	67,715,807	2.18	10	1.72
19. Texas	65,644,265	2.11	11	1.89
20. Michigan	57,541,869	1.85	10	1.72
21. Virginia	55,898,873	1.80	8	1.37
22. Rhode Island	55,235,675	1.77	3	0.51
23. Utah	53,884,716	1.73	14	2.40
24. Georgia	38,516,906	1.24	4	0.69
25. Florida	***38,261,093***	***1.23***	***8***	***1.37***

Effects of Proposed Changes:

CS/HB 293 creates the Florida New Markets Tax Credit in s. 288.991, F.S. The program will provide state tax credits for corporate income tax, under s. 220.11, F.S., and insurance premium tax, under s. 624.509, F.S., for qualified investments in Florida low-income communities.

How the Program Works

Under this program, federally-certified CDEs, which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Office of Tourism, Trade, and Economic Development (OTTED) for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process would

[5] United States Government Accounting Office (GAO) *Report to Congressional Committees, Tax Policy, January, 2007, page 15.*
[6] Id at *30.*
[7] Information found in the table came from the United States Government Accounting Office (GAO) *Report to Congressional Committees, Tax Policy, January, 2007.*

include proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding the proposed low-income community investments, a description of the CDE's efforts to partner with local community-based groups, and a non-refundable application fee payable to OTTED for administration costs. OTTED will also be able to request additional information deemed necessary. OTTED will certify qualified applications on a first-come, first-serve basis. For applications received on the same day and deemed complete, the office shall certify, consistent with remaining tax credit authority, qualified equity investments in proportionate percentages based on the amount of qualified equity investment requested to be certified in each application.

Once OTTED certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to make the investment in a low-income community. Thereafter, the CDE must annually report to OTTED information, including a list of low-income community investments and the amount of the investments with third-party proof that the investment was made. Any CDE that is allocated more than $500,000 in tax credits in any state fiscal year will also be required to participate in Florida's Single Audit program. Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.

OTTED shall develop a list of targeted industries specifically for NMTC investments and provide the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives. OTTED may grant a waiver for this criteria if a project will provide an economic stimulus to a community. In addition, jobs created as a result of NMTC investments must pay an average wage of 115 percent of the federal poverty guidelines for a family of four. This is equivalent to approximately $24,380 in 2008.

<u>Qualified Investments</u>

A "qualified equity investment" means any equity investment or long-term debt security by a qualified CDE that:

- Is invested in an industry that appears on the list of eligible industries developed by Enterprise Florida, Inc. (EFI) for this program
- Is acquired on or after July 1, 2008;
- Has at least 85 percent of its cash purchase price invested in qualified low-income community investments; and
- Is certified by OTTED as a qualified equity investment.

In addition, a qualified equity investment may mean an equity investment or long-term debt security that is currently a qualified equity investment.

The definition for a "qualified equity investment" in this CS expands the federal definition allowed under Sec. 45D of the Internal Revenue Code. It allows OTTED to certify a qualified investment regardless of whether it is allowed under the federal program; and it allows for long-term debt security to be a qualified investment.

"Long-term debt security" means any debt instrument issued by a CDE, "at par value or a premium, having an original maturity date of at least seven years following the date of its issuance, with no acceleration of repayment, amortization, or prepayment features before its original maturity date, and having no distribution, payment, or interest features related to the profitability of the qualified community development entity or performance of the qualified community development entity's investment portfolio."

Qualified Active Low-Income Community Business

A "qualified active low-income community business" is defined as having the same meaning as what is provided in federal law. It also includes language different from federal law that states the business must not derive 15 percent or more of its annual revenue from the rental or sale of real estate. Businesses such as golf courses, country clubs, massage parlors, tanning salons, liquor stores, and establishments that permit gambling are not eligible for this program.

A low-income community is defined as any population census tract within the state for which the federal individual poverty rate of such tract is at least 20 percent. For census tracts not located within a metropolitan area to qualify as a low-income community, the median family income must not exceed 80 percent of the statewide median income. For census tracts located within a metropolitan area, the median family income must not exceed 80 percent of the greater of statewide median family income or the metropolitan area median income.

Tax Credits

The CS allows a tax credit to be taken annually only after the investment has been made and held for a full year. The credit provided under this CS is 6.5 percent per year for six years after the original date of the investment. Over six years this credit totals 39 percent of the investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2021. No more than $10 million in tax credits may be claimed in any fiscal year. The amount of investments that may be used to calculate a CDE's total tax credit allocation is capped at $10 million annually.

The federal program provides credits totaling 39 percent of the investment over a seven year period. A company with a qualified investment for both the federal and state program would receive 78 percent of the purchase price of the investment in tax credits.

A business would qualify for credits as follows:

Year	State Program	Federal Program
1	0%	5%
2	6.5%	5%
3	6.5%	5%
4	6.5%	6%
5	6.5%	6%
6	6.5%	6%
7	6.5%	6%
Total	**39%**	**39%**

The CS does not allow the transfer or sale of tax credits, but does allow a tax credit to travel with the purchase of an investment to a new owner.

Any investor that receives an annual allocation of tax credits that exceeds $500,000 shall be treated as a recipient pursuant to s. 215.97(2), F.S., and required to participate in a state single audit pursuant to the provisions of s. 215.97, F.S.

The department shall recapture tax credits available to an investor if:

- For any reason the federal government recaptures a related tax credit;
- A CDE is no longer deemed to be a qualified CDE under the federal program;
- The CDE redeems any principal repayment related to the investment prior to its seventh anniversary;
- A CDE exhibits a pattern of failed investments in Florida where 50 percent of investments fail over a three-year period;
- The requirement to maintain at least 85 percent of the investment in low-income community investments in Florida is not met;
- The CDE fails to make qualified low-income community investments in qualified active low-income communities;
- The CDE fails to provide to OTTED and DOR any of the information or reports required by this CS; or
- A taxpayer received credits to which they were not entitled.

The CS gives DOR and OTTED the authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of this CS. OTTED must submit an annual report each July 1, beginning in 2010 to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing all qualified low-income community investments made in Florida, the business location, the total dollar amount invested, the number of jobs created or retained, and the value of applicable tax credits claimed for the most recent year.

The Washington Economic Group conducted a study on the potential economic impact of a Florida New Markets Tax Credit Program. The study found that a Florida NMTC program would result in $540 million in development capital and would generate $34.5 million in annual revenue. Approximately 3,000 jobs will be created in the first year of the program. It is estimated that the state would attract $392 million in low-income community investments over the life of the program.[8]

C. SECTION DIRECTORY:

Section 1 - Creates s. 288.991, F.S., the New Markets Tax Credit.

Section 2 - Amends subsection (8) of s. 220.02, F.S., to provide legislative intent for the application of tax credits.

Section 3 - Amends paragraph (a) of subsection (1) of s. 220.13, F.S., to define "adjusted federal income" and provide additions to taxable income.

Section 4 - Creates subsection (19) of s. 213.053, F.S., to allow DOR to share information with OTTED and to provide confidentiality to taxpayers utilizing the program created by this CS.

Section 5 - Provides an effective date of July 1, 2008 and provides that the program created by this CS applies to tax years ending after December 31, 2008.

---

[8] Information contained in this paragraph is from: The Potential Economic Benefits of a Florida New Markets Tax Credit Program: An Economic Impact Brief. The Washington Economics Group. December 10, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There is no revenue impact for FY 2008-09 because the credit will not be taken until after the first anniversary of the date that a qualified equity investment is initially made. Beginning in Fiscal Year 2009-10, the impact is estimated to be $10 million per year. To the extent that some credits may be carried forward, the cumulative $70 million revenue impact could be spread across the years through Fiscal Year 2021-22. This could result in the credits for some years being less than $10 million and other years being greater than $10 million.

   OTTED is authorized to levy an application fee to cover the administrative cost of this program.

2. Expenditures:

   See "Fiscal Comments".

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Investments may assist existing and new businesses.

D. FISCAL COMMENTS:

Over seven years, the total fiscal impact of the program is limited to $70 million in tax credits. The CS further limits the amount of tax credits claimed each year to $10 million plus any unused credits that have been carried forward. If CDEs carry forward a substantial amount of unused credits and claim them in a single year, there is no guarantee that the amount of credits claimed in any year, besides year two of the program, would be $10 million or less.[9]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[9] Year two of the program created by this bill is the first year in which tax credits may be claimed by a CDE.

1. Applicability of Municipality/County Mandates Provision:

This CS does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This CS does not reduce the percentage of state tax shared with counties or municipalities. This CS does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This CS grants separate rule-making authority to DOR and OTTED for the purpose of administering the provisions set out by this CS including the recapture provision and the allocation of tax credits issued for qualified equity investments.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

None submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On Thursday March 6, 2008, the Committee on Economic Development reported the bill favorably with a strike-all amendment with title amendment. The amendment:

- Changed the number of credit allowance dates from five to six due to a bill drafting error;
- Removed language relating to the election of tax credits that was deemed unnecessary by the Department of Revenue;
- Added a provision to allow OTTED and EFI to develop a list of industries eligible for this program that will provide positive economic impact to the state;
- Allows OTTED to disqualify and recoup tax credits when a CDE exhibits a pattern of failed investments in Florida, where 50 percent of investments fail over a three-year period;
- Makes any CDE that is disqualified from the federal program disqualified for the Florida program;
- Inserts additional language that requires a CDE to submit other information as prescribed by OTTED and verification of continuation with the federal program; and
- Deletes the requirement for OTTED to create forms and applications by rule.

On Tuesday April 8, 2008, the Economic Expansion and Infrastructure Council reported the bill favorably with a strike-all amendment as a Council Substitute. The CS:

- Changes the tax credit from 8.33% over six years (50% total) to 6.5 % over six years (39% total);
- Changes total credit allocation from $15 million over seven years ($105 million total) to $10 million over seven years ($70 million total);
- Requires all jobs created must pay an average wage of at least 115% of federal poverty guidelines;
- Allows OTTED to make proportional decision on tax credit amounts when multiple applications are received on the same day;
- Allows OTTED to determine the application fee which shall support the cost of administering the program; and
- Clarifies language related to the recapture of tax credits and rulemaking authority for OTTED and DOR.

A bill to be entitled

An act relating to corporate income tax credits; creating part XIII of ch. 288, F.S., consisting of s. 288.991, F.S.; creating the New Markets Tax Credit Program; providing definitions; authorizing the Office of Tourism, Trade, and Economic Development to qualify certain equity investments as eligible for tax credits; requiring the office to designate a comprehensive list of certain industries to be used to direct program investments; providing industry requirements; authorizing the office to waive the requirement under certain circumstances; providing an application process; requiring an application fee; providing for the certification of an investment; providing for notice to the applicant and the Department of Revenue; providing for a limit on the amount of investments the office may certify; requiring the certified equity investments to be issued within a certain timeframe; providing that a taxpayer who holds a qualified equity investment in a qualified low-income business on the credit allowance date of the investment is entitled to a nonrefundable, nontransferable tax credit for the taxable year in which the credit allowance date falls; providing how the amount of tax credits available to the taxpayer will be calculated; limiting the amount of the tax credit that may be redeemed in a fiscal year; authorizing a taxpayer to carry over any amount of the tax credit that the taxpayer is prohibited from redeeming in a taxable year to a subsequent taxable year; providing for

FLORIDA HOUSE OF REPRESENTATIVES

the redemption of tax credits earned by certain business entities and by the partners, members, or shareholders of those entities; specifying how tax credits may be claimed by insurance companies; requiring the calculations to be certified and accompanied by audited financial statements and notarized affidavits; requiring the department to recapture tax credits from certain taxpayers under certain circumstances; requiring notice; requiring community development entities that have certified investments to report certain information to the office; requiring the office to prepare annual reports on low-income community investments made in this state; authorizing the department to conduct examinations to verify receipt and application of tax credits; authorizing the department to pursue recovery of certain funds; authorizing the office to revoke or modify certain decisions relating to eligibility for tax credits under certain circumstances; providing for applicant liability for costs and fees relating to investigations of fraudulent claims; providing for taxpayer liability for reimbursement of fraudulently claimed tax credits; providing a penalty; authorizing the office and the department to adopt rules; providing for future repeal of the tax credit program; amending s. 220.02, F.S.; revising legislative intent with respect to the order of tax credits to include the New Markets Tax Credit; amending s. 220.13, F.S.; revising a definition; amending s. 213.053, F.S.; authorizing the Department of Revenue to share confidential taxpayer information with the Office of Tourism, Trade, and Economic Development; providing for application of the tax credit; providing an effective date.

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

Section 1. Part XIII of chapter 288, Florida Statutes, consisting of section 288.991, is created to read:

288.991 New Markets Tax Credit.--

(1) PURPOSE.--The New Markets Tax Credit Program is established to encourage capital investment in rural and urban low-income communities by allowing state taxpayers to receive future credit against specified state taxes by investing in community development entities that make quality equity investments in qualified active low-income community businesses that create jobs by leveraging credit available from the federal New Markets Tax Credit Program.

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

(a) "Adjusted purchase price" means the product of the amount paid at issuance for a qualified equity investment and a fraction of which:

1. The numerator is the dollar amount of qualified low-income community investments made in this state from the issuance of a qualified equity investment held by a qualified community development entity on the applicable credit allowance date; and

2. The denominator is the total dollar amount of qualified low-income community investments made from the issuance of a

qualified equity investment held by a qualified community development entity on the applicable credit allowance date.

(b) "Credit allowance date" means:

1. The first anniversary of the date that a qualified equity investment is initially made; and

2. Each of the six subsequent anniversaries of that date.

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

(d) "Long-term debt security" means a debt instrument issued by a qualified community development entity, at par value or a premium, having an original maturity date of at least 7 years from the date of issuance, with no acceleration for repayment, amortization, or prepayment features before its original maturity date and having no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the entity's investment portfolio. This paragraph does not limit the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or s. 45D of the Internal Revenue Code of 1986, as amended.

(e) "Low-income community" means any population census tract within the state where:

1. The federal individual poverty rate is at least 20 percent; or

2. In the case of a tract that is:

a. Not located within a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or

b. Located within a metropolitan area, the median family income does not exceed 80 percent of the greater of the statewide median family income or the metropolitan area median income.

(f) "Office" means the Office of Tourism, Trade, and Economic Development.

(g) "Qualified active low-income community business" has the same meaning as in s. 45D of the Internal Revenue Code of 1986, as amended, but excludes any trade or business:

1. That derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate;

2. That engages predominantly in the development or holding of intangibles for sale or license;

3. That operates a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack, or other facility used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; or

4. The principal activity of which is farming if the sum of the aggregate unadjusted bases or the fair market value of the assets owned by the business which are used in such trade or business, whichever is greater, and the aggregate value of the assets leased by the business used in such trade or business exceeds $500,000. For the purposes of this subparagraph, two or more trades or businesses are treated as a single trade or business.

A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in or loan to the business if the entity reasonably expects, at the time it makes the investment or loan that the business will continue to satisfy the requirements of being a qualified active low-income community business throughout the entire period of the investment or loan. The subsequent insolvency, including reorganization or liquidation in bankruptcy, receivership, winding up, or dissolution of a business does not disqualify the business from being a qualified active low-income community business if all other requirements of this section continue to be met.

(h) "Qualified community development entity" means an entity that is certified as a qualified community development entity by the Community Development Financial Institutions Fund of the United States Department of the Treasury pursuant to s. 45D of the Internal Revenue Code of 1986, as amended, and that has entered into an allocation agreement with the fund with respect to tax credits authorized by section 45D, and includes this state within the service area set forth in the agreement.

(i) "Qualified equity investment" means an equity investment or long-term debt security issued by a qualified community development entity which:

1. Is acquired on or after July 1, 2008, solely in exchange for cash at the time of its original issuance;

2. Has at least 85 percent of its cash purchase price used by the qualified community development entity to make qualified

low-income community investments within the 12-month period beginning on the date the cash is paid by the purchaser to the entity; and

3. Is certified by the Office of Tourism, Trade, and Economic Development as a qualified equity investment pursuant to this section.

(j) "Qualified low-income community investment" means a capital or equity investment in or loan to a qualified active low-income community business which is made after July 1, 2008. The maximum amount of debt or equity issued by any one qualified active low-income community business on a collective basis with all of its affiliates, which may be included in the calculation of the numerator described in paragraph (a), is $10 million, whether the investment is issued to one or more qualified community development entities.

(3) QUALIFIED EQUITY INVESTMENTS.--

(a) The office shall designate a comprehensive list of industries using the North American Industry Classification System, in consultation with Enterprise Florida, Inc., that will be used to direct investments for the program. The industries listed should lead to strong positive impacts on or benefits to the state, regional, and local economies. The office shall submit a copy of the list to the President of the Senate and the Speaker of the House of Representatives upon completion of the list and any further modifications. The office may waive this requirement if the office determines an investment would have a positive impact on a community.

(b) A qualified community development entity that seeks to

have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this section shall apply to the office. The qualified community development entity must submit an application on a form that the office provides, and that includes, but need not be limited to:

1. The name, address, tax identification number of the entity, and evidence of the entity's certification as a qualified community development entity.

2. A copy of the allocation agreement executed by the entity and the Community Development Financial Institutions Fund.

3. A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund.

4. A description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security.

5. The name and tax identification number of any taxpayer eligible to redeem tax credits earned as a result of the issuance of the qualified equity investment.

6. Information regarding the proposed use of proceeds from the issuance of a qualified equity investment, which must include the types of qualified active low-income community businesses that will be funded and an estimate of the percentage of qualified low-income community investments that will be made statewide.

7. A statement setting forth the entity's plans to invest

in only those entities engaged in industries identified for the program by the office.

8. A statement setting forth the entity's plans for the development of relationships with community-based organizations, local community development offices and organizations, and economic development organizations, as well as any steps the entity has taken to implement these relationships.

9. A statement setting forth that jobs created will pay an average wage no less than 115 percent of the federal poverty guideline for a family of four as defined by the Federal Register of the United States Department of Health and Human Services.

10. A nonrefundable application fee for each application submitted. The office shall determine the amount of the application fee that in the aggregate for all applications shall not exceed the cost of administering the program.

(c) Within 30 days after receipt of a completed application containing the information necessary for the office to certify a potential qualified equity investment, including payment of the application fee, the office shall grant or deny the application in full or in part. If the office denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the office or otherwise completes its application within 15 days after the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development

entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(d) If an application is deemed complete, the office may certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for tax credits under this section. The office shall provide written notice of the certification to the qualified community development entity and the department. The notice must include the maximum amount of tax credits that may be earned from the issuance of the qualified equity investment, which shall be calculated with reference to the estimate of the percentage of qualified low-income community investments made in this state by the qualified community development entity included in the application, and the names of those taxpayers who are eligible to redeem the credits and their respective credit amounts. The office shall certify qualified equity investments in the order applications are received. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the office shall certify, consistent with remaining tax credit authority, qualified equity investments in proportionate percentages based upon the amount of qualified equity investment requested to be certified in each investment.

(e) Once the office has certified qualified equity investments that, on a cumulative basis, are eligible for $70 million in tax credits, of which no more than $10 million may be claimed per state fiscal year exclusive of tax credits carried forward, and on or after June 30, 2015, the office may not certify any more qualified equity investments. If a pending request cannot be fully certified, the office shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(f) Within 30 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity must provide the office with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification lapses and the entity may not issue the qualified equity investment without reapplying to the office for certification. A certification that lapses reverts back to the office and must be reissued in accordance with the application process outlined in this subsection.

(4) TAX CREDITS.--

(a) A taxpayer that makes a qualified equity investment earns a vested tax credit against taxes imposed by s. 220.11 or s. 624.509. The taxpayer or a subsequent holder of the qualified equity investment on the credit allowance date of the qualified equity investment may use a portion of the vested tax credit equal to 6.5 percent of the adjusted purchase price of the

qualified equity investment during the calendar year in which the credit allowance date falls.

(b) A taxpayer's cash investment in a qualified equity investment is considered a qualified low-income community investment only to the extent that the cash is invested within the 12-month period beginning on the date the cash is paid by the taxpayer to the community development entity.

(c) A taxpayer may not redeem any portion of a tax credit in a tax year in which the tax credit exceeds the taxpayer's state tax liability for the tax year. Such portion may be carried forward for use in a subsequent tax year; however, all unused tax credits expire on December 31, 2021.

(d) A tax credit authorized under this section is not refundable or transferable. However, if a qualified equity investment is transferred, any unused tax credits transfer with the investment. Tax credit amounts, including any carryover amounts, from credit allowance dates before the date of transfer do not transfer with the qualified equity investment. Tax credits earned by a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for direct redemption in accordance with any agreement between the partners, members, or shareholders.

(e) Tax credits for taxpayers who are insurance companies subject to the insurance premium tax under s. 624.509 must be claimed against the insurance premium tax. An insurance company claiming a credit against the insurance premium tax is not required to pay any additional retaliatory tax levied pursuant to s. 624.5091. Because credits under this section are available to an insurance company, s. 624.5091 does not limit such credit in any manner.

(5) CALCULATION OF CREDIT.--

(a) Within 30 days after each credit allowance date, each qualified community development entity shall submit to the office the following with respect to each qualified equity investment issued by the entity:

1. A listing, certified by an executive officer of the entity, of all qualified low-income community investments made by the entity from the proceeds of a qualified equity investment and held as of the credit allowance date, which must include the name of each qualified active low-income community business funded, the location of the principal office of each such business, the type of business, the amount of the qualified low-income community investment in each business, and the total of qualified low-income community investments by all community development entities in each business;

2. Bank records, records of wire transfers of funds, or other similar documents that reflect the investments listed above;

3. A calculation, certified by the chief financial or accounting officer of the entity, of the amount of qualified low-income community investments made in this state using proceeds from the issuance of the qualified equity investment held by the entity as of the credit allowance date, and the total qualified low-income community investments made using proceeds of the issuance of the qualified equity investment held

by the entity on the credit allowance date. In making this calculation, an investment shall be deemed to be held by a qualified community development entity even if the investment has been sold or repaid if the entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months after receipt of such capital. An entity is not required to reinvest capital returned from a qualified low-income community investment after the sixth anniversary of the issuance of the qualified equity investment for which the proceeds were used to make the qualified low-income community investment, and the qualified low-income community investment shall be deemed to be held by the entity through the seventh anniversary of the qualified equity investment's issuance;

4. An attestation from the entity's chief financial or accounting officer that no redemption or principal payment was made with respect to the qualified equity investment since the previous credit allowance date; and

5. Any information relating to the recapture of any federal tax credits available with respect to a qualified equity investment which the entity received since the prior credit allowance date.

(b) Within 20 days after receipt of the information listed in paragraph (a), the office shall certify in writing to the qualified community development entity and to the department the amount of credit that is eligible for use for the credit allowance date. The notice must include a listing of those taxpayers that are eligible to redeem the tax credit for the credit allowance date.

(6) AUDIT AND RECAPTURE.--

(a) A qualified community development entity that receives an annual allocation of tax credits in an amount equal to or in excess of $500,000 shall be treated as a recipient and required to participate in a state single audit pursuant to s. 215.97. The office shall be deemed the state awarding agency and coordinating agency. In addition to the required financial reporting package, the audit must attest to the entity's adherence to the performance conditions enumerated in this section as they relate to the recapture of the tax credit under paragraph (c). Taxpayers that are not qualified community development entities may not be treated as subrecipients or otherwise required to participate in the state single audit program since such persons do not control adherence to the performance standards of this program.

(b) The office shall disqualify a qualified community development entity from receiving additional Florida markets tax credits if more than 50 percent of qualified equity investments during the first 3 years of operation become insolvent, reorganized or liquidated in bankruptcy, receivership, or winding up, or dissolved. In addition, the office shall recapture 50 percent of all credits issued to such qualified community development entity.

(c) The office shall order the department to recapture any tax credit authorized under this section with respect to a qualified equity investment if:

1. Any amount of any federal tax credit which is eligible for a tax credit under this section is recaptured under s. 45D of the Internal Revenue Code of 1986, as amended;

2. The qualified community development entity is not deemed to be a qualified community development entity under the federal New Markets Tax Credit Program;

3. The qualified community development entity redeems or makes a principal repayment before the seventh anniversary of the issuance of the qualified equity investment;

4. The qualified community development entity fails to make qualified low-income community investments in qualified active low-income community businesses;

5. The qualified community development entity fails to maintain at least 85 percent of the proceeds of the qualified equity investment in qualified low-income community investments at any time before the seventh anniversary of the issuance of the qualified equity investment and remains in compliance with subparagraph (2)(i)2.;

6. The qualified community development entity fails to provide to the office and the department any of the information or reports required by this section; or

7. The office determines as a result of a state single audit or an examination by the office that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled.

(d) The office shall provide notice to the qualified community development entity and to the department of any proposed recapture of tax credits pursuant to this subsection.

The entity shall have 90 days to cure any deficiency indicated in the office's original recapture notice and avoid such recapture. If the entity fails or is unable to cure such deficiency within the 90-day period, the office shall provide the entity and the department with a final order of recapture. The qualified community development entity is responsible for providing copies of the final order of recapture to taxpayers owning the tax credits at issue.

(e) Any tax credit for which a final recapture order has been issued shall be recaptured by the department from the taxpayer who claimed the tax credit on a tax return, or in the case of multiple succeeding entities, in the order of tax-credit succession, and such funds shall be paid into the General Revenue Fund. Such action by the department does not constitute an audit or otherwise alter the department's ability to audit the taxpayer.

(7) ANNUAL REPORTING.--

(a) Within 120 days after the end of a calendar year that includes a credit allowance date, each community development entity that has an equity investment or long-term debt security certified as a qualified equity investment under this section shall provide the office with:

1. The entity's annual financial statements for the immediately preceding calendar year, audited by an independent certified public accountant.

2. Using the North American Industry Classification System Code, the types of businesses funded, the counties where the qualified active low-income community businesses are located,

the dollars invested, and the number of jobs created and retained by qualified active low-income community businesses funded in a form satisfactory to the office.

3. A statement describing the relationships that the entity has established with community-based organizations, local community development offices and organizations, and economic development organizations, and a summary of the outcomes resulting from those relationships.

4. Other information as prescribed by the office and documentation to demonstrate continued certification by the federal program.

(b) The office shall prepare an annual report of all qualified low-income community investments made in this state from the proceeds of qualified equity investments, which includes relevant statistics from the North American Industry Classification System Code, the county or counties where the qualified low-income community investments are located, the dollars invested, the number of jobs created and retained by business in which qualified low-income community investments have been made, and the value of applicable state tax credits claimed for the latest year for which such information is available. The office shall submit a copy to the Governor, the President of the Senate, and the Speaker of the House of Representatives each July 1, beginning in 2010, and may post the annual report on the office's website.

(8) EXAMINATION.--

(a) The office may conduct examinations to verify that tax credits under this section have been received and applied according to the requirements of this section and to verify information provided by qualified community development entities to the office.

(b) The office may revoke or modify any written decision qualifying, certifying, or otherwise granting eligibility for tax credits under this section if it is discovered that the qualified community development entity submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive the tax credits.

(c) A qualified community development entity that submits information under this section which includes fraudulent information is liable for reimbursement of the reasonable costs and fees associated with the review, processing, investigation, and prosecution of the fraudulent claim plus a penalty in an amount double the credit amount certified and claimed by the holders of the entity's qualified equity investments, which penalty is in addition to any criminal penalty to which the taxpayer is liable for the same acts.

(9) RULEMAKING AUTHORITY.--

(a) The office may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(b) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(10) EXPIRATION.--This section expires December 31, 2021.

Section 2. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.--

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.187, those enumerated in s. 220.192, ~~and~~ those enumerated in s. 220.193, and those enumerated in s. 288.991.

Section 3. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.--

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.--There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other

federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

12. The amount taken as a credit for the taxable year under s. 220.192.

13. The amount taken as a credit for the taxable year under s. 220.193.

14. Any portion of a qualified equity investment, as defined in s. 288.991, which is claimed as a deduction by the taxpayer for the purpose of calculating the taxpayer's net income.

Section 4. Subsection (19) is added to section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.--

(19) Information relative to tax credits taken by a taxpayer under s. 288.991 may be disclosed to the Office of Tourism, Trade, and Economic Development or its employees or agents that have been identified in writing by the office to the department for use in performance of their official duties. All

<u>information so obtained is subject to the same confidentiality as imposed on the department.</u>

Section 5. This act shall take effect July 1, 2008, and applies to tax years ending after December 31, 2008.

Amendment No. 1

Bill No. **293**

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	______

Council/Committee hearing bill: Policy and Budget Council

Representative Weatherford offered the following:

Amendment (with title amendments)

Remove lines 237 - 244 and insert:

(c) Within 30 days after receipt of a completed application containing the information necessary for the office to certify a potential qualified equity investment, the office shall grant or deny

----

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

Remove line(s) 12 and 13 and insert:

Providing an application process; providing for the certification of an investment;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **293**

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	____	

Council/Committee hearing bill: Policy and Budget Council

Representative Weatherford offered the following:

Amendment

Remove line 472 and insert:

immediate preceding tax year, audited by an independent

CS/HB 405

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 405 Health Insurance Claims Payments
SPONSOR(S): Healthcare Council; Galvano and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1012

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation	7 Y, 0 N	Quinn-Gato	Calamas
2) Healthcare Council	16 Y, 1 N, As CS	Calamas/ Massengale	Gormley
3) Policy & Budget Council		Leznoff JL	Hansen MPH
4)			
5)			

SUMMARY ANALYSIS

Council Substitute for House Bill 405 prohibits insurers and health maintenance organizations ("HMOs") from restricting the ability of an insured to assign plan benefits for covered services to certain health care providers not under contract with the insurer or HMO, and certain preferred providers.

The bill also prevents insurers from reimbursing preferred providers at alternative or reduced rates for covered services unless the insurers or plan administrators and the providers have entered into a contract incorporating such an arrangement. The bill further requires that both the preferred provider and the insurer or plan administrator must expressly agree, with adequate prior notice, to the sale, lease, or transfer of information regarding the payment or reimbursement terms of their preferred provider contracts. Similarly, the bill provides that HMOs are precluded from selling, transferring, or leasing information regarding the payment or reimbursement terms of the contracts with a health care practitioner without adequate notice to and the express permission of the health care practitioner.

Finally, the bill requires HMOs to submit claims for overpayment to a provider within 12 months of the HMO's payment of the claim.

There will be a significant but indeterminate negative fiscal impact to the State Employees' Health Insurance Trust Fund. The estimated impact to the State's self insured program ranges from $2.5 to $56.1 million. The impact to the State's future rates with HMO providers is unknown but likely to be significant.

The effective date of the bill is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Less Government – The bill provides for additional regulation of health insurers licensed under chapter 627 and health maintenance organizations licensed under chapter 641.

Empowers Families – The bill provides families with greater choice in health care providers by allowing assignment of covered benefits to non-contracted providers. Greater choice of providers could come at a cost to the insured in the form of rate increases by insurers and HMOs as well as higher out-of-pocket expenditures.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Regulation of Health Insurers and HMOs

The Office of Insurance Regulation (OIR) regulates health insurance contracts and rates under Part VI of Chapter 627, F.S., and HMO contracts and rates under Part I of Chapter 641, F.S., while the Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under Part III of Chapter 641, F.S.

Before receiving a certificate of authority from OIR, an HMO must receive a Health Care Provider Certificate from AHCA. Any entity that is issued a certificate of authority and that is otherwise in compliance with the licensure provisions under Part I may enter into contracts in Florida to provide an agreed-upon set of comprehensive health care services to subscribers.

Assignment of Benefits

Assignment of benefits is an arrangement by which an insured patient authorizes payment of their health insurance benefits directly to a certain provider, such as a physician or hospital, for covered medical services rendered.[1]

Several states have enacted some form of assignment of benefits law that requires health insurers to accept an assignment of benefits[2], while other states have enacted laws that either make acceptance of assignment optional on the part of the insurer or allow parties to negotiate for assignment of benefits in provider contract.[3] In Idaho, insurers may decline assignment of benefits.[4]

In Florida, insurance contracts cannot prohibit, and claims forms must provide an option for, an insured to assign benefits directly to a licensed hospital, physician or dentist when emergency services or care

---

[1] Definition obtained from medterms.net; located on February 15, 2008 at http://www.medterms.com/script/main/art.asp?articlekey=24244.

[2] *See* Ala. Code s. 27-1-19; Colo. Rev. Stat. s. 10-16-317.5; Conn. Gen. Stat. s. 38a-472; Ga. Code Ann. s. 33-24-54; 215 Ill. Comp. Stat. 5/370a; La. Rev. Stat. Ann. s. 40:2010; Me. Rev. Stat. Ann. tit. 24-A, s. 2755; Mo. Rev. Stat. s. 376.427.1; Nev. Rev. Stat. s. 689A.135; N.H. Rev. Stat. Ann. s. 420-B:8-n; N.C. Gen. Stat. s. 58-3-225; Tenn. Code Ann. s. 56-7-120; Wash. Rev. Code s. 48.44.026; Wyo. Stat. Ann. s. 26-15-136.

[3] *See* N.J. Stat. Ann. s. 17B:24-4; N.D. Cent. Code s. 26.1-36-24; Or. Rev. Stat. s. 743.531; Tex. Code Ann. s. 1204.053.

[4] Idaho Code Ann. s. 41.5604.

is provided pursuant to s. 395.1041.[5] Insurers may require the assignment to be made through a written attestation of assignment of benefits.[6]

State laws requiring insurers to accept assignment of benefits have been challenged by insurers under the Employee Retirement Income Security Act ("ERISA"). ERISA is silent on the issue of assignment of benefits for health insurance plans; however, ERISA expressly prohibits the assignment of benefits available under pension plans.[7] ERISA contains an express preemption provision that provides, "[ERISA] supersede[s] any and all State laws insofar as they may now or hereafter relate to any employee benefit plan...."[8]

The U.S. Supreme Court broadly interpreted the "relates to" provision of the ERISA preemption clause,[9] which resulted in a number of factors being developed by courts to determine whether a state law "relates to" ERISA plans.[10] Accordingly, when faced with the issue of whether Congress' silence on the issue of assignment of health insurance benefits under ERISA preempts states from adopting their own laws on this issue, federal court decisions have produced mixed results. For example, both the 8th and 10th Circuit Courts of Appeal have concluded that assignment of benefits laws are preempted by ERISA, with the 10th Circuit determining that the decision of whether assignment of benefits is acceptable should be left to the contracting parties.[11]

More recently, however, an insurer in Louisiana challenged Louisiana's assignment of benefits statute in federal court alleging that the Louisiana law, which requires insurers to honor all assignment of benefits by patients to hospitals, was preempted by ERISA.[12] The 5th Circuit Court of Appeal recognized that because ERISA expressly precludes the assignment of pension plan benefits but is silent as to the assignment of employee health insurance benefits, Congress must have intended to leave room for state regulation of this issue, particularly because it falls within a traditional area of state regulation.[13] The 5th Circuit recognized that since the 8th and 10th Circuit decisions in *St. Francis Regional Medical Center* and *St. Mary's Hospital,* the U.S. Supreme Court has moved toward what has been recognized as a more "traditional analysis of preemption," which focuses on whether the state regulation "frustrate[s] the federal interest in uniformity."[14] Thus, Louisiana's assignment of benefits law was not preempted by ERISA. On appeal, the U.S. Supreme Court declined to review the 5th Circuit's decision.

In summary, court decisions on assignment of benefits laws are mixed: Earlier cases ruled that states cannot regulate assignment of benefits because that area of law is preempted by ERISA; while a later case ruled that ERISA does not preempt states from passing such laws. The 11th Circuit Court of Appeal, which includes Florida in its jurisdiction, has not addressed the validity of assignment of benefits statutes.[15] The validity of a statute either banning or requiring compliance with assignment of benefits is not a settled point.

---

[5] s. 627.638(2), F.S.
[6] *Id.*
[7] 29 USC s. 1056(d)(1).
[8] 29 U.S.C. s. 1144(a).
[9] *See, e.g., Shaw v. Delta Air Lines*, 463 U.S. 85 (1983) (finding that a state law "relates to" an employee benefit plan "if it has a connection with or reference to such plan," while recognizing that some state actions may be too remote or tenuous to warrant a finding that the law relates to an employee benefits plan); *see also Arkansas Blue Cross and Blue Shield v. St. Mary's Hospital, Inc.*, 947 F.2d 1341 (8th Cir. 1991).
[10] *See, e.g., Arkansas Blue Cross and Blue Shield v. St. Mary's Hospital, Inc.*, 947 F.2d 1341 (8th Cir. 1991).
[11] *St. Francis Regional Medical Center v. Blue Cross and Blue Shield of Kansas, Inc.*, 49 F.3d 1460 (10th Cir. 1995) and *Arkansas Blue Cross and Blue Shield v. St. Mary's Hospital, Inc.*, 947 F.2d 1341 (8th Cir. 1991).
[12] *Louisiana Health Service & Indemnity Co. v. Rapides Healthcare System, et al.*, 461 F.3d 529 (5th Cir. 2006).
[13] *Id.*
[14] *Id.*
[15] The 11th Circuit has, however, determined that anti-assignment of benefits provisions in ERISA plan documents are not prohibited by ERISA, and that "congressional silence on the issue [of assignability] does not mandate a Congressional intent to mandate assignability" but, rather, leaves it up to the agreement of the contracting parties. *Physicians Multispecialty Group v. Health Care Plan of Horton Homes, Inc.*, 371 F.3d 1291 (11th Cir. 2004).

Silent Preferred Provider Organizations

A "silent preferred provider organization" ("silent PPO"), refers to a situation in which a third party, usually unbeknownst to a preferred provider, contracts with a PPO in order to gain access to the PPO's contracted discounts with its preferred providers.[16] When a patient insured by the third party goes to a preferred provider, the third party pays the preferred provider the rate the preferred provider negotiated with its PPO.[17] As a result, the preferred provider is paid a discounted rate for its services absent a contractual arrangement with the third party.[18]

A number of states have passed "silent PPO" laws. For example, in North Carolina, it is considered an unfair trade practice for any insurer or entity subject to North Carolina insurance laws to intentionally misrepresent, or to knowingly substantially assist an insurer or entity in making a misrepresentation, to a provider that the insurer or entity is entitled to a preferred provider discount when it is not so entitled.[19] In Texas, an insurer or third party administrator is prohibited from reimbursing a provider for covered services on a discounted basis unless the third party administrator or insurer has entered into an agreed-upon contract with the provider for the specific services provided at that rate.[20] Additionally, the parties to a preferred provider contract are prohibited from selling, leasing, or transferring information regarding payment or reimbursement terms without the prior adequate notice to and express consent of the other parties.[21]

The 11th Circuit Court of Appeal, which is binding in Florida, struck down a silent PPO arrangement finding that the leasing of plan discounts to third parties through a series of contracts "deprives plan participants of their contractual expectations" when the providers were not aware of and had not agreed to the discounted fees.[22]

Recoupment of Overpayments

Current law requires providers to submit claims for payment or reimbursement within 6 months of the date of service of the patients and the provider has received the name and address of the patient's HMO.[23] HMOs must pay or deny claims within 90 days of receipt of electronic claims or within 120 days of receipt of mailed claims, and failure to pay or deny an electronic claim within 120 days or a mailed claim within 140 days creates an uncontestable obligation to pay the claim.[24]

HMOs have 30 months from the time a claim is paid to submit a claim for overpayment to a provider, while providers must pay, deny or contest the claim within 40 days after receipt of the claim for overpayment.[25] A contested overpayment claim must be paid or denied within 120 days of receipt of the claim, and failure to pay or deny overpayment and claim within 140 days after receipt creates an uncontestable obligation on the part of the provider to pay the claim.[26]

Effect of Proposed Changes

The bill addresses assignment of insurance benefits to out-of-network providers. It deletes current provisions allowing an insurance contract to prohibit assignment of benefits to hospitals, physicians and

---

[16] Sharon L. Davies and Timothy Stoltzfus Jost, *Managed Care: Placebo or Wonder Drug for Health Care Fraud and Abuse,* 31 Ga. L. Rev. 373, 391-92 (Winter 1997).
[17] Id.
[18] Id.
[19] N.C. Gen. Stat. s. 58-63-70.
[20] Tex. Code Ann. S. 1301.001.
[21] *Id.*
[22] *HCA Health Services of Georgia, Inc. v. Employers Health Insurance Co.*, 240 F.3d 982 (11th Cir. 2001)
[23] s. 641.355(2)(b), F.S.
[24] s. 641.355(3)(e) and (4)(e), F.S.
[25] s. 641.355(5)(a), F.S.
[26] *Id.*

dentists, effectively prohibiting contract agreement to assign benefits. The bill adds licensed ambulance providers and "other person who provided the services" to the group of providers for whom assignment of benefits must be honored by insurers, and adds emergency transportation services to the types of services for which assignment of benefits must be honored by insurers. The bill amends current law requiring patients to attest to assignment of benefits by allowing patients to attest to assignment of benefits in written or electronic form. The bill would prohibit insurers from requiring attestation in both written and electronic forms.

The bill requires insurers to directly pay providers of emergency services when insureds assign benefits to licensed hospitals. In addition, the bill provides that assigned payments cannot be more than the amount the insurer would have paid absent the assignment.

The bill addresses assignment of insurance benefits to preferred providers. It requires insurers to directly pay preferred providers when insureds assign benefits to preferred providers, forbids contract provisions that would prohibit such assignment, and requires claims forms to include an option for assignment of benefits.

Similarly, the bill addresses assignment of HMO benefits by subscribers to certain providers. The bill requires HMOs to honor assignment of benefits to hospitals, ambulance providers, physicians, and dentists. Likewise, the bill forbids HMO contract provisions that would prohibit such assignment, and requires claims forms to include an option for assignment of benefits for emergency services and transportation. The bill allows patients to attest to assignment of benefits in written or electronic form, and prohibits insurers from requiring attestation in both written and electronic forms. In addition, the bill provides that assigned payments cannot be more than the amount the insurer would have paid absent the assignment.

The bill would govern reimbursement rates for preferred providers. It provides that insurers may not reimburse preferred providers at alternative or reduced rates without a contract agreement as to the health care services to be provided. The bill prohibits a party to a preferred provider contract from selling, leasing, or otherwise transferring information on the contract's terms of remuneration without prior notice to and express authority of the other parties. Similarly, the bill addresses reimbursement rates for HMO providers. The bill prohibits HMOs from selling, leasing, or otherwise transferring information on the terms of remuneration of a contract with a health care practitioner without prior notice to and express authority of the other parties.

Finally, the bill amends s. 641.3155, F.S., by requiring HMOs to submit a claim for overpayment to providers within 12 months after the HMO's payment of the claim.

C. SECTION DIRECTORY:

Section 1. Amends s. 627.638, F.S., relating to direct payment for hospital, ambulance and medical services.

Section 2. Creates s. 627.6471(7)(a)-(b), F.S., relating to contracts for reduced rates of payment.

Section 3. Creates s. 641.31(41)(a)-(c), F.S., relating to direct payment of claims by health maintenance organizations.

Section 4. Creates s. 641.315(11), F.S., relating to the sale, lease or transfer of provider contract terms.

Section 5. Amends s. 641.3155, F.S., relating to prompt payment of claims.

Section 6. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Potentially significant. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of Insurance analyzed the economic impact of the bill as originally filed, as follows:

The allowance of utilization services by non-contracted providers could result in an increased cost to insurers and HMOs, thereby resulting in rate increases to consumers.[27] Moreover, because HMOs receive a monthly capitation payment based on the number of subscribers assigned to them, in lieu of payment for individual services, it would be difficult for health maintenance organizations to determine what a non-contracted provider would be owed in an assignment of benefits situation and could result in the loss of savings associated with managed care.[28] Finally, by reducing the review time for HMOs to determine whether overpayments were made from 30 months to 6 months, health maintenance organizations may conduct audits of provider billing on a more frequent basis and could pass the increase costs associated with such on the consumer in the form of rate increases.[29]

House staff has not received an updated economic impact analysis from the Office; however, the bill as amended may result in rate increases to consumers and loss of savings associated with managed care.

D. FISCAL COMMENTS:

House staff has not received an updated economic impact analysis from the Department of Management Services; however, the bill as amended will result in a significant but indeterminate negative fiscal impact on the State Group Health Plan. An analysis of similar legislation by the Department of Management Services was reviewed as it relates to the mandatory assignment of payment to physicians.

Blue Cross Blue Shield of Florida estimated the impact of mandatory assignment of payment to physicians contained in the proposed legislation to be 11.3% for the State Group. In 2007, this estimate of the impact would have resulted in an additional charge to the State Employees' Health Insurance Trust Fund of approximately $56.1M and caused the members of the State Group to incur an additional $60.7M in costs associated with higher premiums and co-pays.

---

[27] Office of Insurance Regulation, 2008 – HB 405 Bill Analysis.
[28] *Id.*
[29] *Id.*

The department obtained an independent analysis of BCBS of Florida's estimate of the impact of the proposed legislation concerning mandatory assignment of payment to physicians. The conclusion by Mercer, shown below, and based upon the bill, anticipates an estimated impact in the range of 1-2%, or $2.589 million to $5.177 million, based upon the PPO plan's projected 2008 professional claims expense. The report's conclusion is shown below:

> ***Conclusion***
>
> *Because the two critical assumptions producing a 10%+ cost impact appear unreasonably conservative, we conclude that the cost estimate produced by BCBS is excessive. Using the BCBS actuarial model and revising the key assumptions above to (1) in-network utilization at 85% and (2) 5% discount erosion produces an estimated cost impact of around 4.5%, which we view as a more reasonable representation of the worst-case impact.*
>
> *Our best guess is that a cost impact in the 1-2% range ultimately (not first year) could result. This is more in line with the estimates cited above based on our limited research.*
>
> *Finally, we must emphasize that we could not support a conclusion that the cost impact would be 0%. In addition to the actuarial model they produced, BCBS of Florida has identified a number of other factors that could lead to increased cost.*

In addition, the language included in CS HB 405 also impacts the assignment of benefits in Health Maintenance Organizations not only for emergency situations, but for routine, non-emergency services. This would also increase the estimated negative fiscal impact to the State Employees' Health Insurance Trust Fund. This impact is unknown as annual rates with HMO providers is negotiated annually based upon prior year experience.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   There is a possibility that this bill may implicate Article I, Section 10 of the Florida Constitution regarding impairment of contracts.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

It is getting harder and harder for physicians to provide healthcare in the state of Florida. This physician friendly bill is an effort to make the business environment in which physicians practice more reasonable and equitable.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 19, 2008 the Health Innovation Committee adopted one amendment to the bill. This amendment:

- Amends section 1 of the bill by deleting requirements added to s. 627.6131 relating to assignment of benefits.
- Amends s. 627.638, F.S., relating to direct payment for hospital and medical services by: (1) adding licensed ambulance providers to the list of providers to which patients can assign health care benefits; (2) deleting provisions that limit payment of benefits in health insurance contracts; and (3) allowing patients to attest to assignment of benefits in written or electronic form.
- Removes provisions in the bill pertaining to balance billing to insureds under health insurance policies.
- Amends subsection (41) of s. 641.31, related to assignment of benefits by:
  - requiring HMOs to honor a patient's assignment of benefits to hospitals, dentists, ambulance transport providers, and physicians if benefits are due under the patient's agreement with their HMO;
  - requiring HMOs to provide the option for payment of benefits directly to licensed hospitals, ambulance providers, physicians, or dentists on claims forms and to allow for payment of claims so long as services provided are covered services, emergency services provided pursuant to s. 395.1041, F.S., or ambulance treatment and transport provided pursuant to part III of chapter 401;
  - allowing patients to attest to the assignment of benefits in written or electronic form;
  - providing that payments from HMOs to providers cannot be more than the amount the HMO would have paid absent the assignment; and
  - clarifying that other provisions of law relating to balance billing and coverage for the emergency treatment of patients are not affected by the amendment.

The bill was reported favorably with one amendment.

On April 10, 2008, the Healthcare Council adopted the traveling amendment, an amendment to the traveling amendment, and an amendment to the bill. The amendments:

- Amends s. 627.638, F.S., relating to assignment of benefits by:
  - deleting provisions allowing an insurance contract to prohibit assignment of benefits to hospitals, physicians and dentists;
  - adding licensed ambulance providers and "other person who provided the services" to the group of providers for whom assignment of benefits must be honored by insurers;
  - adding emergency transportation services to the types of services for which assignment of benefits must be honored by insurers;
  - allowing patients to attest to assignment of benefits in written or electronic form and prohibiting insurers from requiring attestation in both forms.

- Amends s. 627.638, F.S., to require insurers to directly pay preferred providers when insureds assign benefits to preferred providers, and to require insurers to directly pay providers of emergency services when insureds assign benefits to licensed hospitals, and providing that payments from insurers to providers cannot be more than the amount the insurer would have paid absent the assignment.

- Amends s. 627.6471, F.S., relating to contracts for reduced rates of payment, to: require that insurers may not reimburse preferred providers at reduced rates without a contract agreement as to the health care services to be provided; and prohibit a party to a preferred provider contract from selling, leasing, or otherwise transferring information on the contract's terms of remuneration without prior notice to and express authority of the other parties.

- Amends subsection 641.31(41), related to assignment of benefits by:
  - requiring HMOs to honor a patient's assignment of benefits to hospitals, dentists, ambulance providers, and physicians if benefits are due under the patient's agreement with their HMO;
  - prohibiting HMO contracts from prohibiting assignment of benefits, and requiring HMOs to provide an option for assignment of benefits directly to licensed hospitals, ambulance

providers, physicians, or dentists on claims forms, and to allow for payment of claims so long as the services provided are covered services, emergency services provided pursuant to s. 395.1041, F.S., or ambulance treatment and transport provided pursuant to part III of chapter 401;
  - allowing patients to attest to the assignment of benefits in written or electronic form;
  - providing that payments from HMOs to providers cannot be more than the amount the HMO would have paid absent the assignment; and
  - clarifying that other provisions of law relating to balance billing and coverage for the emergency treatment of patients are not affected by that subsection.

- Amends subsection 641.3155(5), F.S., to require HMOs to submit claim for overpayment to providers within 12 months after the HMO's payment of the claims.

The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.

A bill to be entitled

An act relating to health insurance claims payments; amending s. 627.638, F.S.; including licensed ambulance providers under provisions for direct payment for certain services; deleting an insurance contract limitation on payment of benefits directly to providers; authorizing attestations assigning benefits; providing for transfer of attestations electronically; requiring insurers to make payments directly to preferred providers under certain circumstances; providing an insurance contract prohibition and claims form requirement relating to payment of benefits directly to providers; providing a payment limitation; amending s. 627.6471, F.S.; prohibiting insurers and plan administrators from reimbursing preferred providers at an alternative or reduced rate for covered services under certain circumstances; providing exceptions; prohibiting preferred provider contract parties from selling, leasing, or transferring contract payment or reimbursement terms information under certain circumstances; amending s. 641.31, F.S.; requiring health maintenance organizations to pay benefits directly to certain providers under certain circumstances; prohibiting health maintenance contracts from prohibiting and requiring claims form to provide the option for payment of benefits directly to certain providers; amending s. 641.315, F.S.; prohibiting health maintenance organizations from selling, leasing, or transferring contract payment or reimbursement terms information under certain circumstances; amending s. 641.3155, F.S.; decreasing the period of time authorized for overpayment claims of health maintenance organizations against providers; providing an effective date.

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

Section 1. Section 627.638, Florida Statutes, is amended to read:

627.638 Direct payment for hospital, ambulance, and medical services.--

(1) Any health insurance policy insuring against loss or expense due to hospital confinement or to medical and related services may provide for payment of benefits directly to any recognized hospital, licensed ambulance provider, doctor, or other person who provided the services, in accordance with the provisions of the policy. To comply with this section, the words "or to the hospital, licensed ambulance provider, doctor, or person rendering services covered by this policy," or similar words appropriate to the terms of the policy, shall be added to applicable provisions of the policy.

(2) Whenever, in any health insurance claim form, an insured specifically authorizes payment of benefits directly to any recognized hospital, licensed ambulance provider, physician, ~~or~~ dentist, or other person who provided the services, in accordance with the provisions of the policy, the insurer shall make such payment to the designated provider of such services~~, unless otherwise provided in the insurance contract~~. The

insurance contract may not prohibit, and claims forms must provide an option for, the payment of benefits directly to a licensed hospital, licensed ambulance provider, physician, ~~or~~ dentist, or other person who provided services for care provided pursuant to s. 395.1041 or part III of chapter 401. The insurer may require an ~~written~~ attestation assigning ~~of assignment of~~ benefits, which attestation may be in written or electronic form, at the discretion of the insured. If the attestation is in electronic form, the attestation may be transferred to the insurer electronically. An insurer may not require an attestation in both electronic and written form. Payment to the provider from the insurer may not be more than the amount that the insurer would otherwise have paid without the assignment.

(3) Whenever, in any health insurance claim form, an insured specifically authorizes payment of benefits directly to a preferred provider as defined in s. 627.6471(1)(b), the insurer shall make such payment to the preferred provider. The insurance contract may not prohibit, and claims forms must provide an option for, the payment of benefits directly to the preferred provider. An attestation assigning benefits may be transferred to the insurer in electronic form. Payment to the provider from the insurer may not be more than the amount that the insurer would otherwise have paid without the assignment.

(4) Notwithstanding the provisions of subsections (2) and (3), if an insured authorizes payment of benefits directly to a licensed hospital for health care services provided pursuant to s. 395.1041, the insurer shall make such payment to the designated provider of such services. The insurer shall accept a

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

provider's claim form that properly indicates that the insured has assigned payment of benefits directly to the hospital. Payment to the hospital from the insurer may not be more than the amount the insurer would otherwise have paid without the assignment.

Section 2. Subsection (7) is added to section 627.6471, Florida Statutes, to read:

627.6471 Contracts for reduced rates of payment; limitations; coinsurance and deductibles.--

(7)(a) An insurer or an administrator may not reimburse a preferred provider at an alternative or a reduced rate of payment for covered services that are provided to an insured unless:

1. The insurer or administrator has contracted with the preferred provider and has agreed to provide coverage for those health care services under the health insurance policy.

2. The preferred provider has agreed to the contract and to provide health care services under the terms of the contract.

(b) A party to a preferred provider contract may not sell, lease, or otherwise transfer information regarding the payment or reimbursement terms of the contract without the express authority of and prior adequate notification to the other contracting parties.

Section 3. Subsection (41) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.--

(41) Whenever, in any health maintenance organization claim form, a subscriber specifically authorizes payment of

benefits directly to any hospital, ambulance provider, physician, or dentist, the health maintenance organization shall make such payment to the designated provider of such services, provided any benefits are due to the subscriber under the terms of the agreement between the subscriber and the health maintenance organization. The health maintenance organization contract may not prohibit, and claims forms must provide an option for, the payment of benefits directly to a licensed hospital, ambulance provider, physician, or dentist for covered services provided, for services provided pursuant to s. 395.1041, and for ambulance transport and treatment provided pursuant to part III of chapter 401. The attestation of assignment of benefits may be in written or electronic form. Payment to the provider from the health maintenance organization may not be more than the amount that the insurer would otherwise have paid without the assignment. Nothing in this subsection affects the applicability of ss. 641.3154 and 641.513 with respect to services provided and payment for such services provided pursuant to this subsection.

Section 4. Subsection (11) is added to section 641.315, Florida Statutes, to read:

641.315 Provider contracts.--

(11) A health maintenance organization may not sell, lease, or otherwise transfer information regarding the payment of reimbursement terms of a contract with a health care practitioner without the express authority of and prior adequate notification to the contracting parties.

Section 5. Subsection (5) of section 641.3155, Florida Statutes, is amended to read:

641.3155 Prompt payment of claims.--

(5) If a health maintenance organization determines that it has made an overpayment to a provider for services rendered to a subscriber, the health maintenance organization must make a claim for such overpayment to the provider's designated location. A health maintenance organization that makes a claim for overpayment to a provider under this section shall give the provider a written or electronic statement specifying the basis for the retroactive denial or payment adjustment. The health maintenance organization must identify the claim or claims, or overpayment claim portion thereof, for which a claim for overpayment is submitted.

(a) If an overpayment determination is the result of retroactive review or audit of coverage decisions or payment levels not related to fraud, a health maintenance organization shall adhere to the following procedures:

1. All claims for overpayment must be submitted to a provider within 12 ~~30~~ months after the health maintenance organization's payment of the claim. A provider must pay, deny, or contest the health maintenance organization's claim for overpayment within 40 days after the receipt of the claim. All contested claims for overpayment must be paid or denied within 120 days after receipt of the claim. Failure to pay or deny overpayment and claim within 140 days after receipt creates an uncontestable obligation to pay the claim.

2. A provider that denies or contests a health maintenance organization's claim for overpayment or any portion of a claim shall notify the organization, in writing, within 35 days after the provider receives the claim that the claim for overpayment is contested or denied. The notice that the claim for overpayment is denied or contested must identify the contested portion of the claim and the specific reason for contesting or denying the claim and, if contested, must include a request for additional information. If the organization submits additional information, the organization must, within 35 days after receipt of the request, mail or electronically transfer the information to the provider. The provider shall pay or deny the claim for overpayment within 45 days after receipt of the information. The notice is considered made on the date the notice is mailed or electronically transferred by the provider.

3. The health maintenance organization may not reduce payment to the provider for other services unless the provider agrees to the reduction in writing or fails to respond to the health maintenance organization's overpayment claim as required by this paragraph.

4. Payment of an overpayment claim is considered made on the date the payment was mailed or electronically transferred. An overdue payment of a claim bears simple interest at the rate of 12 percent per year. Interest on an overdue payment for a claim for an overpayment payment begins to accrue when the claim should have been paid, denied, or contested.

(b) A claim for overpayment shall not be permitted beyond 12 ~~30~~ months after the health maintenance organization's payment of a claim, except that claims for overpayment may be sought beyond that time from providers convicted of fraud pursuant to s. 817.234.

Section 6. This act shall take effect July 1, 2008.

Amendment No. (01)

Bill No. **CS/HB 405**

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	____	

Council/Committee hearing bill: Policy & Budget Council

Representative(s) Galvano offered the following:

Amendment with Title Amendment

Between lines 35 and 36 insert:

Section 1. Section 624.443, Florida Statutes is amended to read:

624.443 Place of business; maintenance of records. Each arrangement shall have and maintain its principal place of business in this state and shall therein make available to the office complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary for, or suitable to, the kind or kinds of business transacted. <u>The Office may waive this requirement if an arrangement has been operating in another state for at least twenty-five years, licensed in such state for at least ten years, and has a minimum fund balance of $25 million at the time of licensure.</u>

(Re-number subsequent sections)

Amendment No. (01)

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

Between lines 2 and 3 insert:

amending s.624.443, F.S.; providing for waiver of requirement of arrangement's principal's place of business being in this state under certain conditions;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 421 Transfer of Save-Our-Homes Benefits; Additional Homestead Exemption
SPONSOR(S): Government Efficiency & Accountability Council, Simmons and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on State Affairs	7 Y, 0 N	Levin	Williamson
2) Government Efficiency & Accountability Council	12 Y, 0 N, As CS	Levin/Dykes	Cooper
3) Policy & Budget Council		Diez-Arguelles	Hansen MH
4)			
5)			

SUMMARY ANALYSIS

CS/HJR 421 amends Article VII, s. 6 of the Florida Constitution. The amendment would entitle all homestead owners to an additional homestead exemption equal to 40 percent of the homestead's just value between $75,000 and $500,000. However, in any year, a homestead owner may only receive the additional homestead exemption or the Save Our Homes benefit, whichever produces the lower taxable.

The fiscal impact of this proposal on local governments is dependent on approval by the voters. As such, the impact is indeterminate. However, if the voters approve the measure, staff estimates that the effect of the proposal will be to reduce the assessment of property subject to ad valorem taxes. At current millage rates, the impact of the lower assessments on local government tax revenues is estimated to be $1.069 billion in FY 2009-10 ($377 million for counties; $460 million for school districts; $138 million for municipalities; and $93 million for special districts). The Revenue Estimating Conference has not considered this proposal.

The cost to the Secretary of State to publish required notices is estimated to be $60,000.

If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – CS/HJR 421 would reduce the tax assessments of homesteads.

B. EFFECT OF PROPOSED CHANGES:

Current law provides all homesteads with a $25,000 homestead exemption for all taxes, and with a $25,000 homestead exemption applicable to the just value between $50,000 and $75,000 for taxes other than school district taxes. In addition, current law limits annual assessment increases to the lesser of 3% or the change in the Consumer Price Index (Save Our Homes).

CS/HJR 421 amends Article VII, s. 6 of the Florida Constitution. The amendment would entitle all homestead owners to an additional homestead exemption equal to 40 percent of the homestead's just value between $75,000 and $500,000. However, in any year, a homestead owner may only receive the additional homestead exemption or the Save Our Homes benefit, whichever produces the lower taxable.

If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

C. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Non-Recurring FY 2008-09

   Department Of State, Division of Elections
   Publication Costs $60,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The ad valorem tax base would reduce if the constitutional changes proposed by the House Joint Resolution are approved by the voters. The Revenue Estimating Impact Conference has not considered these issues.

   The fiscal impact of this proposal on local governments is dependent on approval by the voters. As such, the impact is indeterminate. However, if the voters approve the measure, staff estimates that the effect of the proposal will be to reduce the assessment of property subject to ad valorem taxes. At current millage rates, the impact of the lower assessments on local government tax revenues is estimated to be $1.069 billion in FY 2009-10 ($377 million for counties; $460 million for school districts; $138 million for municipalities; and $93 million for special districts). The Revenue Estimating Conference has not considered this proposal.

2. Expenditures:

Property Appraisers may incur additional costs in order to implement the provisions of the House Joint Resolution.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers who pay taxes on their homesteads may experience lower taxes.

D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE) – the amount of property taxes that a school district must levy in order to participate in the Florida Education Finance Program (FEFP). The provisions of this joint resolution, if approved by the voters, will reduce the property tax base that is available for RLE. If the legislature were to set a RLE amount designed to maintain the current RLE millage rate, the RLE amount actually collected would be less than under current law by approximately $287 million in FY 2009-10.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to joint resolutions.

2. Other:

In 2006, the Office of Economic and Demographic Research (EDR) contracted with Walter Hellerstein, W. Scott Wright, and Charles C. Kearns of Sutherland Asbill & Brennan LLP for a legal analysis of the most commonly referenced legislative proposals regarding property taxes. The report focused primarily on the federal constitutional issues raised by the proposed alternatives to the Save Our Homes amendment, which limits property tax assessment increases on homestead property. The key findings of the report were that portability might provide opportunities for legal challenge based on the Commerce Clause, the "Interstate" Privileges and Immunities Clause, and the Right to Travel. If portability is adopted and later held unconstitutional, the discrimination or burden it created would have to be eliminated on a prospective basis and remedied through meaningful backward-looking relief on a retrospective basis, which could entail either a refund or any other remedy that cures the discrimination.[1]

The alternative assessment for homeowners created by this House Joint Resolution may mitigate some of the issues identified in the legal analysis of portability.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

[1] For example, one remedy could include taxing the previously favored class on a retroactive basis.

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 20, 2008, the Committee on State Affairs adopted an amendment and reported the bill favorable with amendment. The amendment:

- Removes all changes to Article VII, section 4 of the Florida Constitution, other than those approved by the voters on January 29, 2007; and
- Provides all homestead owners with an additional homestead exemption equal to the greater of 40 percent of the homestead's just valuation from $75,000 to $500,000, or the accumulated benefit under the Save Our Homes assessment limitation of Article VII, section 4(c) of the Florida Constitution.

On March 19, 2008, the Government Efficiency & Accountability Council adopted an amendment to the State Affairs amendment traveling with HJR 421. This amendment to amendment was designed to ensure that homeowners received only the one of the two enumerated homestead assessment limitations.

The Council reported HJR 421 favorably, as amended, as a council substitute.

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of Section 28 of Article XII of the State Constitution to provide for an additional homestead exemption and provide an effective date if such amendment is adopted.

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

That the following amendment to Section 6 of Article VII and the creation of Section 28 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.--

(a)<u>(1)</u> Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law.

<u>(2)</u> The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium,

or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. ~~The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.~~

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, each person who is entitled to receive the homestead exemption provided in subsection (a) is also entitled to an additional homestead exemption in an amount equal to forty percent (40%) of the just value of the homestead between seventy-five thousand dollars and five hundred thousand dollars. The additional exemption shall apply only after the first seventy-five thousand dollars of just value of the homestead property. However, in any year, such person shall receive only the exemption provided in this subsection or the application of the cumulative assessment limitation calculated pursuant to subsection (c) of Section 4, whichever provides the lower

<u>taxable value. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of Section 4 by the state agency designated by general law. This exemption is repealed on the effective date of any future amendment to this constitution which provides for the assessment of homestead property at less than just value.</u>

<u>(d)</u> ~~(c)~~ By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

<u>(e)</u> ~~(d)~~ The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

<u>(f)</u> ~~(e)~~ Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a

discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related, the veteran was a resident of this state at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this subsection, an applicant must submit to the county property appraiser, by March 1, proof of residency at the time of entering military service, an official letter from the United States Department of Veterans Affairs stating the percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related, and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years. This subsection shall take effect December 7, 2006, is self-executing, and does not require implementing legislation.

ARTICLE XII

SCHEDULE

SECTION 28. Property tax exemptions and ad valorem tax limitations.--The amendment to Section 6 of Article VII, providing an additional homestead exemption equal to the greater of forty percent of the homestead's just valuation between seventy-five thousand and five hundred thousand dollars or the accumulated benefit from the limitation on annual increases in assessments of homestead property, and this section, if submitted to the electors of this state for approval or rejection at the next general election, shall take effect January 1 of the year following such general election.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII, SECTION 28

ADDITIONAL HOMESTEAD EXEMPTION.--Proposing an amendment to the State Constitution to provide for an additional homestead exemption equal to the greater of 40 percent of the just value of the homestead property between $75,000 and $500,000 or the accumulated benefit provided under Save Our Homes, and providing that the amendment shall take effect January 1 of the year following the general election at which approved.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 491 Certification of Public School Educators

SPONSOR(S): Schools & Learning Council; Carroll and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 286

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council	12 Y, 0 N, As CS	Gillespie/Eggers	Cobb
2) Policy & Budget Council		Martin	Hansen
3)			
4)			
5)			

SUMMARY ANALYSIS

Council Substitute for House Bill 491 establishes inservice requirements for teachers of English for Speakers of Other Languages (ESOL). In effect, it reduces ESOL inservice requirements, which are established in nonrule policies of the Department of Education, for most reading teachers from 300 inservice hours to 60 inservice hours.The council substitute specifies that a teacher providing ESOL instruction must comply with the following inservice requirements:

- Primary teacher of English/language arts:
  - Three hundred inservice hours or the equivalent; or
  - If the teacher passes the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE), 120 inservice hours or the equivalent.
- Teacher of basic subject areas of reading, mathematics, science, social studies, or computer literacy: 60 inservice hours or the equivalent.
- Teacher of non-basic subject areas: 18 inservice hours or the equivalent.
- School administrator or guidance counselor: 60 inservice hours or the equivalent.

In 2007, Governor Charlie Crist vetoed a substantially similar bill, CS/SB 2512.

The Department of Education estimates that the council substitute may create a negative fiscal impact to state expenditures of approximately \$100,000.[1] According to DOE, the council substitute may require changes to current inservice programs, causing DOE to incur costs in contracting for changes to online programs and training facilitators on the programs in each school district.

[1] Florida Department of Education, Government Relations, *2008 Agency Bill Analysis of HB 491,* at 3 (Jan. 23, 2008).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The council substitute does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

In 1984, the Legislature required that English language instruction be provided for a student whose native language is other than English and specified that the instruction be designed to develop the student's mastery of four language skills: listening, speaking, reading, and writing.[2]

In 1989, attorneys representing Multicultural Education, Training, and Advocacy, Inc. (META) advised the Florida Department of Education (DOE) of META's intention to sue the State of Florida on behalf of eight minority rights advocacy groups in the state, including the League of United Latin American Citizens (LULAC). META claimed violations of federal and state provisions concerning the education of Florida's limited English proficient (LEP) students.[3]

In response, the 1990 Legislature required school districts, among other things, to:[4]

- Identify LEP students through assessment;
- Provide LEP students with instruction in English using strategies for teaching English for Speakers of Other Languages (ESOL);
- Provide LEP students with ESOL instruction or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy; and
- Provide qualified teachers.

Instead of pursuing litigation, META and DOE negotiated a settlement agreement, which on August 14, 1990, was approved by a Consent Order issued by a federal district judge.[5] Under the 1990 Consent Order, DOE agreed to the equal treatment of LEP students; proper identification and assessment of LEP students; and adequate placement and programming, certified staff, and supplemental services when needed, for LEP students.[6] Section IV of the Consent Order,[7] among other things, created four categories of school personnel and established separate ESOL training requirements for each of the

---

[2] Section 2, ch. 84-336, L.O.F.; former §§ 228.041(30) & 233.058, F.S.

[3] Rosa Castro Feinberg, *Preparing Mainstream Classroom Teachers to Teach Potentially English Proficient Students, Proceedings of the First Research Symposium on Limited English Proficient Student Issues, U.S. Department of Education, Office of Bilingual Education & Minority Languages Affairs* (1990), *at* http://www.ncela.gwu.edu/pubs/symposia/first/preparing-dis.htm (last visited Mar. 7, 2008).

[4] Section 41, ch. 90-288, L.O.F.; former § 233.058, F.S.

[5] *League of United Latin American Citizens (LULAC) et al. vs. Florida Board of Education et al.,* No. 90-1913 (S.D. Fla. Aug. 13, 1990), *available from* Office of Academic Achievement through Language Acquisition, Florida Department of Education, *at* http://www.fldoe.org/aala/lulac.asp (last visited Mar. 7, 2008) [hereinafter *LULAC*].

[6] National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, *at* http://www.ncela.gwu.edu/expert/faq/07court.html (last visited Mar. 7, 2008).

[7] *LULAC, supra* note 5; *available from* Office of Academic Achievement through Language Acquisition, Florida Department of Education, *at* http://www.fldoe.org/aala/lulac.asp#four (last visited Mar. 7, 2008).

four categories. In September 2003, DOE and META approved a joint stipulation modifying the 1990 Consent Order.[8] The training requirements for the four categories of school personnel, as modified by the 2003 stipulation, are:

- Category I. Teachers of English/language arts must have:
  - ESOL certification through earning a bachelor's or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE);[9]
  - ESOL certification through passing the ESOL subject area examination and 120 inservice hours within 3 years after certification; or
  - ESOL endorsement through completing 15 semester hours of college credit or 300 inservice hours (3 semester hours or 60 inservice hours within 2 years after assignment of an LEP student and 3 semester or 60 inservice hours each subsequent year that the teacher is assigned an LEP student until completing 15 semester hours or 300 inservice hours).[10]

- Category II. Teachers of mathematics, science, social studies, and computer literacy must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 60 inservice hours.[11]

- Category III. Teachers of other subjects not listed in Category I or Category II must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 18 inservice hours.[12]

- Category IV. School administrators and guidance counselors must have 3 semester hours of college credit or 60 inservice hours.

The required competencies of the ESOL training (college credit or inservice hours) include methods of teaching ESOL, ESOL curriculum and materials development, cross-cultural communication and understanding, and testing and evaluation of ESOL.[13] The training competencies for Category I ESOL teachers also include applied linguistics.[14]

As a term of the Consent Order, the Miami Division of the United States District Court for the Southern District of Florida retains jurisdiction for purposes of overseeing implementation of the Consent Order. As occurred in 2003, changes to the state's ESOL policies which are inconsistent with the Consent Order require modification of the Consent Order by court order after DOE negotiates the change with META.

---

[8] Stipulation Modifying Consent Decree, *LULAC* (No. 90-1913) (Sept. 3, 2003), *available at* http://www.fldoe.org/aala/pdf/stipulation.pdf (last visited Mar. 7, 2008).

[9] Office of Academic Achievement through Language Acquisition, Florida Department of Education, *Options for Obtaining ESOL Certification* (Dec. 2006), *available at* http://www.fldoe.org/aala/pdf/esol_cert.pdf (last visited Mar. 7, 2008) [hereinafter *ESOL Certification Options*]; *see* rule 6A-4.0245, F.A.C.

[10] *ESOL Certification Options, supra* note 9; *see* rule 6A-4.0244, F.A.C.

[11] *See* rule 6A-6.0907(1) and (2), F.A.C.

[12] *See* rule 6A-6.0907(3), F.A.C.

[13] *See* rules 6A-4.0244(1)(b) & 6A-6.0907, F.A.C.

[14] Rule 6A-4.0244(1)(b)4., F.A.C.

Requirements for Reading Teachers:

In 2002, following the establishment of the *Just Read, Florida!* initiative[15] and passage of the federal *No Child Left Behind Act of 2001,*[16] the State Board of Education established specialization requirements for a reading endorsement.[17] The reading endorsement requires 15 semester hours of college credit or 300 inservice hours in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties.[18]

The certification requirements for a teacher to teach a course are listed in *Course Code Directory and Instructional Personnel Assignments,* which DOE updates annually.[19] By June 30, 2006, DOE required reading teachers to have a reading certification or endorsement.[20] The 2007-2008 course code directory reflects that a teacher who teaches English, language arts, reading, or intensive reading must be certified in reading or have the reading endorsement.[21]

In 2004, DOE created a crosswalk that allows a teacher to receive 80 inservice hours of credit for the reading endorsement based on earning the 300 inservice hours required for the ESOL endorsement.[22] The crosswalk awards the 80 inservice hours based on the competencies of the reading inservice training which are addressed by competencies covered in the ESOL inservice training. Thus, a teacher with the ESOL endorsement is required to earn 220 inservice hours in reading to complete the reading endorsement.[23]

Intersection of ESOL and Reading Requirements:

According to DOE, reading courses reported for ESOL funding must be assigned a teacher that has ESOL Category I training (300 inservice hours), and reading courses reported as non-ESOL may be assigned a teacher with ESOL Category III training (18 inservice hours).[24]

In 2001, as part of the *Just Read, Florida!* initiative, DOE was directed to recommend statewide standards for reading programs based on the latest scientific research, instructional strategies, and reading course requirements for middle school and high school students who are not reading at grade

---

[15] On September 7, 2001, former Governor Jeb Bush issued Executive Order 01-260, which created the *Just Read, Florida!* initiative.

[16] On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind Act of 2001.* Pub. L. 107-110 (2002). The act, among other things, requires states to ensure that all teachers teaching core academic subjects ("English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography," 115 Stat. 1958 (codified at 20 U.S.C. § 7801(11))) in public schools are highly qualified. 115 Stat. 1505 (codified at 20 U.S.C. § 6319(a)(2)).

[17] Rule 6A-4.0292, F.A.C.

[18] *Id.*

[19] Rule 6A-1.09441, F.A.C.

[20] Florida Department of Education, Memorandum from Jim Warford & Mary Laura Openshaw to District School Superintendents, No. 2005-82, 3 (June 23, 2005), *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12_05-82.pdf (last visited Mar. 7, 2008).

[21] Florida Department of Education, *2007-2008 Course Code Directory and Instructional Personnel Assignments* (Feb. 1997), *available at* http://www.fldoe.org/bii/curriculum/CCD (last visited Mar. 7, 2008).

[22] Florida Department of Education, *ESOL Endorsement to Reading Endorsement Crosswalk* (2004), *available at* http://www.fldoe.org/aala/pdf/esolendorsement.pdf (last visited Mar. 7, 2008).

[23] *Id.; see also* Florida Department of Education, Memorandum from Jim Warford & Mary Laura Openshaw to District School Superintendents, No. 2005-26 (Mar. 4, 2005), *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-2802/reesol.pdf (last visited Mar. 7, 2008).

[24] Florida Department of Education, *Revised Timelines for Completion of the ESOL Training Requirements,* nn. 1 & 3 (Sept. 2006), at http://www.fldoe.org/aala/timeline.asp (last visited Mar. 7, 2008).

level.[25] In 2002, the Legislature added "reading" to the list of basic subject areas requiring ESOL instruction or home-language instruction.[26]

Beginning with the 2005-2006 school year, DOE requires that all students in grades 6-12, scoring at the two lowest achievement levels (levels 1 and 2) on the reading portion of the Florida Comprehensive Assessment Test (FCAT), must enroll in an intensive reading course.[27] Before this requirement for intensive reading, according to DOE, most reading instruction for LEP students was provided by the students' ESOL teacher, not a reading teacher. Since LEP students, by definition, score lower on the reading portion of the FCAT, LEP students are among the students required to enroll in the intensive reading courses.

Before the requirement of intensive reading for students with low FCAT reading scores, most reading teachers taught supplemental reading courses reported as non-ESOL, which consequently required the teacher to have ESOL Category III training (18 inservice hours). As reading teachers are increasingly assigned to teach intensive reading courses containing LEP students reported for ESOL funding, the teachers are required to meet Category I ESOL training requirements (300 inservice hours).

On March 30, 2007, the Department of Education issued a "reverse crosswalk" that allows a teacher to receive 120 inservice hours of credit for the ESOL endorsement based on earning the 300 inservice hours required for the reading endorsement.[28] The reverse crosswalk awards 120 inservice hours based on the competencies of the ESOL inservice training which are addressed by competencies covered in the reading inservice training.[29] Thus, a teacher with a reading endorsement is required to earn 180 inservice hours in ESOL to complete the ESOL endorsement.

On January 25, 2008, DOE published a notice of rule development in the *Florida Administrative Weekly*.[30] The notice included a statement that the preliminary text of the proposed rule development is available from DOE. Among other provisions, the preliminary text proposes to include reading teachers among the category of teachers required to earn 60 inservice hours of ESOL, thereby reducing the current inservice requirements for reading teachers from 300 inservice hours to 60 inservice hours.

According to DOE, as of 2006, there were approximately 49,085 teachers with an ESOL certification or endorsement, 7,837 teachers with a reading certification or endorsement, and 7,132 teachers who have certification or endorsement in both ESOL and reading.[31]

---

[25] Executive Order 01-260 (Sept. 7, 2001).

[26] At the 2002 Special Session "E," the Legislature enacted a general revision to the Florida K-20 Education Code. Within the revision, current § 1003.56, F.S., was created and a substantially similar § 233.058, F.S., was repealed. Sections 150 and 1058, ch. 2002-387, L.O.F. As previously discussed, former § 233.058, F.S., required school districts to provide LEP students with ESOL instruction in English and ESOL or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy. When creating § 1003.56, F.S., the education code revision added "reading" to the list of basic subject areas requiring ESOL instruction or home-language instruction.

[27] Florida Department of Education, *supra* note 20, at 1; §§ 1003.4156(1)(b) & 1003.428(2)(b)2.c., F.S.

[28] Florida Department of Education, *Reading to English for Speakers of Other Languages (ESOL) – Reverse Crosswalk* (Feb. 2007), *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-4338/k12-07-24att.pdf (last visited Mar. 7, 2008); *see also* Florida Department of Education, *supra* note 29, at 1 (although the reverse crosswalk is dated February 2007, it was issued with the Chancellor's memorandum on March 30, 2007).

[29] Florida Department of Education, Memorandum of Cheri Pierson Yecke to District Superintendents, No. 2007:24, 1 (Mar. 30, 2007), *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-4337/k12-07-24memo.pdf (last visited Mar. 7, 2008).

[30] Florida Department of State, *Florida Administrative Weekly,* Vol. 34, No. 4, at 461 (Jan. 25, 2008), *available at* https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2008/3404/3404doc.pdf (last visited Mar. 7, 2008).

[31] Florida Department of Education, *2007 Agency Bill Analysis of HB 129,* 3 (Mar. 8, 2007).

Prior Legislation:

In 2007, the Legislature enacted CS/SB 2512,[32] which is substantially similar to HB 491. On June 28, 2007, Governor Charlie Crist vetoed CS/SB 2512, which he returned to the Legislature with the following veto message:

> This bill will reduce the required professional development from 300 hours to 60 hours for reading teachers who teach students who speak English as a second language. I am concerned that this reduction may impede these students' academic, social, and cultural progress. The Florida Hispanic Legislative Caucus has also unanimously expressed similar concerns about this bill in a recent letter to me.
>
> Florida holds high academic standards for its students. Reading is the cornerstone of learning, and reading teachers are the foundation through which students achieve these standards. It is imperative that our students learn to read English from the highest-quality instructors so that they can succeed more readily in other subjects. Accordingly, I cannot justify lower standards for these teachers.
>
> For these reasons, I withhold my approval of Committee Substitute for Senate Bill 2512, and do hereby veto the same.[33]

Proposed Changes:

The council substitute establishes inservice requirements for ESOL teachers. The council substitute specifies that teachers providing ESOL instruction must comply with the following inservice requirements:

- Primary teacher of English/language arts:
  - Three hundred inservice hours or the equivalent; or
  - If the teacher passes the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE), 120 inservice hours or the equivalent.
- Teacher of basic subject areas of reading, mathematics, science, social studies, or computer literacy: 60 inservice hours or the equivalent.
- Teacher of non-basic subject areas: 18 inservice hours or the equivalent.
- School administrator or guidance counselor: 60 inservice hours or the equivalent.

The council substitute in effect reduces ESOL inservice requirements, which are established in DOE's nonrule policies, for most reading teachers from 300 inservice hours to 60 inservice hours.

The council substitute does not specify whether the "reverse crosswalk" for awarding a teacher with a reading endorsement credit against the ESOL endorsement requirements continues to apply. Since the reverse crosswalk awards credit for 120 inservice hours, the council substitute may eliminate the ESOL inservice requirement altogether for a teacher with a reading endorsement. In addition, the council substitute establishes inservice requirements for ESOL teachers, but does not specify any requirements for the contents of the inservice training. Thus, the council substitute is unclear whether

---

[32] Florida Senate, *CS/SB 2512, Enrolled* (2007), *available at* http://www.flsenate.gov/data/session/2007/Senate/bills/billtext/pdf/s2512er.pdf (last visited Mar. 7, 2008).

[33] The Honorable Charlie Crist, Governor of Florida, Letter to Kurt S. Browning, Secretary of State (June 28, 2007), *available at* http://www.flgov.com/leg_actions/2007/2007_VETOSB2512.pdf (last visited Mar. 7, 2008).

inservice hours earned in subjects other than ESOL would count toward the inservice requirements for ESOL.

Although the Consent Order does not specify whether reading is a Category I, II, or III subject area, the modifications of the inservice requirements proposed by the council substitute may require DOE to negotiate modifications to the Consent Order with final approval in federal court.

The council substitute provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates section 1012.587, F.S., which establishes ESOL inservice requirements.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The Department of Education estimates that the council substitute may create a negative fiscal impact to state expenditures of approximately $100,000.[34] According to DOE, the council substitute may require changes to current inservice programs, causing DOE to incur costs in contracting for changes to online programs and training facilitators on the programs in each school district.[35]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

---

[34] Florida Department of Education, Government Relations, *2008 Agency Bill Analysis of HB 491,* at 3 (Jan. 23, 2008).

[35] *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The council substitute does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The council substitute does not create new authority for rulemaking; however, in effect it requires the State Board of Education to amend several rules concerning specialization requirements for certification or endorsements in ESOL and reading.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Waived by sponsor due to time constraints.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2008, the Schools & Learning Council adopted an amendment offered by Representative Carroll. The amendment clarifies that, if a primary teacher of English/language arts passes the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE), the teacher is required to complete 120 inservice or the equivalent (instead of 300 inservice hours).

A bill to be entitled

An act relating to the certification of public school educators; creating s. 1012.587, F.S.; specifying inservice requirements for educators who provide instruction in English for Speakers of Other Languages; providing an effective date.

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

Section 1. Section 1012.587, Florida Statutes, is created to read:

1012.587 Inservice requirements for educators of English for Speakers of Other Languages (ESOL).--To ensure the most conducive learning environment and the use of appropriate teaching strategies for students who have limited English proficiency, inservice requirements for educators who provide instruction in English for Speakers of Other Languages (ESOL) shall be as follows:

(1) For the primary English instructor (basic ESOL) who is an English/language arts teacher, 300 inservice hours or the equivalent, or, if the teacher demonstrates mastery of subject area knowledge of English for Speakers of Other Languages through achievement of passing scores on subject area examinations required by State Board of Education rule, 120 inservice hours or the equivalent.

(2) For an instructor teaching the basic subject areas of reading, mathematics, science, social studies, or computer literacy, 60 inservice hours or the equivalent.

(3) For an instructor teaching subject areas other than basic ESOL or basic subject areas, 18 inservice hours or the equivalent.

(4) For a school administrator or guidance counselor, 60 inservice hours or the equivalent.

Section 2. This act shall take effect July 1, 2008.

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	_____	

Council/Committee hearing bill: Policy & Budget Council

Representative Carroll offered the following:

Amendment (with title amendment)

Remove line 34 and insert:

Section 2. Reading and English for Speakers of Other Languages (ESOL) task force.--

(1) Effective upon this act becoming a law, there is created the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force with the purpose of studying existing statutory requirements and recommending policy to strengthen their components. The task force shall be composed of the following 14 members:

(a) The Commissioner of Education, or his or her designee, who shall serve as chair.

(b) The Director of the Florida Center for Reading Research.

(c) Three members with experience in reading or ESOL, or both, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives.

(d) One district school superintendent each from a small, medium, and large school district, to be appointed by the Commissioner of Education.

(e) A representative from the Florida Association of Bilingual and ESOL Supervisors.

(f) A representative from the Florida Education Association.

(g) A representative from a college or university who has knowledge of teacher preparation programs for reading and ESOL.

(h) A representative from the Florida Association of Staff Development.

(i) A representative from the Florida Organization of Instructional Leaders.

(j) A representative of a statewide group that represents students with disabilities.

(2) The members of the task force shall be appointed by July 1, 2008, and shall convene the initial meeting of the task force by September 1, 2008.

(3) The task force is assigned to the Department of Education for administrative purposes. Members of the task force shall serve without compensation but are entitled to per diem and travel expenses under s.112.061, Florida Statutes. Members of the task force are subject to the Code of Ethics for Public Officers and Employees under part III of chapter 112, Florida Statutes.

(4) By February 1, 2009, the task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes, but is

not limited to, information and recommendations regarding the inservice requirements for reading and ESOL teachers in the state.

(5) Upon delivery of its final report and recommendations, the task force is abolished.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.

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

Remove line 6 and insert:

creating the Reading and English for Speakers of Other Languages (ESOL) Inservice Requirements Task Force; providing purpose and membership; requiring a report; providing for termination; providing effective dates.

CS/HB 593

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 593 Florida Research Commercialization Matching Grant Program

SPONSOR(S): Economic Expansion & Infrastructure, Precourt & others

TIED BILLS: **IDEN./SIM. BILLS:** SB 738, SB 1120

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	10 Y, 0 N	West	Croom
2) Economic Expansion & Infrastructure Council	14 Y, 0 N, As CS	West/Madsen	Tinker
3) Policy & Budget Council		Martin	Hansen MDH
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Florida Research Commercialization Matching Grant Program to assist small or startup companies that take advantage of federal and state partnerships to overcome a funding gap faced by many small companies for the creation of new technology-based products. The following criteria must be met to qualify for the Florida Research Commercialization Matching Grant Program:

- Must be a small business that is registered with the Department of State and have its primary office and a majority of its employees domiciled in Florida;
- Must be in the process of applying for or have received a federal award under the Small Business Innovation Research Program or the Small Business Technology Transfer Program administered by the U.S. Small Business Administration Office of Technology;
- No more than 25 percent of the funding may come from the Florida Research Commercialization Matching Grant Program;
- Sufficient private sector funds must be raised to offset the total cost of projects; and
- Projects funded by this program must be conducted in the state.

The bill also:

- Designates Enterprise Florida, Inc., Technology, Entrepreneurship and Capital Committee, to develop program policy, ensure statewide applicability, establish criteria, approve grant awards, and review program progress and results;
- Requires Enterprise Florida, Inc., to report on program progress and results;
- Provides that the program shall make one-time awards of up to $250,000 for qualified applicants; and
- Requires the Office of Program Policy and Governmental Accountability to issue a report on the program's effectiveness prior to the start of the 2013 Legislative Session.

The bill appropriates $4 million from General Revenue Fund to Enterprise Florida to fund the grant program for each of five years beginning in Fiscal Year 2008-2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - This bill directs Enterprise Florida's Technology, Entrepreneurship and Capital Committee to develop program policy, ensure statewide applicability, establish criteria, approve grant awards, and review program progress and results.

B. EFFECT OF PROPOSED CHANGES:

Background

The commercialization of new ideas and technologies brings business startups in emerging industries to the marketplace; once brought to market, these innovations spur economic productivity and growth. A state's ability to foster research and development and commercialization activities greatly determines its long-term economic vitality and its success in providing its citizens with high-wage, high value-added jobs that can prosper in the ever-changing global marketplace.[1]

Federal Programs Supporting Technology Commercialization[2]

The U.S. Small Business Administration Office of Technology administers the Small Business Innovation Research Program (SBIR) and the Small Business Technology Transfer Program (STTR) to encourage small business to explore their technological potential and provide the incentive to profit from its commercialization.

The SBIR and the STTR target the entrepreneurial sector because that is where most innovation and innovators thrive. However, the risk and expense of conducting serious research and development efforts are often beyond the means of many small businesses. By reserving a specific percentage of federal research and development funds for small business, these businesses are protected and able to compete on the same level as larger businesses. SBIR and STTR fund the critical startup and development stages and encourage the commercialization of the technology, product, or service, which, in turn, stimulates the U.S. economy. The only substantial difference between the programs is that the SBIR rewards for-profit businesses only, while a nonprofit research institution may qualify for the STTR.

Small businesses must meet certain eligibility criteria to participate in the SBIR and STTR programs. The business must be American-owned and independently operated; must have a principal researcher employed by business; and must not have more than 500 employees.

Each year, eleven federal departments[3] and agencies are required by SBIR (five by the STTR[4]) to reserve a portion of their research and development funds for award to small business. These agencies designate research and development topics and accept proposals.

---

[1] 2007 Legislative Proposal, Florida Research Commercialization Matching Grant Program, An Initiative of the Enterprise Florida Technology Entrepreneurship and Capital Committee.

[2] U.S. Small Business Administration, available online at: http://www.sba.gov/sbir/indexsbir-sttr.html#sttr.

The programs consist of three phases. Following submission of proposals, agencies make SBIR and STTR awards based on small business qualification, degree of innovation, technical merit, and future market potential. Small businesses that receive awards then begin a three-phase program.

- Phase I is the startup phase. Awards, up to $100,000 for approximately 6 months, are provided to support the exploration of the technical merit or feasibility of an idea or technology;
- Phase II awards, up to $750,000 for as many as 2 years, expand on Phase I results. During this time, the research and development work is performed, products are created, and the developer evaluates commercialization potential. Only Phase I award winners are considered for Phase II awards; and
- Phase III is the period during which Phase II innovation moves from the laboratory into the marketplace. No SBIR funds support this phase. The small business must find funding in the private sector or other non-SBIR federal agency funding.

In 2004, Florida received a total of:

- 153 Phase I and Phase II SBIR awards totaling $42,228,732 ranking Florida twelfth among all states; and
- 29 Phase I and Phase II STTR awards totaling $7,764,217, ranking Florida seventh among all states.

Florida trails most states in participation of the federal programs, ranking 31st in the country in ability to move companies from Phase I to Phase II.

Effects of Proposed Changes

This bill creates the Florida Research Commercialization Matching Grant Program to:

- Increase federal research grants received by small businesses in the state through the SBIR and SBTT programs;
- Accelerate the entry of new technology-based products into the marketplace;
- Produce additional technology-based jobs for the state;
- Provide leveraged resources to increase the effectiveness of applicant's projects;
- Speed up the commercialization of promising technologies;
- Encourage the establishment and growth of high-quality, advanced technology firms in the state; and
- Accelerate deal flow and enhance Florida's investment infrastructure.

All applicants for the Florida Research Commercialization Matching Grant Program:

- Must be a small business that is registered with the Department of State (DOS) and have its primary office and a majority of its employees domiciled in Florida;
- Must have applied or received a federal award under the SBIR or STTR program.

For awards under Phase II of the SBIR or STTR, an applicant must have received a Phase I award and an invitation by the U.S. Small Business Administration to apply for the Phase II award.

---

[3] U.S. Departments of: Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Transportation; and the Environmental Protection Agency, the National Aeronautics and Space Administration, and the National Science Foundation.

[4] U.S. Departments of: Defense, Energy, Health and Human Services; the National Aeronautics and Space Administration, and the National Science Foundation.

The bill designates Enterprise Florida's Technology, Entrepreneurship and Capital Committee, to administer the Florida Research Commercialization Matching Grant Program. The committee will develop program policy, ensure statewide applicability, establish criteria, approve grant awards, and review program progress and results.

The following criteria must be met to qualify for the Florida Research Commercialization Matching Grant Program:

- No more than 25 percent of project funding may come from the Florida Research Commercialization Matching Program;
- Sufficient private sector funds must be raised to offset cost of projects; and
- Projects funded by this program must be conducted in the state.

Prior to the 2013 Legislative Session, the Office of Program Policy and Governmental Accountability (OPPAGA) shall conduct a review of the program to determine its effectiveness. The review should include evaluation of the utilization of federal grants, amount of private investment, and new business and job creation. OPPAGA shall recommend outcome measures for further evaluation of the program.

The Florida Research Commercialization Matching Grant Program is directed to make one-time awards of up to $250,000 to qualified applicants. The bill provides a $4 million recurring appropriation for fiscal years 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9552, F.S., the Florida Research Commercialization Matching Grant Program.

Section 2. Provides for a review by the Office of Program Policy and Governmental Accountability.

Section 3. Provides an appropriation.

Section 4. Provides the program shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The program created by this bill may attract new businesses and high-wage jobs to Florida. It is possible that a positive impact on state government revenues could result from increased tax revenues.

2. Expenditures:

The program allows one-time grants of up to $250,000 to be awarded to qualified applicants. The bill provides a $4 million recurring appropriation for five years.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The program created by this bill may attract new businesses and new high-wage jobs to Florida. It is possible that a positive impact on local government revenues could result from increased local tax revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies that have received federal funding through the SBIR or STTR would be eligible for additional funding through the Florida Research Commercialization Matching Grant Program.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

No statement submitted

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On Thursday March 6, 2008, the Committee on Economic Development reported the bill favorably with a strike-all amendment with a title amendment. The amendment:

- Removed language that provided for the establishment of a statewide advisory committee and grant-selection committee and replaced those committees with an existing Enterprise Florida, Inc., committee that will assume the responsibilities originally given to the statewide advisory committee;
- Added a requirement that review and approval or denial of applications for matching grants must be completed within 45 days;
- Changed the date on which an annual report is due from September 1st to December 1st;
- Added language that provides funds will not be disbursed to a qualified applicant until all contract requirements have been met;
- Removed language that provided unused legislative appropriations would carry forward to succeeding fiscal years;
- Deleted a provision that called for the establishment of a technical assistance network;
- Requires qualified applicants to have its primary office and a majority of its employees domiciled in Florida;
- Deleted a requirement that at least 20 percent of total funding for the project come from the federal government and at least 25 percent of total funding must come from sources other than the state award and federal award;
- Added a requirement that a qualified applicant must demonstrate funding from the private sector;
- Deleted a requirement that the program make 20-30 awards ranging from $100,000 to $250,000 each for a total of $5 million annually and replaced it with a provision that the program may make one-time awards of up to $250,000; and
- Added appropriation language that the nonrecurring sum of $5 million is appropriated from the General Revenue Fund to Enterprise Florida, Inc., for the purposes of implementing the matching grant program.

On Tuesday April 8, 2008, the Economic Expansion and Infrastructure Council reported the bill favorably with two amendments as a Council Substitute. The bill:

- Replaced the term “corporation” with “business entity;” and
- Provided for OPPAGA to review the program and provided a recurring general revenue appropriation of $4 million annually for five years.

A bill to be entitled

An act relating to the Florida Research Commercialization Matching Grant Program; creating s. 288.9552, F.S.; providing legislative findings and intent; creating the program; designating an existing Enterprise Florida, Inc., committee, or subcommittee thereof, for certain purposes; providing that committee members shall serve without compensation; requiring Enterprise Florida, Inc., to provide staff support; providing a deadline for processing applications; requiring annual reports to the Governor and Legislature; providing applicant eligibility guidelines; providing for a program administrator; providing responsibilities of the program administrator; providing for program administrative costs; designating a fiduciary entity; providing for release of awards to qualified applicants meeting requirements of fiduciary entity; providing a per-project award cap; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review and provide a report; providing a recurring appropriation; providing an effective date.

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

Section 1. Section 288.9552, Florida Statutes, is created to read:

<u>288.9552 Florida Research Commercialization Matching Grant Program.--</u>

<u>(1) PURPOSE; GOALS AND OBJECTIVES; CREATION OF PROGRAM.--</u>

(a) The purpose of the Florida Research Commercialization Matching Grant Program is to increase the amount of federal funding coming to this state which will produce the kind of distinctive technologies that drive today's knowledge-based economy. By leveraging federal, state, and private-sector resources, the program intends to accelerate the innovation process and more efficiently transform research results into products in the marketplace.

(b) The matching grant program is specifically intended to be a catalyst for small or startup companies that can take advantage of federal and state partnerships in order to accelerate their growth and market penetration by helping to overcome the funding gap faced by many small companies that are based in this state. Specific goals and objectives of the program include:

1. Increasing the amount of federal research moneys received by small businesses in this state through awards from the Small Business Innovation Research Program and Small Business Technology Transfer Program of the Office of Technology of the United States Small Business Administration.

2. Accelerating the entry of new technology-based products into the marketplace.

3. Producing additional technology-based jobs for the state.

4. Providing leveraged resources to increase the effectiveness and success of applicants' projects.

5. Speeding commercialization of promising technologies.

6. Encouraging the establishment and growth of high-

quality, advanced technology firms in the state.

7. Accelerating deal flow and enhancing the state's investment infrastructure.

(c) The Florida Research Commercialization Matching Grant Program is created for the purpose of accomplishing the goals and objectives specified in this section.

(2) ADMINISTRATION.--Enterprise Florida's Technology, Entrepreneurship and Capital Committee, or a subcommittee thereof with no less than seven members, shall develop programmatic policy, ensure statewide applicability of the matching grant program, establish criteria for grant awards, approve grant awards, and review program progress and results.

(a) Members of the committee shall serve without compensation.

(b) Enterprise Florida, Inc., shall provide staff support for the committee.

(c) Applications for matching grant awards must be reviewed and approved or denied within 45 days after receipt of application.

(d) Beginning December 1, 2009, and annually thereafter, the committee shall provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives for the previous fiscal year.

(3) ELIGIBILITY GUIDELINES.--A qualified applicant shall:

(a) Be a business entity that is registered with the Secretary of State to operate in this state. The qualified applicant must also have its primary office and a majority of its employees domiciled in Florida, and the principal research activities must be conducted in the state.

(b) Be a small company for which a state matching grant is necessary for project development and implementation.

(c) Have received a federal Small Business Innovation Research Program or Small Business Technology Transfer Program Phase I award and have received an invitation to submit an application for a Phase II award. If a Phase II award has already been issued, the end date of the federal award must be identified and justification must be provided as to how these additional funds will enhance, not supplant, the existing award.

(d) Utilize federal, local, and private resources to the maximum extent possible. Total project funding shall demonstrate:

1. Private sector investments to offset the total cost of the project; and

2. No more than 25 percent of the project's total funding is provided by the state grant.

(e) Projects funded by the matching grant program shall be conducted in this state.

(4) PROGRAM ADMINISTRATOR.--Subject to appropriations, Enterprise Florida, Inc., shall serve as program administrator. Enterprise Florida, Inc., may contract for the performance of technology review and related functions with a third party. Not more than 10 percent of a legislative appropriation may be used for administrative purposes. The responsibilities of the program administrator include, but are not limited to:

(a) Coordinating and supporting the grant review, approval, and contracting activities.

(b) Administering the grant-selection process, including, but not limited to, issuing open-call requests for grant applications and receiving, reviewing, and processing grant applications.

(c) Serving as grant contract manager for recipients of a matching grant.

(d) Reporting program progress and results.

(e) Establishing a mechanism by which information regarding grant projects may be made available to facilitate additional angel, seed, or venture capital investment.

(5) FIDUCIARY.--Enterprise Florida, Inc., shall award money to a qualified applicant if:

(a) The committee approves the award;

(b) The qualified applicant demonstrates that it has obtained a federal Small Business Innovation Research Program or Small Business Technology Transfer Program Phase II award; and

(c) The qualified applicant executes a performance contract with Enterprise Florida, Inc.

Enterprise Florida, Inc., shall release funds to a qualified applicant upon completion of all contract requirements.

(6) AWARDS.--The matching grant program may make one-time awards up to $250,000 per project to a qualified applicant.

Section 2. Prior to the 2013 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall conduct a review and evaluation of the effectiveness and viability of the Florida Research Commercialization Matching Grant Program. The office shall specifically evaluate utilization of federal grants, private investment, and the creation of new businesses and jobs. The office shall also recommend outcome measures for further evaluation of the program. The office shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2013.

Section 3. The recurring sum of $4 million is appropriated from the General Revenue Fund to Enterprise Florida, Inc., for the 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013 fiscal years for the purpose of implementing s. 288.9552, Florida Statutes.

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

Amendment (01)

Bill No. **593**

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 ______

The Policy and Budget Council

Representative Precourt offered the following:

Amendment

Remove line 135 and insert:

awards up to $250,000 per project to a qualified applicant until June 30,2013.

.

Amendment (02)

Bill No. **593**

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 ____

The Policy and Budget Council
Representative Precourt offered the following:

Amendment

Remove lines 148-152 and insert:

Section 3. The recurring sum of $4 million is appropriated from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development for Enterprise Florida, Inc., for the 2008-2009 fiscal year for the purpose of implementing s. 288.9552, Florida Statutes.

CS/HB 699

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 699 Affordable Housing

SPONSOR(S): Economic Expansion and Infrastructure Council, Aubuchon & others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	9 Y, 0 N	Rojas	Croom
2) Economic Expansion & Infrastructure Council	14 Y, 0 N, As CS	Rojas/Madsen	Tinker
3) Policy & Budget Council		Diez-Arguelles	Hansen MPH
4)			
5)			

SUMMARY ANALYSIS

The bill substantially revises and updates ss. 125.0104, 159.807, 196.1978, 420.5087, 420.5095, 420.628, 420.9071, 420.9073, 420.9075 and 420.9076 which govern the implementation of the numerous affordable housing practices and procedures statewide.

In addition, the bill amends s. 420.5061 to remove the provision requiring the Florida Housing Finance Corporation (FHFC) to pay a General Revenue service charge.

Finally, the bill expands the availability of property tax exemptions for properties used to provide affordable housing by charitable entities.

The bill has a negative fiscal impact on the General revenue Fund of $700,000.

The Revenue Estimating Conference has determined that the provisions of this bill reduce the ad valorem tax base. At current millage rates, the changes proposed in this bill reduce local government revenues in FY 08-09 by $1.4 million (adding limited partnerships to exempt entities), and by $500,000 (grant of exemption for affirmative steps in preparing land for affordable housing).

The bill has an effective date of July 1, 2008

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill will increase the minimum allocation of SHIP funding, offsetting the growing number of households seeking assistance for affordable housing.

Provides limited government - The bill updates the State Housing Initiatives Partnership (SHIP) Act allowing for more efficient implementation by the Florida Housing Finance Corporation.

B. EFFECT OF PROPOSED CHANGES:

Reallocation of Tourism development tax to benefit Affordable Housing

Section 125.0104(3), F.S.: Allows Monroe County and any other county the state has designated as an area of critical state concern to use the proceeds of the High Tourism Impact Tax authorized in Sec. 125.0104(3)(m), F.S., for affordable, workforce, or employee housing.

Mortgage Revenue Bond (MRB) Program

Section 159.807(4), F.S.: governs the State allocation pool and the MRB program. Recently, the way the statute has implemented bond allocations for the past fifteen years has been called into question. The bill clarifies language in statute to make clear that the current implementation procedure being used is correct.

Clarification of Ad Valorem Exemption for Non Profit Housing Property

Section 196.1978, F.S.: expands the Ad Valorem Exemption for Non-Profit Housing Property. Some entities considered tax exempt by the IRS for charitable non-profit housing purposes will also be considered tax exempt by the state of Florida. The bill also provides that land that is owned by an exempt entity and subject to a 99-year ground lease for the purpose of providing affordable housing will qualify for exemption. Finally , the bill provides that undeveloped property owned by an exempt entity shall be exempt as long as the owner can document that affirmative steps are being taken to use the property for affordable housing for eligible residents. If there is a change in eligibility requirements or the exemption was obtained improperly, the total amount of taxes, non-ad valorem assessments, and interest for the period such exemption was effective becomes due and payable.

General Revenue Service Charge Repeal

Present Situation

Pursuant to s. 420.5061, F.S., the FHFC is required to transfer to the General Revenue Fund an amount which otherwise would have been deducted as a service charge if the FHFC Fund, the State Apartment Incentive Loan Fund, the Florida Homeownership Assistance Fund, the HOME Investment Partnership Fund and the Housing Predevelopment Loan Fund were each trust funds.

Section 15 of HB 7009 provided for the transfer of $7,423,862 from the State Housing Trust Fund to General Revenue in order to satisfy the FHFC's outstanding obligation as of December 31, 2007. FHFC claims that no further general government costs have been incurred under s. 420.5061, F.S., since January 1, 1998 owing to the fact that it has internally assumed the services formerly provided by DFS to the Agency.

Effect of the Bill

The bill amends s. 420.5061, F.S., to repeal the provision requiring the FHFC to transfer service charges to General Revenue. The repeal would divert approximately $700,000 annually from General Revenue to the FHFC.

Florida Public Housing Authority Grant Program

Section 420.507(47), F.S.: is created to allow the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program aimed at preserving and rehabilitating public housing authority buildings that are 30 years or older.

State Apartment Incentive Loan (SAIL) Program

Section 420.5087(6)(c)16, F.S.: Adds green building principles, storm resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program.

Section 420.5087(6)(l), F.S.: Allows use of SAIL funds for moderate rehabilitation and preservation of existing affordable units.

Community Workforce Housing Innovation Pilot (CWHIP) Program

Section 420.5095, F.S.: is created to allow prioritization of declined or returned funds for projects aimed at providing housing for teachers and other instructional personnel employed by local school districts.

Affordable housing land donation density bonus incentives

Section 420.615, F.S.: provides that local governments may provide density bonus incentives to landowners who donate property for the purpose of assisting local governments in providing affordable housing. Donated property is subject to a determination by the local government for suitable use as affordable housing. This provision is intended to clarify existing law.

The Department of Community Affairs has argued that this provision of law is not clear enough to treat these density bonuses as a small scale amendment. As a result, confusion at the local level persists, creating a chilling effect on affordable housing donation agreements. The change in language reasserts that the density bonuses received by a landowner as a result of a land donation for affordable housing is a small scale amendment.

Affordable Housing for Children and Young Adults Leaving Foster Care

Section 420.628, F.S.: is created, and qualifies children and young adults leaving foster care under statute as eligible persons for consideration for affordable housing assistance. The bill also provides guidance to the FHFC in developing and implementing strategies for establishing a suitable transition for those young persons leaving foster care.

State Housing Initiatives Partnership Act (SHIP) Statutory Definitions

Present Situation

Under current law s. 420.503, F.S., establishes general definitions relating to the FHFC and s. 420.9071, F.S., establishes numerous statutory definitions for the implementation of the SHIP Act by the FHFC. The SHIP program provides funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing.

Effect of the Bill

The bill makes the following changes to the statutory definitions:

Section 420.503, F.S.: Creates a new definition for moderate rehabilitation, to allow SAIL funds to be used to preserve (cost from $10,000 up to 40% of unit value) units that are less deteriorated than those requiring "substantial rehabilitation."

Section 420.9071 (4), F.S.: Updates the definition of "Annual gross income." The change would allow FHFC by rule, to approve additional income verification methods consistent with verification methods currently utilized in the lending industry.

Section 420.9071 (8), F.S.: Updates the definition of "Eligible housing" to include manufactured homes that meet the standards of the Florida Building Code or predecessor building codes or manufactured housing constructed after 1994. Following the Hurricane Housing Work Group's recommendation in 2005, FHFC used Hurricane Housing Recovery Program funds for manufactured housing assistance. Since 2006, the Community Workforce Housing Innovation Pilot Program ("CWHIP") has included language identical to this.

Section 420.9071 (16), F.S.: Changes the definition of "Local housing incentive strategies" to allow the affordable housing advisory committee to propose additional incentive strategies for the local housing assistance plan.

Section 420.9071 (25), F.S.: Revises the definition of "Recaptured funds" to clarify the difference between recapture and program income. Currently, funds are categorized as recaptured when there is a default on a loan. The change would clarify that funds are only designated as recaptured when no eligible unit is assisted with the funds being recaptured. This also would allow FHFC to track the use of funds more accurately.

Section 420.9071(29), F.S.: Creates new subsection to define "Assisted housing," as housing that receives funding from any federal or state housing program.

Section 420.9071(30), F. S. Creates new subsection to define "Preservation," to categorize actions taken to keep rents affordable in existing assisted housing while ensuring that units remain in good physical condition.

Local Housing Distributions of SHIP Funding

Present Situation

Under current law s. 420.9073, F.S., establishes the criteria and manner of local housing distributions of the SHIP Act by the FHFC.

Effect of the Bill

The bill makes the following changes regarding the distribution of SHIP funds:

Section 420.9073 (1) and (2), F.S.: Allows FHFC to distribute funds on a quarterly basis rather than a monthly basis. The change would allow FHFC to distribute funds to local governments consistent with the schedule for release of funds by the state to FHFC.

Section 420.9073 (5), F.S.: Allows FHFC to set aside $5 million each year in SHIP funds to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local governments for the purpose of quickly addressing housing needs in areas that are affected by a disaster situation as declared by the Governor. Funds not used for this purpose will be distributed to the local governments by the end of the year.

Section 420.9073 (6), F.S.: Allows FHFC to set aside up to $5 million each year in SHIP funds for local governments to purchase homes which have existing SHIP subsidies and that are subject to foreclosure. This change will allow for such homes to be resold through the SHIP program. The proposed statutory language provides options for how the local government using this fund will repay funds used for this purpose so that no local government will receive additional SHIP funds beyond their annual allocation. This pool would allow local governments that have already encumbered all current funds to move quickly in a foreclosure situation. Funds not used for this purpose will be distributed to the local governments by the end of the year.

Section 420.9073 (7), F.S.: Clarifies that all counties or municipalities receiving SHIP funds must comply with Florida law, program rules, and the local housing assistance plan.

Development and Implementation of Local Housing Assistance Plans

Present Situation

Under current law, s. 420.9075, F.S., requires counties and eligible municipalities participating in the SHIP program to develop and implement a local housing assistance plan to make available affordable residential units to specified persons.

Additionally, s. 420.9076, F.S., requires counties and eligible municipalities participating in the SHIP program, after adopting a local housing assistance plan pursuant to s. 420.9075, F.S., to amend that plan within 12 months to include local housing incentive strategies.

Effect of the Bill

The bill makes the following changes to local housing assistance plans:

Section 420.9075(1)(a) and (5)(d), F.S.: Allows local governments to increase the area median income (AMI) limit on households served from 120% to 140% for areas determined by FHFC rule to be "high cost" areas. This change allows local governments to serve workforce households in areas where the cost of housing is above the state median pricing.

Section 420.9075(3)(d), F.S.: Requires local governments to state in their local housing assistance plans how they plan to address innovative design, green building, storm resistant construction and other elements that reduce long term costs. This change requires that local governments consider how current and emerging building and design techniques should be integrated into affordable housing strategies both for sustainability and to promote greater affordability.

Section 420.9075(3)(e), F.S.: Creates new paragraph (e) to encourage local governments to develop preservation strategies within local housing assistance plans.

Section 420.9075(5)(c), F.S.: is created and limits the expenditure of SHIP funds on manufactured housing to 15 percent.

Section 420.9075(5)(d), F.S.: is renumbered and extends income restriction exemption requirements for Monroe County. The Legislature has declared its intent to provide affordable housing for areas of critical state concern, areas such as Monroe County, are presently exempt from the statutory reservation of SHIP funds specifically for low-income and very-low-income persons, allowing funding to households at or below 120% of AMI. This exception is set to expire July 1, 2008; this would extend the exemption to July 1, 2013, based on continuing high housing costs relative to incomes.

Section 420.9075(5)(l), F.S.: Clarifies and outlines the parameters in which funds may be awarded as grants rather than loans: most SHIP funding is now provided in the form of loans including deferred payment and forgivable loans. This change clarifies when a local government can grant SHIP funds without any terms for repayment or recapture. This change will increase the amount of funds recycled through SHIP to assist additional households.

Section 420.9075(5)(k), F.S.: Provides funding for preconstruction preservation activities, and that under certain circumstances such funds shall not be considered as administrative expenses.

Section 420.9075(10)(a), F.S.: Adds "persons with disabilities" to the list of demographics that must be tracked by the local governments. This change allows FHFC to track the number of households with a person with a disability which are served through the SHIP program.

Section 420.9075(10)(h), F.S.: Revises language to allow FHFC to require the tracking of additional program information by the local governments as necessary. This change adapts annual reporting requirements to allow FHFC to supply additional data needed to provide information on the performance of the program.

Section 420.9075(14), F.S.: Requires repayment of SHIP funds if these funds are found to be expended on ineligible activities. This change would give FHFC the ability to require that funds found to be used for ineligible expenditures be repaid by the local government to the local program's affordable housing trust fund.

Section 420.9076(2)(h), F.S.: Allows a local government to appoint a "designee" to its affordable housing advisory committee in place of the Local Planning Agency (LPA) committee member in cases where the elected body acts as the LPA. This change would allow for circumventing conflicts where the LPA is the elected body of the local government.

Section 420.9076(5) and (6), F.S.: Amends language concerning the affordable housing advisory committee reporting requirements. This change clarifies that the committee's evaluation and report must be adopted by the committee, must contain a summary, be available for the public to obtain, and be submitted to FHFC.

<u>Deletion of s. 420.9078, F.S.</u>

<u>Present Situation</u>

Section 420.9078, F.S., establishes criteria and methodology for the distribution of funds that remain in the Local Government Housing Trust Fund.

<u>Effect of the Bill</u>

The deletion of s. 420.9078, F.S., is tied to the implementation of s. 420.9073 (5), F.S., which will allow FHFC to set aside $5 million each year to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local governments to quickly address housing needs in areas that are affected by a disaster situation as declared by the Governor. Funds not used for this purpose will be distributed to the local governments at the end of the year.

<u>School Board Use of Surplus Land for Affordable Housing in Areas of State Critical concern</u>

Section 1001.43 (12), F.S.: Allows school boards in areas deemed by the legislature to be areas of critical state concern to utilize surplus land for affordable housing for teachers and other essential services personnel, such as fire, police and health care workers as defined by local affordable housing plans.

C. SECTION DIRECTORY:

Section 1: Amends s. 125.0104, F.S., to allow local bed tax to be used for affordable housing.

Section 2: Amends s. 159.807, F.S., to clarify the non-taxable revenue bond allocation process.

Section 3: Amends s. 196.1978, F.S., to clarify the Ad Valorem Exemption for Non-Profit Housing Property.

Section 4: Amends s. 420.503, F.S., to create a definition of Moderate Rehabilitation.

Section 5: Amends s. 420.5061, F.S., to remove the provision requiring the Florida Housing Finance Corporation to pay a General Revenue service charge at the time of original transfer or rights and liabilities from the Florida Housing Finance Agency to the FHFC.

Section 6: Creates s. 420.507(47), F.S., created to allow the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program.

Section 7: Amends s. 420.5087, F.S., to allow use of SAIL funds for moderate rehabilitation and preservation of existing affordable units. Creates s. 420.5087(16), F.S., to add Green-building practices to scoring system for distribution of SAIL funds.

Section 8: Creates s. 420.5095, F.S., to allow return or declined CWHIP program funds to be used for teacher housing.

Section 9: Amends s. 420.615, F.S., to clarify legislative intent relating to Density bonuses.

Section 10: Creates s. 420.628, F.S., to address affordable housing for persons leaving foster care.

Section 11: Amends s. 420.9071(4), (8), (16), and (25), and creates (29) and (30) F.S., addressing select definitions of the State Housing Initiative Partnership Act

Section 12: Amends s. 420.9072(6), F.S., to eliminate reference to s. 420.978, F.S.

Section 13: Amends s. 420.9073, F.S., revising the criteria and manner of local housing distributions of the State Housing Initiatives Partnership Act by the FHFC.

Section 14: Amends s. 420.9075, F.S., revising local housing assistance plan requirements for counties and eligible municipalities participating in the State Housing Initiatives Partnership program.

Section 15: Amends s. 420.9076, F.S., revising requirements for counties and eligible municipalities participating in the SHIP program. This change requires local governments after adopting a local housing assistance plan pursuant to s. 420.9075, F.S., to amend that plan within 12 months to include local housing incentive strategies.

Section 16: Repeals s. 420.9078, F.S., which directs the state administration of remaining local housing distribution funds.

Section 17: Amends s. 420.9079, F.S., conforming references.

Section 18: Amends s. 1001.43(12), F.S., to allow areas of Critical State Concern to use surplus land for housing for teachers and other essential services personnel.

Section 19: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The repeal of s. 420.5061, F.S., diverts approximately $700,000 annually from the General Revenue Fund to the FHFC.

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference has determined that the provisions of this bill reduce the ad valorem tax base. At current millage rates, the changes proposed in this bill reduce local government revenues in FY 08-09 by $1.4 million (adding limited partnerships to exempt entities), and by $500,000 (grant of exemption for affirmative steps).

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will increase accessibility to affordable housing by increasing the minimum allocation of SHIP funding to the growing number of households seeking assistance for affordable housing.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision applies, since the bill reduces the authority that cities and counties have to raise revenue. However, the reduction is estimated to be less than $1.9 million; therefore, the bill is exempt from the mandates provision.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The formula for distributing the local option tax in Section 1 of the bill should be clarified. The recapture of taxes language in section 2 of the bill is not clear regarding how back taxes are determined.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2008, a strike-all amendment was adopted with one technical amendment to the strike-all amendment by the Economic Development Committee, and the bill was reported favorably.

The amendment changes the following:

- **Section 159.807(4)(b),F.S.:** is deleted clarifying that the non-taxable revenue bond allocation process currently implemented is the correct procedure.
- **Section 196.1978, F.S.:** clarifies the Ad Valorem Exemption for Non-Profit Housing Property. Entities considered tax exempt by the IRS for charitable non-profit housing organizations will also be considered tax exempt by the state of Florida.
- **Section 420.503(42), F.S.:** is created to include a definition for moderate rehabilitation, allowing State Apartment Incentive Loan Program (SAIL) funds to be used to preserve units that are less deteriorated than those requiring "substantial rehabilitation" as defined in s. 420.503(41), F.S.
- **Section 420.507(47), F.S.:** is created to allow the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program.
- **Section 420.5087(6)(l), F.S.:** allows use of SAIL funds for moderate rehabilitation and preservation of existing affordable units.
- **Section 420.615, F.S.:** provides that local governments may provide density bonus incentives to landowners who donate property for the purpose of assisting local governments in providing affordable housing. Donated property is subject to a determination by the local government for suitable use as affordable housing.
- **Section 420.9071 (29), F. S.:** is created to include a definition for "Assisted housing" or "Assisted housing development" meaning a rental housing development, including rental housing in a mixed use development that received or currently receives funding from any federal or state housing program.

- **Section 420.9071 (30), F. S.:** is created to include a definition for "Preservation," meaning actions taken to keep rents in existing assisted housing affordable for income defined households, while ensuring that the property stays in good physical and financial condition.

- **Section 420.9075(3)(e), F.S.:** is created to encourage local governments to develop preservation strategies.

- **Section 420.9073 (3) and 420.9075 (7), F.S.:** proposed amendments to increase the minimum allocation of SHIP Funds for each county to $500,000 are deleted.

- **Section 420.9075(5)(k), F.S.:** provides for funding of preconstruction preservation activities, and provides that under certain circumstances such funds shall not be considered as administrative expenses.

- **Section 1001.43 (12), F.S.:** allows school boards in areas of Critical State Concern to use surplus land for housing for teachers and other essential services personnel as defined by local affordable housing plans.

- Appropriates $75 Million from the Local Government Housing Trust Fund to FHFC to be used in counties or municipalities that have reduced impact fees.

On April 11, 2008, a strike-all amendment was adopted with two amendments to the strike-all amendment by the Economic Expansion and Infrastructure Council, and the bill was reported favorably.

The amendment changes the following:

- **Section 125.0104(3), F.S.:** Allows Monroe County and any other county the state has designated as an area of critical concern to use one penny of an already authorized tax on hotel rooms for affordable housing purposes. The current local ordinance authorizes the tax proceeds to be used only for marketing. The tax itself is already authorized by existing local ordinance.

- **Section 196.1978**, **F.S.:** Adds recapture language directing that if there is a change in eligibility requirements set forth or the exemption was obtained improperly the total amount of taxes, non-ad valorem assessments, and interest for the period such exemption was effective becomes due and payable.

- **Section 420.5087(6)(c)16, F.S.:** Adds green building principles, storm resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program.

- **Section 420.5095, F.S.:** is created to allow prioritization of declined or returned funds for projects to aimed at providing housing for teachers and other instructional personnel employed by local school districts.

- **Section 420.628, F.S.:** is created, and qualifies children and young adults leaving foster care under statute as eligible persons for consideration for affordable housing assistance. The bill also provides guidance to the FHFC in developing and implementing strategies for establishing a suitable transition for those young-persons leaving foster care.

- **Section 420.9075(5)(c), F.S.:** is created and limits the expenditure of SHIP funds on manufactured housing to 15 percent.

- Deletes $75 Million appropriation to FHFC.

A bill to be entitled

An act relating to affordable housing; amending s. 125.0104, F.S.; allowing certain counties to use certain tax revenues for workforce, affordable, and employee housing; amending s. 159.807, F.S.; deleting a provision exempting the Florida Housing Finance Corporation from the applicability of certain uses of the state allocation pool; amending s. 196.1978, F.S.; providing that property owned by certain nonprofit entities or Florida-based limited partnerships and used or held for the purpose of providing affordable housing to certain income-qualified persons is exempt from ad valorem taxation; revising legislative intent; providing that such ad valorem tax exemption extends to land owned by an exempt entity and subject to a 99-year ground lease for the purpose of providing affordable housing; providing that such ad valorem tax exemption extends to undeveloped property owned by an exempt entity that has taken affirmative steps to prepare the property for future use as affordable housing; defining the term "affirmative steps"; providing for the rejection of the ad valorem tax exemption under certain circumstances; requiring a property appraiser to reassess the just valuation of the property under certain circumstances; providing the total amount of taxes, non-ad valorem assessments, and interest for the period such exemption was effective become due when exemptions are found to have been obtained improperly or by fraud or misrepresentation; requiring the property appraiser to

notify the tax collector of certain changes in the use or ownership of the property; amending s. 420.503, F.S.; defining the term "moderate rehabilitation" for purposes of the Florida Housing Finance Corporation Act; amending s. 420.5061, F.S.; removing a provision requiring the Florida Housing Finance Corporation to transfer certain funds to the General Revenue Fund; amending s. 420.507, F.S.; providing the corporation with certain powers relating to developing and administering a grant program; amending s. 420.5087, F.S.; revising purposes for which state apartment incentive loans may be used; amending s. 420.5095, F.S.; providing for the disbursement of certain Community Workforce Housing Innovation Pilot Program funds that were awarded but have been declined or returned; amending s. 420.615, F.S.; revising provisions relating to comprehensive plan amendments; authorizing certain persons to challenge the compliance of an amendment; creating s. 420.628, F.S.; providing legislative findings and intent; requiring certain governmental entities to develop and implement strategies and procedures designed to increase affordable housing opportunities for young adults who are leaving the child welfare system; amending s. 420.9071, F.S.; revising and providing definitions; amending s. 420.9072, F.S.; conforming a cross-reference; amending s. 420.9073, F.S.; revising the frequency with which local housing distributions are to be made by the corporation; authorizing the corporation to withhold funds from the total distribution annually for specified purposes;

requiring counties and eligible municipalities that receive local housing distributions to expend those funds in a specified manner; amending s. 420.9075, F.S.; requiring that local housing assistance plans address the special housing needs of persons with disabilities; authorizing the corporation to define high-cost counties and eligible municipalities by rule; authorizing high-cost counties and certain municipalities to assist persons and households meeting specific income requirements; revising requirements to be included in the local housing assistance plan; requiring counties and certain municipalities to include certain initiatives and strategies in the local housing assistance plan; revising criteria that applies to awards made for the purpose of providing eligible housing; authorizing and limiting the percentage of funds from the local housing distribution that may be used for manufactured housing; extending the expiration date of an exemption from certain income requirements in specified areas; authorizing the use of certain funds for preconstruction activities; providing that certain costs are a program expense; authorizing counties and certain municipalities to award grant funds under certain conditions; providing for the repayment of funds by the local housing assistance trust fund; amending s. 420.9076, F.S.; revising appointments to a local affordable housing advisory committee; revising notice requirements for public hearings of the advisory committee; requiring the committee's final report,

evaluation, and recommendations to be submitted to the corporation; deleting cross-references to conform to changes made by the act; repealing s. 420.9078, F.S., relating to state administration of funds remaining in the Local Government Housing Trust Fund; amending s. 420.9079, F.S.; conforming cross-references; amending s. 1001.43, F.S.; revising district school board powers and duties in relation to use of land for affordable housing in certain areas for certain personnel; providing an effective date.

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

Section 1. Paragraph (m) of subsection (3) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.--

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.--

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subsection (5). <u>In addition, any high tourism impact county that is designated as an area of critical state concern pursuant to chapter 380 may also utilize revenues received pursuant to this paragraph for affordable or workforce housing as defined in chapter 420, or for affordable,</u>

workforce, or employee housing as defined in any adopted comprehensive plan, land development regulation, or local housing assistance plan. Such authority for the use of revenues for workforce, affordable, or employee housing shall extend for 10 years after the date of any de-designation of a location as an area of critical state concern, or for the period of time required under any bond or other financing issued in accordance with or based upon the authority granted pursuant to the provisions of this section. Revenues derived pursuant to this paragraph shall be bondable in accordance with other laws regarding revenue bonding. Should a high tourism impact county designated as an area of critical state concern enact the tax specified in this paragraph, the revenue generated shall be distributed among incorporated and unincorporated areas based upon a percentage equal to the amount of revenue derived by such individual incorporated and unincorporated area. However, nothing in this paragraph shall preclude an interlocal agreement between local governments for the use of funds received pursuant to this paragraph in a manner that addresses the provision of affordable and workforce housing opportunities on a regional basis or in accordance with a multijurisdictional housing strategy, program, or policy.

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied

pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. The provisions of paragraphs (4)(a)-(d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

Section 2. Subsection (4) of section 159.807, Florida Statutes, is amended to read:

159.807 State allocation pool.--

(4)~~(a)~~ The state allocation pool shall also be used to provide written confirmations for private activity bonds that are to be issued by state agencies after June 1, which bonds, notwithstanding any other provisions of this part, shall receive priority in the use of the pool available at the time the notice of intent to issue such bonds is filed with the division.

~~(b) This subsection does not apply to the Florida Housing Finance Corporation:~~

~~1. Until its allocation pursuant to s. 159.804(3) has been exhausted, is unavailable, or is inadequate to provide an~~

~~allocation pursuant to s. 159.804(3) and any carryforwards of volume limitation from prior years for the same carryforward purpose, as that term is defined in s. 146 of the Code, as the bonds it intends to issue have been completely utilized or have expired.~~

~~2. Prior to July 1 of any year, when housing bonds for which the Florida Housing Finance Corporation has made an assignment of its allocation permitted by s. 159.804(3)(c) have not been issued.~~

Section 3. Section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.--

(1) Property used or held for the purpose of providing ~~to provide~~ affordable housing serving eligible persons as defined by s. 159.603(7) and natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income ~~persons meeting income~~ limits specified in s. 420.0004 ~~s. 420.0004(8), (10), (11), and (15)~~, which property is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, or a Florida-based limited partnership, the sole general partner of which is a corporation not for profit which is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property which provide housing to natural

persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 ~~individuals with incomes as defined in s. 420.0004(10) and (15)~~ shall be exempt from ad valorem taxation to the extent authorized in s. 196.196. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a limited liability company or limited partnership which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member or sole general partner.

(2)(a) The exemption provided in this section shall extend to land that is owned by an exempt entity and that is subject to a 99-year ground lease for the purpose of providing affordable housing.

(b) The exemption provided in this section shall also extend to undeveloped property owned by an exempt entity that has taken affirmative steps to prepare the property to provide affordable housing to eligible persons as defined by this section. For purposes of this paragraph, the term "affirmative steps" means demonstrating to the property appraiser that activities have been initiated that will ensure future use of the property for affordable housing, including, but not limited to, proposals for property development, preliminary environmental or land use permitting activities, site plans or architectural plans, site preparation, construction or renovation activities, financial plans, or any other activities demonstrating that the property will be used to provide affordable housing. If affirmative steps have not been taken within 5 years, the property appraiser may reject the exempt status of the property and reassess it based on other uses.

(3) If there is a change in use or ownership of the property that has been granted an exemption such that the property owner is no longer entitled to claim the property as an affordable rental housing property, or if there is a change in the legal or beneficial ownership of the property to an entity not qualified for this exemption, the property appraiser shall reassess to determine the just valuation of the property beginning with the year in which the exemption was granted.

(4) If the exemption is found to have been obtained improperly or by fraud or misrepresentation, the total amount of taxes, non-ad valorem assessments, and interest for the period such exemption was effective becomes due and payable November 1 of the year in which the change in use or ownership occurs or on the date failure to maintain insurance occurs and is delinquent on April 1 of the year following the year in which the change in use or ownership in subsection (2) occurs.

(5) When the property appraiser discovers that there has been a change in the use or ownership of the property that has been granted this exemption, the property appraiser shall notify the tax collector in writing of the date such change occurs, and the tax collector shall collect any taxes, non-ad valorem assessments, and interest due or delinquent.

Section 4. Present subsections (25) through (41) of section 420.503, Florida Statutes, are redesignated as subsections (26) through (42), respectively, and a new subsection (25) is added to that section to read:

420.503 Definitions.--As used in this part, the term:

(25) "Moderate rehabilitation" means repair or restoration of a dwelling unit when the value of such repair or restoration is 40 percent or less of the value of the dwelling but not less than $10,000 per dwelling unit.

Section 5. Section 420.5061, Florida Statutes, is amended to read:

420.5061 Transfer of agency assets and liabilities.--The corporation is the legal successor in all respects to the agency, is obligated to the same extent as the agency under any agreements existing on December 31, 1997, and is entitled to any rights and remedies previously afforded the agency by law or contract, including specifically the rights of the agency under chapter 201 and part VI of chapter 159. Effective January 1, 1998, all references under Florida law to the agency are deemed to mean the corporation. ~~The corporation shall transfer to the General Revenue Fund an amount which otherwise would have been deducted as a service charge pursuant to s. 215.20(1) if the Florida Housing Finance Corporation Fund established by s. 420.508(5), the State Apartment Incentive Loan Fund established by s. 420.5087(7), the Florida Homeownership Assistance Fund established by s. 420.5088(4), the HOME Investment Partnership Fund established by s. 420.5089(1), and the Housing Predevelopment Loan Fund established by s. 420.525(1) were each~~

~~trust funds.~~ For purposes of s. 112.313, the corporation is deemed to be a continuation of the agency, and the provisions thereof are deemed to apply as if the same entity remained in place. Any employees of the agency and agency board members covered by s. 112.313(9)(a)6. shall continue to be entitled to the exemption in that subparagraph, notwithstanding being hired by the corporation or appointed as board members of the corporation.

Section 6. Subsection (47) is added to section 420.507, Florida Statutes, to read:

420.507 Powers of the corporation.--The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(47) To develop and administer the Florida Public Housing Authority Preservation Grant Program. In developing and administering the program, the corporation may:

(a) Develop criteria for determining the priority for expending grants to preserve and rehabilitate 30-year and older buildings and units under public housing authority control as defined in chapter 421.

(b) Adopt rules for the grant program and exercise the powers authorized in this section.

Section 7. Paragraphs (c) and (l) of subsection (6) of section 420.5087, Florida Statutes, are amended to read:

420.5087 State Apartment Incentive Loan Program.--There is hereby created the State Apartment Incentive Loan Program for

the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(c) The corporation shall provide by rule for the establishment of a review committee composed of the department and corporation staff and shall establish by rule a scoring system for evaluation and competitive ranking of applications submitted in this program, including, but not limited to, the following criteria:

1. Tenant income and demographic targeting objectives of the corporation.

2. Targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period to exceed the minimum required by federal law or the provisions of this part.

4. Sponsor's agreement to reserve more than:

a. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is higher; or

b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

5. Provision for tenant counseling.

6. Sponsor's agreement to accept rental assistance certificates or vouchers as payment for rent.

7. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost except that the share of the loan attributable to units serving extremely-low-income persons shall be excluded from this requirement.

8. Local government contributions and local government comprehensive planning and activities that promote affordable housing.

9. Project feasibility.

10. Economic viability of the project.

11. Commitment of first mortgage financing.

12. Sponsor's prior experience.

13. Sponsor's ability to proceed with construction.

14. Projects that directly implement or assist welfare-to-work transitioning.

15. Projects that reserve units for extremely-low-income persons.

<u>16. Projects that include green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.</u>

(1) The proceeds of all loans shall be used for new construction<u>, moderate rehabilitation,</u> or substantial rehabilitation which creates <u>or preserves</u> affordable, safe, and sanitary housing units.

Section 8. Subsection (17) is added to section 420.5095, Florida Statutes, to read:

420.5095 Community Workforce Housing Innovation Pilot Program.--

<u>(17)(a) Funds appropriated by s. 33, chapter 2006-69, Laws of Florida, that were awarded but have been declined or returned shall be made available for projects that otherwise comply with the provisions of this section and that are created to provide workforce housing for teachers and instructional personnel employed by the school district in the county in which the project is located.</u>

<u>(b) Projects shall be given priority for funding when the school district provides the property for the project pursuant to s. 1001.43.</u>

<u>(c) Projects shall be given priority for funding when the public-private partnership includes the school district and a national nonprofit organization to provide financial support, technical assistance, and training for community-based revitalization efforts.</u>

(d) Projects in counties which had a project selected for funding that declined or returned funds shall be given priority for funding.

(e) Projects shall be selected for funding by requests for proposals.

Section 9. Subsection (5) of section 420.615, Florida Statutes, is amended to read:

420.615 Affordable housing land donation density bonus incentives.--

(5) The local government, as part of the approval process, shall adopt a comprehensive plan amendment, pursuant to part II of chapter 163, for the receiving land that incorporates the density bonus. Such amendment shall be deemed by operation of law a small scale amendment, shall be subject only to the requirements of ~~adopted in the manner as required for small-scale amendments pursuant to~~ s. 163.3187(1)(c)2. and 3., is not subject to the requirements of s. 163.3184(3)-(11)~~(3)-(6)~~, and is exempt from s. 163.3187(1)(c)1. and the limitation on the frequency of plan amendments as provided in s. 163.3187. An affected person, as defined in s. 163.3184(1), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3) to challenge the compliance of an adopted plan amendment.

Section 10. Section 420.628, Florida Statutes, is created to read:

420.628 Affordable housing for children and young adults leaving foster care; legislative findings and intent.--

(1) The Legislature finds that there are many young adults who, through no fault of their own, live in foster families, group homes, and institutions and who face numerous barriers to a successful transition to adulthood.

(2) These youth in foster care are among those who may enter adulthood without the knowledge, skills, attitudes, habits, and relationships that will enable them to be productive members of society.

(3) The main barriers to safe and affordable housing for youth aging out of the foster care system are cost, lack of availability, the unwillingness of many landlords to rent to them, and their own lack of knowledge about how to be good tenants.

(4) The Legislature also finds that young adults who emancipate from the child welfare system are at risk of becoming homeless and those who were formerly in foster care are disproportionately represented in the homeless population. Without the stability of safe housing, all other services, training, and opportunities may not be effective.

(5) The Legislature further finds that making affordable housing available for young adults who transition from foster care decreases their chance of homelessness and may increase their ability to live independently in the future.

(6) The Legislature affirms that young adults transitioning out of foster care are to be considered eligible persons, as defined in ss. 420.503(17) and 420.9071(10), for affordable housing purposes and shall be encouraged to

participate in state, federal, and local affordable housing programs.

(7) It is therefore the intent of the Legislature to encourage the Florida Housing Finance Corporation, State Housing Initiative Partnership Program agencies, local housing finance agencies, public housing authorities and their agents, developers, and other providers of affordable housing to make affordable housing available to youth transitioning out of foster care whenever and wherever possible.

(8) The Florida Housing Finance Corporation, State Housing Initiative Partnership Program agencies, local housing finance agencies, and public housing authorities shall coordinate with the Department of Children and Family Services and their agents and community-based care providers who are operating pursuant to s. 409.1671 to develop and implement strategies and procedures designed to increase affordable housing opportunities for young adults who are leaving the child welfare system.

Section 11. Subsections (4), (8), (16), and (25) of section 420.9071, Florida Statutes, are amended, and subsections (29) and (30) are added to that section, to read:

420.9071 Definitions.--As used in ss. 420.907-420.9079, the term:

(4) "Annual gross income" means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; ~~or~~ adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income

tax purposes or as defined by standard practices used in the lending industry as detailed in the local housing assistance plan and approved by the corporation. Counties and eligible municipalities shall calculate income by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

(8) "Eligible housing" means any real and personal property located within the county or the eligible municipality which is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units that are designed to meet the standards of the Florida Building Code or a predecessor building code adopted under chapter 553, or manufactured housing constructed after June 1994 and installed in accordance with mobile home installation standards of the Department of Highway Safety and Motor Vehicles, for home ownership or rental for eligible persons as designated by each county or eligible municipality participating in the State Housing Initiatives Partnership Program.

(16) "Local housing incentive strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits as defined in s. 163.3164(7) and (8) for affordable housing projects are expedited to a greater degree than other projects; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local

housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 or those recommended by the affordable housing advisory committee in its triennial evaluation and adopted by the local governing body.

(25) "Recaptured funds" means funds that are recouped by a county or eligible municipality in accordance with the recapture provisions of its local housing assistance plan pursuant to s. 420.9075(5)(h) ~~(g)~~ from eligible persons or eligible sponsors, which funds were not used for assistance to an eligible household for an eligible activity, when there is a ~~who~~ default on the terms of a grant award or loan award.

(29) "Assisted housing" or "assisted housing development" means a rental housing development, including rental housing in a mixed-use development, that received or currently receives funding from any federal or state housing program.

(30) "Preservation" means actions taken to keep rents in existing assisted housing affordable for extremely-low-income, very-low-income, low-income, and moderate-income households while ensuring that the property stays in good physical and financial condition for an extended period.

Section 12. Subsection (6) of section 420.9072, Florida Statutes, is amended to read:

420.9072 State Housing Initiatives Partnership Program.--The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local

government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(6) The moneys that otherwise would be distributed pursuant to s. 420.9073 to a local government that does not meet the program's requirements for receipts of such distributions shall remain in the Local Government Housing Trust Fund to be administered by the corporation ~~pursuant to s. 420.9078~~.

Section 13. Subsections (1) and (2) of section 420.9073, Florida Statutes, are amended, and subsections (5), (6), and (7) are added to that section, to read:

420.9073 Local housing distributions.--

(1) Distributions calculated in this section shall be disbursed on a quarterly or more frequent ~~monthly~~ basis by the corporation ~~beginning the first day of the month after program approval~~ pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(9) shall be calculated by the corporation for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(9) reduced by the guaranteed amount paid to all counties.

(2) ~~Effective July 1, 1995,~~ Distributions calculated in this section shall be disbursed on a quarterly or more frequent ~~monthly~~ basis by the corporation ~~beginning the first day of the month after program approval~~ pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(10) shall be calculated by the corporation for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(10) as reduced by the guaranteed amount paid to all counties.

(5) Notwithstanding subsections (1)-(4), the corporation is authorized to withhold up to $5 million from the total distribution each fiscal year to provide additional funding to counties and eligible municipalities in which a state of emergency has been declared by the Governor pursuant to chapter 252. Any portion of such funds not distributed under this subsection by the end of the fiscal year shall be distributed as provided in this section.

(6) Notwithstanding subsections (1)-(4), the corporation is authorized to withhold up to $5 million from the total

distribution each fiscal year to provide funding to counties and eligible municipalities to purchase properties subject to a State Housing Initiative Partnership Program lien and on which foreclosure proceedings have been initiated by any mortgagee. Each county and eligible municipality that receives funds under this subsection shall repay such funds to the corporation not later than the expenditure deadline for the fiscal year in which the funds were awarded. Amounts not repaid shall be withheld from the subsequent year's distribution. Any portion of such funds not distributed under this subsection by the end of the fiscal year shall be distributed as provided in this section.

(7) A county or eligible municipality that receives local housing distributions pursuant to this section shall expend those funds in accordance with the provisions of ss. 420.907-420.9079, corporation rule, and its local housing assistance plan.

Section 14. Subsections (1), (3), (5), and (8), paragraphs (a) and (h) of subsection (10), and paragraph (b) of subsection (13) of section 420.9075, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

420.9075 Local housing assistance plans; partnerships.--

(1)(a) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program shall develop and implement a local housing assistance plan created to make affordable residential units available to persons of very low income, low income, or moderate income and to persons who have special housing needs, including, but not limited to, homeless people, the elderly, ~~and~~ migrant farmworkers, and

persons with disabilities. High-cost counties or eligible municipalities as defined by rule of the corporation may include strategies to assist persons and households having annual incomes of not more than 140 percent of area median income. The plans are intended to increase the availability of affordable residential units by combining local resources and cost-saving measures into a local housing partnership and using private and public funds to reduce the cost of housing.

(b) Local housing assistance plans may allocate funds to:

1. Implement local housing assistance strategies for the provision of affordable housing.

2. Supplement funds available to the corporation to provide enhanced funding of state housing programs within the county or the eligible municipality.

3. Provide the local matching share of federal affordable housing grants or programs.

4. Fund emergency repairs, including, but not limited to, repairs performed by existing service providers under weatherization assistance programs under ss. 409.509-409.5093.

5. Further the housing element of the local government comprehensive plan adopted pursuant to s. 163.3184, specific to affordable housing.

(3)(a) Each local housing assistance plan shall include a definition of essential service personnel for the county or eligible municipality, including, but not limited to, teachers and educators, other school district, community college, and university employees, police and fire personnel, health care personnel, skilled building trades personnel, and other job categories.

(b) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel. The local government is encouraged to involve public and private sector employers. Compliance with the eligibility criteria established under this strategy shall be verified by the county or eligible municipality.

(c) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to the closure of a mobile home park or the conversion of affordable rental units to condominiums.

(d) Each county and each eligible municipality shall describe initiatives in the local housing assistance plan to encourage or require innovative design, green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.

(e) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan that provides program funds for the preservation of assisted housing.

(5) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons.

(b) At least 75 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing.

(c) Not more than 15 percent of the funds made available in each county and eligible municipality from the local housing distribution may be used for manufactured housing.

(d)~~(c)~~ The sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the statistical area in which the eligible housing is located. Such average area purchase price may be that calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs or as otherwise established by the United States Department of the Treasury.

(e)~~(d)~~1. All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very-low-income persons, low-income persons, and moderate-income persons except as otherwise provided in this section.

2. At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons and at least an additional 30 percent of

the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons. This subparagraph does not apply to a county or an eligible municipality that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. The exemption created by this act expires on July 1, 2013 ~~2008~~.

(f) ~~(e)~~ Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(g) ~~(f)~~ Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan unless reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

(h) ~~(g)~~ Loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be

subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan.

(i) ~~(h)~~ The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable.

(j) ~~(i)~~ The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from awards made pursuant to this section must be established in the local housing assistance plan.

(k) ~~(j)~~ The benefit of assistance provided through the State Housing Initiatives Partnership Program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution funds for a mixed income rental development.

(l) ~~(k)~~ Funds from the local housing distribution not used to meet the criteria established in paragraph (a) or paragraph (b) or not used for the administration of a local housing assistance plan must be used for housing production and finance activities, including, but not limited to, financing preconstruction activities or the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan.

1. Notwithstanding the provisions of paragraphs (a) and (b), program income as defined in s. 420.9071(24) may also be used to fund activities described in this paragraph.

2. When preconstruction due diligence activities conducted as part of a preservation strategy show that preservation of the

units is not feasible and will not result in the production of an eligible unit, such costs shall be deemed a program expense rather than an administrative expense if such program expenses do not exceed 3 percent of the annual local housing distribution.

3. If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (e) ~~(d)~~ of this subsection.

4. Each county and each eligible municipality may award funds as a grant for construction, rehabilitation, or repair as part of disaster recovery or emergency repairs or to remedy accessibility or health and safety deficiencies. Any other grants must be approved as part of the local housing assistance plan.

(8) Pursuant to s. 420.531, the corporation shall provide training and technical assistance to local governments regarding the creation of partnerships, the design of local housing assistance strategies, the implementation of local housing incentive strategies, and the provision of support services.

(10) Each county or eligible municipality shall submit to the corporation by September 15 of each year a report of its

affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

(a) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as farmworkers, homeless persons, persons with disabilities, and the elderly. Counties shall report this information separately for households served in the unincorporated area and each municipality within the county.

(h) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality or by the corporation.

(13)

(b) If, as a result of its review of the annual report, the corporation determines that a county or eligible municipality has failed to implement a local housing incentive strategy, or, if applicable, a local housing incentive plan, it shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected county or eligible municipality.

1. The notice must specify a date of termination of the funding if the affected county or eligible municipality does not implement the plan or strategy and provide for a local response. A county or eligible municipality shall respond to the corporation within 30 days after receipt of the notice of termination.

2. The corporation shall consider the local response that extenuating circumstances precluded implementation and grant an extension to the timeframe for implementation. Such an extension shall be made in the form of an extension agreement that provides a timeframe for implementation. The chief elected official of a county or eligible municipality or his or her designee shall have the authority to enter into the agreement on behalf of the local government.

3. If the county or the eligible municipality has not implemented the incentive strategy or entered into an extension agreement by the termination date specified in the notice, the local housing distribution share terminates, and any uncommitted local housing distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer ~~pursuant to s. 420.9078~~.

4.a. If the affected local government fails to meet the timeframes specified in the agreement, the corporation shall terminate funds. The corporation shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected local government.

The notice shall specify the termination date, and any uncommitted funds held by the affected local government shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer ~~pursuant to s. 420.9078~~.

b. If the corporation terminates funds to a county, but an eligible municipality receiving a local housing distribution pursuant to an interlocal agreement maintains compliance with program requirements, the corporation shall thereafter distribute directly to the participating eligible municipality its share calculated in the manner provided in s. 420.9072.

c. Any county or eligible municipality whose local distribution share has been terminated may subsequently elect to receive directly its local distribution share by adopting the ordinance, resolution, and local housing assistance plan in the manner and according to the procedures provided in ss. 420.907-420.9079.

(14) If the corporation determines that a county or eligible municipality has expended program funds for an ineligible activity, the corporation shall require such funds to be repaid to the local housing assistance trust fund. Such repayment may not be made with funds from State Housing Initiatives Partnership Program funds.

Section 15. Paragraph (h) of subsection (2), subsections (5) and (6), and paragraph (a) of subsection (7) of section 420.9076, Florida Statutes, are amended to read:

420.9076 Adoption of affordable housing incentive strategies; committees.--

(2) The governing board of a county or municipality shall appoint the members of the affordable housing advisory committee by resolution. Pursuant to the terms of any interlocal agreement, a county and municipality may create and jointly appoint an advisory committee to prepare a joint plan. The ordinance adopted pursuant to s. 420.9072 which creates the advisory committee or the resolution appointing the advisory committee members must provide for 11 committee members and their terms. The committee must include:

(h) One citizen who actively serves on the local planning agency pursuant to s. 163.3174. <u>If the local planning agency is comprised of the county or municipality commission, the commission may appoint a designee who is knowledgeable in the local planning process.</u>

If a county or eligible municipality whether due to its small size, the presence of a conflict of interest by prospective appointees, or other reasonable factor, is unable to appoint a citizen actively engaged in these activities in connection with affordable housing, a citizen engaged in the activity without regard to affordable housing may be appointed. Local governments that receive the minimum allocation under the State Housing Initiatives Partnership Program may elect to appoint an affordable housing advisory committee with fewer than 11 representatives if they are unable to find representatives who meet the criteria of paragraphs (a)-(k).

(5) The approval by the advisory committee of its local housing incentive strategies recommendations and its review of

local government implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing. Notice of the time, date, and place of the public hearing of the advisory committee to adopt <u>its evaluation and</u> final local housing incentive strategies recommendations must be published in a newspaper of general paid circulation in the county. The notice must contain a short and concise summary of the <u>evaluation and</u> local housing incentives strategies recommendations to be considered by the advisory committee. The notice must state the public place where a copy of the <u>evaluation and</u> tentative advisory committee recommendations can be obtained by interested persons. <u>The final report, evaluation, and recommendations shall be submitted to the corporation.</u>

(6) Within 90 days after the date of receipt of the <u>evaluation and</u> local housing incentive strategies recommendations from the advisory committee, the governing body of the appointing local government shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies required under s. 420.9071(16). The local government must consider the strategies specified in paragraphs (4)(a)-(k) as recommended by the advisory committee.

(7) The governing board of the county or the eligible municipality shall notify the corporation by certified mail of its adoption of an amendment of its local housing assistance

plan to incorporate local housing incentive strategies. The notice must include a copy of the approved amended plan.

(a) If the corporation fails to receive timely the approved amended local housing assistance plan to incorporate local housing incentive strategies, a notice of termination of its share of the local housing distribution shall be sent by certified mail by the corporation to the affected county or eligible municipality. The notice of termination must specify a date of termination of the funding if the affected county or eligible municipality has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies. If the county or the eligible municipality has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies by the termination date specified in the notice of termination, the local distribution share terminates; and any uncommitted local distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer the local government housing program ~~pursuant to s. 420.9078~~.

Section 16. Section 420.9078, Florida Statutes, is repealed.

Section 17. Section 420.9079, Florida Statutes, is amended to read:

420.9079 Local Government Housing Trust Fund.--

(1) There is created in the State Treasury the Local Government Housing Trust Fund, which shall be administered by

the corporation on behalf of the department according to the provisions of ss. 420.907-420.9076 ~~420.907-420.9078~~ and this section. There shall be deposited into the fund a portion of the documentary stamp tax revenues as provided in s. 201.15, moneys received from any other source for the purposes of ss. 420.907-420.9076 ~~420.907-420.9078~~ and this section, and all proceeds derived from the investment of such moneys. Moneys in the fund that are not currently needed for the purposes of the programs administered pursuant to ss. 420.907-420.9076 ~~420.907-420.9078~~ and this section shall be deposited to the credit of the fund and may be invested as provided by law. The interest received on any such investment shall be credited to the fund.

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9076 ~~420.907-420.9078~~ and this section. With the exception of monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the purpose of implementing the compliance monitoring provisions of s. 420.9075(9), the corporation may request a maximum of one-quarter of 1 percent of the annual appropriation per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

Section 18. Subsection (12) of section 1001.43, Florida Statutes, is amended to read:

1001.43 Supplemental powers and duties of district school board.--The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(12) AFFORDABLE HOUSING.--A district school board may use portions of school sites purchased within the guidelines of the State Requirements for Educational Facilities, land deemed not usable for educational purposes because of location or other factors, or land declared as surplus by the board to provide sites for affordable housing for teachers and other district personnel and, in areas of critical state concern, for other essential services personnel as defined by local affordable housing eligibility requirements, independently or in conjunction with other agencies as described in subsection (5).

Section 19. This act shall take effect July 1, 2008.

CS/HB 793

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 793 Transitional Services for Young Adults with Disabilities
SPONSOR(S): Healthcare Council and Davis
TIED BILLS: **IDEN./SIM. BILLS:** SB 988

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	11 Y, 0 N	Owen	Lowell
2) Healthcare Council	17 Y, 0 N, As CS	Owen/Massengale	Gormley
3) Policy & Budget Council		Leznoff JL	Hansen MH
4)			
5)			

SUMMARY ANALYSIS

CS/HB 793 creates the Health Care Transition Services Task Force for Youth and Young Adults with Disabilities within the Department of Health to address the transition of youth and young adults with disabilities from the pediatric to the adult health care system.

The 14 member task force is directed to convene by August 31, 2008 and will perform the following functions:

- Assess the need for health care transition services and identify barriers that impede access to comprehensive medical treatment and health care for youth and young adults who have chronic special health care needs or disabilities by obtaining input from key stakeholders.
- Develop a statewide plan to promote the development of health care transition services. The plan should suggest different models that accommodate the diversity of the state and that are adapted to the local needs of communities and to local health services delivery systems. The plan should also promote the integration of health care transition services with transition programs for education, vocational rehabilitation, and independent living.
- Identify common or comparable performance measures for all entities that provide health care transition services for youth and young adults with chronic special health care needs or disabilities.
- Collect and disseminate information concerning best practices in health care transition services for youth and young adults who have chronic special health care needs or disabilities.
- Identify existing and potential funding sources to create healthcare transition services within communities.

A final report of the findings and recommendations of the task force is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009. The task force expires upon submission of the report.

The bill appears to have an insignificant fiscal impact to the state, for the costs associated with member per diem and travel expenses and for the staff support of the task force.

The bill takes effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Task Force
The definition of a "task force" is found in Section 20.03, Florida Statutes. A task force is defined as an advisory body:

- Created without specific statutory authority for a time not to exceed one year or created by specific statutory authority for a time not to exceed three years
- Appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem
- Terminated upon completion of its assignment

Health Care Transitioning
Children with special health care or educational needs face significant obstacles as they age out of child health care and educational service programs. The term "health care transition" is defined as the "purposeful, planned movement of adolescents and young adults with chronic physical and medical conditions from [a] child-centered to [an] adult-oriented healthcare system."[1] Among the factors that have a significant impact on the health care transition process are:

- Service needs - such as a young adult's desire for developmentally appropriate services that address changing and maturing needs
- Structural issues - such as insurance policies that preclude reimbursement for certain services over a particular age, the licensing and practicing limitations of practitioners, and the stated mission of particular facilities e.g. children's hospitals
- Personal preferences - such as a young person's desire for privacy that may not be available in a pediatric unit, even though pediatric care is required[2]

Also contributing to the impact of transition is the fact that children and adolescents with special health care needs often demonstrate high utilization of medical services relative to other adults. For example, according to a survey by Brandeis University, et al., parents of children with special health care needs reported that in the preceding year, their children needed the following services:

- 82 percent - specialty medical doctors
- 49 percent - speech therapy
- 48 percent - physical therapy
- 48 percent - occupational therapy
- 29 percent - home health services
- 20 percent - mental health services[3]

[1] J. Reiss, *Health Care Transition: Destinations Unknown*, Pediatrics 110:6 (December 2002).
[2] *Id.*
[3] The Consortium for Children and Youth with Disabilities and Special Health Care Needs, *Children with Special Health Care Needs and Access to Health and Rehabilitative Services; A Fact Sheet on Findings*, May 2002, http://www3.georgetown.edu/research/gucchd/consortium/documents/brief1.pdf (last visited February 27, 2008).

Although there are a variety of federal and state programs and agencies with some involvement in meeting the health care, educational and vocational needs of children and adolescents transitioning into adult programs, successfully integrating these efforts has proven difficult. In Florida, some initiatives have been undertaken to conduct research and provide information to patients and their families on how to transition children and adolescents into the non-pediatric health care system. For example, the Health Care Transition Initiative at the University of Florida is a multi-disciplinary effort whose activities include research, product development, and networking with the goal of increasing awareness and promoting cooperative efforts to improve the process of transitioning from child-centered (pediatric) to adult oriented health care.[4]

Children's Medical Services
Chapter 391, Florida Statutes, governs the Children's Medical Services (CMS) program within the Department of Health. CMS provides children with special health care needs with a managed system of care. CMS serves children under age 21 whose serious or chronic physical, development, behavioral, or emotional conditions require extensive preventive and maintenance care beyond that required by typically healthy children.[5]

The Jacksonville Health and Transition Services (JaxHATS)
The JaxHATS program was created in 2005 to establish a "medical home" for youths and young adults ages 14-25 with chronic medical or developmental problems in the counties of Duval, Nassau, Baker, Clay, and St. Johns in Florida. JaxHATS has a multi-disciplinary staff that includes a pediatrician, adult internal medicine specialist, nurse care coordinators and a transition specialist who provide primary medical care to address a young person's immediate medical needs. They make referrals to specialty physicians within the region and coordinate medical services while helping the individual develop a care plan to best meet their long term health care needs. Services provided by JaxHATS are covered by Medicaid, Children's Medical Services, and most other private health insurance plans.

JaxHATS has several goals for the pilot program in the coming years, including:

- Establish a medical home for all youth/young adults with chronic medical or developmental problems in North Central Florida
- Develop a reliable referral network of adult medical and surgical specialists
- Design and implement a comprehensive evaluation of the proposed pilot project
- Develop a multidisciplinary research program to formulate and integrate research in the field of medical transition and conduct studies that will establish Standards of Excellence in the field of transition.

The program has been funded by the state for the past three fiscal years, including an appropriation through CMS in the Fiscal Year 2006-2007 General Appropriations Act (GAA) in the amount of $300,000 in non-recurring tobacco settlement funds,[6] and in the 2007-2008 GAA in the amount of $300,000 in non-recurring tobacco settlement funds.[7]

<u>Educational and Vocational Training</u>
Many children with special health care needs also have developmental or mental disabilities, and face significant obstacles as they age out of traditional educational and service arrangements. According to the National Organization on Disability's Harris Survey of Americans with Disabilities:

- Young people with disabilities drop-out of high school at twice the rate of their peers.

---

[4] http://hctransitions.ichp.edu/ (last visited February 27, 2008).
[5] Section 391.029, F.S.
[6] 2006 Conference Report on House Bill 5001, Line Item 623.
[7] 2007 Conference Report on Senate Bill 2800, Line Item 629.

- As many as 90 percent of young people with disabilities are living at poverty level three years after graduation.
- 80 percent of people with significant disabilities are not employed.
- Only one out of ten persons with a developmental disability will achieve integrated, competitive employment, and most will earn less than $2.40 an hour in a sheltered workshop.[8]

There are several initiatives in Florida focused on identifying challenges faced by young adults with disabilities as they transition from high school to adult life and developing strategies to create an effective transition system. Examples of these programs include:

- *Partners in Transition* - a broad-based partnership working to identify issues and barriers faced by Florida's youth as they make the transition from high school to adulthood. Their mission statement is, "To improve transition services and increase the number of youth with disabilities who achieve their desired post school outcomes." Entities involved in this partnership include the Agency for Persons with Disabilities, the Department of Children and Family Services, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Able Trust, the ADA Working Group, the Florida Developmental Disabilities Council, and the Florida Rehabilitation Council.[9]
- *The Transition Center* - located at the University of Florida in Gainesville, serves as a catalyst for coordination of research, education, and services relating to adolescents and adults, especially those with disabilities, as they make and act upon transition choices. The center is also a resource for family members and professionals. The Transition Center is supported by the Career Development and Transition Project, which is one of the Department of Education's, Bureau of Exceptional Education and Student Services discretionary projects. [10]

Effect of Proposed Changes

The bill directs the Department of Health (department) to create a statewide Health Care Transition Services Task Force for Youth and Young Adults with Disabilities. The task force is composed of 14 members that represent at least three geographic areas of the state that include rural, suburban, and urban areas. The members shall include:

- The director of the Division of Children's Medical Services Network within the department, or his or her designee.
- A representative from the children's health care medical community.
- A representative from the adult health care medical community.
- The director or the Agency for Persons with Disabilities, or his or her designee.
- Two representatives of associations that advocate for persons who have chronic medical conditions or disabilities, such as the American Diabetes Association, the Sickle Cell Foundation, the Cystic Fibrosis Foundation, United Cerebral Palsy, the Spina Bifida Association, or the Down Syndrome Association.
- Two young adults who have chronic health problems or developmental disabilities or a family member.
- The deputy commissioner of the Division of Vocational Rehabilitation within the Department of Education, or his or her designee.
- The Commissioner of Education, or his or her designee.
- The Secretary of Health Care Administration, or his or her designee.
- The Secretary of Children and Family Services or his or her designee.
- A person appointed by the President of the Senate.

---

[8] 2004 National Organization on Disability/Harris Survey of Americans with Disabilities, www.nod.org (last visited February 28, 2008).

[9] http://partnersintransition.org (last visited February 28, 2008).

[10] http://www.thetransitioncenter.org/home.php (last visited February 28, 2008).

- A person appointed by the Speaker of the House of Representatives.

The director of the Division of Children's Medical Services Network within the department, or his or her designee, is directed to chair the task force. The department is directed to provide staff support for the task force. The members of the task force are entitled to reimbursement for per diem and travel expenses incurred while carrying out their duties and those members who are public officers or employees are to be reimbursed through their appropriate budget entity.

The task force is directed to convene by August 31, 2008 and will perform the following functions:

- Assess the need for health care transition services and identify barriers that impede access to comprehensive medical treatment and health care for youth and young adults who have chronic special health care needs or disabilities by obtaining input from key stakeholders.
- Develop a statewide plan to promote the development of health care transition services. The plan should suggest different models that accommodate the diversity of the state and that are adapted to the local needs of communities and to local health services delivery systems. The plan should also promote the integration of health care transition services with transition programs for education, vocational rehabilitation, and independent living.
- Identify common or comparable performance measures for all entities that provide health care transition services for youth and young adults with chronic special health care needs or disabilities.
- Collect and disseminate information concerning best practices in health care transition services for youth and young adults who have chronic special health care needs or disabilities.
- Identify existing and potential funding sources to create healthcare transition services within communities.

A final report of the findings and recommendations of the task force is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009. The task force expires upon submission of the report.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law related to the Health Care Transition Services Task Force for Youth and Young Adults with Disabilities.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires the department to provide staff to support the taskforce. Additionally the department is required to provide reimbursement for per diem and travel expenses of potentially 8 of 14 members who are not public officers or employees. We have not received an updated fiscal impact from the department. Typically, these costs are nominal and can usually be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

This is a great program that helps young adults who are transitioning out of adolescent healthcare and insurance coverage and into the adult version. Oftentimes these young people fall through the cracks at this crucial point in their life, and it is my goal to provide a program that aptly bridges this untimely gap.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 4, 2008, the Health Quality Committee adopted a strike-all amendment to the bill. The amendment clarifies that one of the members of the Health Care Transition Services Task Force for Youth and Young Adults with Disabilities is the Director of the Children's Medical Services "Network". The amendment also deletes the specific appropriations from the bill.

The bill was reported favorably with one amendment.

On April 8, 2008, the Healthcare Council adopted a substitute amendment to the strike-all amendment adopted in the Health Quality Committee. The substitute amendment removes the Don Davis Health and Transition Services Program and changes the composition of the task force. Specifically, the task force is reduced to 14 members (from 15); the "Deputy Secretary for Children's Medical Services" and a representative of a medical school are removed as members and the Secretary of Children and Family Services or his or her designee is added as a member.

The bill was reported favorably with a Council Substitute. The analysis reflects the Council Substitute.

A bill to be entitled

An act relating to transitional services for youth and young adults with disabilities; creating a health care transition services task force within the Department of Health; providing legislative intent; providing for membership, duties, and responsibilities of the task force; providing for reimbursement of members for expenses; requiring the task force to assess the need for health care transition services and provide a report to the Governor and the Legislature; providing for expiration of the task force; providing an effective date.

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

Section 1. Health Care Transition Services Task Force for Youth and Young Adults with Disabilities.--

(1) The Department of Health shall create a statewide Health Care Transition Services Task Force for Youth and Young Adults with Disabilities. It is the intent of the Legislature that the task force assess the need for health care transition services for youth and young adults with disabilities, develop strategies to ensure successful transition from the pediatric to the adult health care system, and identify existing and potential funding sources. The task force shall be composed of 14 members and shall have representatives from at least three geographic areas in the state, representing rural, suburban, and urban areas.

(2) The task force shall be composed of the following

persons:

(a) The director of the Division of Children's Medical Services Network within the Department of Health or his or her designee who shall be the chairperson of the task force.

(b) A representative from the children's health care medical community.

(c) A representative from the adult health care medical community.

(d) The director of the Agency for Persons with Disabilities or his or her designee.

(e) Two representatives of associations that advocate for persons who have chronic medical conditions or disabilities, such as the American Diabetes Association, the Sickle Cell Foundation, the Cystic Fibrosis Foundation, United Cerebral Palsy, the Spina Bifida Association, or the Down Syndrome Association.

(f) Two young adults who have chronic health problems or developmental disabilities or a family member of such young adults.

(g) The deputy commissioner of the Division of Vocational Rehabilitation within the Department of Education or his or her designee.

(h) The Commissioner of Education or his or her designee.

(i) The Secretary of Health Care Administration or his or her designee.

(j) The Secretary of Children and Family Services or his or her designee.

(k) A person appointed by the President of the Senate.

(1) A person appointed by the Speaker of the House of Representatives.

(3) The Department of Health shall provide staff support to the task force. Task force members who are not public officers or employees shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses incurred as provided in s. 112.061, Florida Statutes, in carrying out their duties, which shall be paid by the Department of Health. Members who are public officers or employees shall be reimbursed by the budget entity through which they are compensated.

(4) The task force shall:

(a) Convene by August 31, 2008.

(b) Obtain input from key stakeholders, community stakeholders, public agencies, the medical practice community, and youth and young adults who have chronic special health care needs and disabilities and their families to assess the need for health care transition services and to identify barriers that impede access to comprehensive medical treatment and health care for youth and young adults who have chronic special health care needs and disabilities.

(c) Develop a statewide plan to promote the development of health care transition services. The plan shall put forth different models that accommodate the geographic and cultural diversity in the state and that are adapted to the local needs of communities and to local health services delivery systems. Furthermore, the plan shall promote the integration of health care transition services with transition programs for education, vocation, and independent living.

(d) Identify common or comparable performance measures for all entities that serve the needs for health care transition services of youth and young adults who have chronic special health care needs and disabilities.

(e) Collect and disseminate information concerning best practices in health care transition services for youth and young adults who have chronic special health care needs and disabilities.

(f) Identify existing and potential funding sources to create health care transition services within communities.

(5) The task force shall present a final report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2009, and shall expire upon the submission of the report.

Section 2. This act shall take effect July 1, 2008.