

**CARLTON FIELDS
JORDEN BURT**

**2014
FLORIDA LEGISLATIVE
POST-SESSION
REPORT**

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2014 Florida Legislature Post-Session Report

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How To Use This Report

This is a summary of significant legislation that passed during the 2014 Regular Session of the Florida Legislature.

Please note that this report does not summarize every piece of legislation enacted, nor is it meant to be an exhaustive section-by-section analysis of those bills included. The goal of this report is to provide a general overview of legislative actions that are likely to be of interest to our clients, attorneys, and consultants.

As of this writing, many of the bills in this report are awaiting review of the Governor and are subject to the Governor's veto authority. The reader is therefore encouraged to check the ultimate status of any bill by contacting our Tallahassee Office or by visiting the Legislature's website (www.leg.state.fl.us). Please select the "Enrolled" (ER) version of the bill. Chapter Law citations and final legislative staff analyses of bills are also available on the Legislature's website.

This report was compiled in substantial part using public records data from the Florida Senate and the Florida House of Representatives.

The Carlton Fields Jordan Burt Florida Legislative Team

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Government Law and Consulting Practice Group

Every individual or business entity is touched by, regulated, or otherwise shaped to some degree by government. The right to petition government and participate in the process of law-making is as old and vital to democracy as is the U.S. Bill of Rights that guarantees it.

The lawyers and government consultants of Carlton Fields Jordan Burt's Government Law and Consulting Practice Group are highly experienced in dealing with all levels of state and local governments on behalf of our clients. We have a thorough understanding of government's inner workings -- and an extensive network of personal and professional relationships within government -- to effectively address a wide variety of legislative, administrative, procedural, and political issues.

Individual group member practices are as diverse as the wide range of professions and industries collectively represented. Client services are effectively delivered by lawyers and government consultants operating within specialized subgroups to enable the quick composition of cross-disciplinary teams as are necessary to negotiate, litigate, lobby, and advocate in the areas of:

▪ *Administrative Litigation*

We monitor agency activity, rulemaking, and advocate challenges to existing and proposed rules to include agency statements that meet the definition of a rule but have not been formally adopted. Our experience in this area ranges across a wide array of subjects, including building code criteria, professional and business licensure, environmental permitting, state tax, and insurance. We also represent clients in administrative litigation proceedings involving challenges to licenses, permits, and comprehensive plan amendments, along with administrative bid protests and government agency divisions. We also provide advice on non-rule policy issues.

▪ *Affordable Housing*

We are familiar with all of the state, local and federal housing agencies involved in provisions or funding of affordable housing and we represent a variety of clients in the planning and development

of affordable housing projects throughout the state. We prepare, review and advocate applications for funding before the Florida Housing Finance Corporation, including Low Income Housing Tax Credit Applications and State Apartment Incentive Loan Applications. Lawyers and government consultants within the firm's Real Estate Development, Land Use, Planning, and Environmental Regulation areas give depth to our work in affordable housing.

▪ *Education*

We have experience in all aspects of education law. We represent numerous school districts across the state, charter schools, and private entities doing business before local school districts and at the state level. We practice before the State Board of Education and have significant experience assisting clients with matters at the Florida Department of Education. We are experienced in school construction, litigation (including appellate), personnel matters, lobbying, contractual issues, procurement, and environmental issues including mold remediation, asbestos abatement, and permitting issues, and funding.

▪ *Energy & Environmental Law*

We provide a wide range of services to businesses and energy-related companies, both public and private, including manufacturing, electric and natural gas entities. We counsel and advocate positions between private companies, before state regulatory agencies, state and federal courts, and arbitration panels. Our services involve:

- Utility Regulatory Proceedings and Strategy
- Litigation, Arbitration, and Alternative Dispute Resolution
- Legislative and Executive Branch Lobbying and Government Relations
- Local Government Relations
- Siting, Permitting and Obtaining State Leases For Linear Facilities Contract Negotiations
- Tax, Corporate, and Securities
- Real Estate, Land Use, and Environmental Issues
- Renewables and Alternative Energy Sources
- Eminent Domain
- Employment

We are experienced in the area of environmental law and advocate on behalf of clients in a diverse range of industries. We regularly represent clients before the state's regulatory agencies on issues relating to liability, litigation, permits, clean air and water compliance, groundwater, waste disposal, Brownfield sites, Superfund, wetlands, listed species and water rights and supply. We also represent clients before the Governor and Cabinet in uplands and submerged land lease and regulations.

▪ ***Ethics and Elections***

We guide clients and candidates through the requirements necessary to qualify to run for public office and the campaign finance reporting requirements. We are well-versed in the state's constitutional amendment petition process, third party voter registration procedures, and redistricting. We also represent clients before the Florida Ethics Commission and counsel companies and individuals in this.

▪ ***Government Contracts***

We have extensive experience advising and representing client vendors and contractors who seek to do business with governments at state and local levels. We protect the client's legal interests in contract negotiations to include the mitigation of exposure under public records laws. We guide clients through all phases of the public procurement process, from providing information to government entities during the development of procurement solicitation documents, assisting public contractor clients in the preparation of their responses to competitive procurements, defending and challenging awards through both administrative and judicial proceedings, participating in the negotiation of contract terms, and providing advice and representation of clients in matters regarding contract compliance. We both represent certain public entities in defending award decisions and provide legal advice regarding the implementation of procurement policies and procedures designed to minimize the likelihood of future procurement litigation.

▪ ***Land-Use and Economic Development***

We have years of on-the-ground experience in comprehensive plans and plan amendments that include preparation and processing, and litigation of compliance and consistency challenges and

have taken a leadership role in the Legislature in this policy area. In combination with our certified in-house planning staff, we have very deep capabilities in preparing and handling rezoning applications, site plan review, variances, special use permits, impact fees, transportation planning and financing, expert witness testimony, due diligence research for real estate transactions, comprehensive planning and preparing and processing DRI, FQD, and sector plan applications.

We prepare impact analyses for any type of development, having coordinated and/or assisted clients in preparing and presenting over 200 DRIs, FQDs, and four sector plan applications in many local governments in all areas of Florida. We are successful in supervising and shepherding comprehensive plan amendments that support DRI, FQD, and sector plan applications through the local and state approval process. We also deal extensively with aggregation issues and binding and clearance letters as well as other issues regarding vesting of development rights.

Our lawyers and government consultants are experienced in establishing Community Development Districts (CDD) and in representing CDDs or others in all phases of their activities. Additionally, we are very familiar with other aspects of special district laws.

▪ ***Licensing & Compliance***

We routinely guide clients through the often complex requirements necessary to obtain professional or business licensure in Florida. These include construction, medical and health care professionals and facilities, engineering, architecture, real estate, condominium, insurance, and the alcoholic beverage industry. We often resolve issues by working at the highest levels within the state agencies regulating these professions and businesses. We are also experienced at representing clientele in the defense of government-initiated disciplinary actions based on alleged regulatory violations. Our statewide network of attorneys and practice groups allows us to assist clients in their efforts to be proactive about tax, corporate form, real estate and other implications of contemplated business activities, including:

- Formation and licensing of foreign and domestic insurers and specialty insurers

- Self-insured licensure status for workers' compensation
- Ratemaking, including administrative rate proceedings, judicial proceedings, and rate arbitration
- Form and product filing approvals
- Statutory accounting, admitted asset, diversification and solvency issues
- Residual market issues in connection with catastrophic coverage, residential and commercial property coverage, and depopulating state residual markets
- Issues pertaining to the affiliation of banking and insurance
- Administrative rule challenge proceedings
- Market conduct investigations and cases
- Market exit disputes with regulators
- Solvency and receivership actions against regulated insurance entities
- Ongoing compliance issues

▪ **Lobbying**

We use a comprehensive approach to lobbying that includes advocacy efforts to help pass or defeat legislative and policy proposals consistent with client positions. We work closely with clients to identify, track, analyze, and summarize legislative proposals and political and policy considerations, assessing their impact on client operations. We draft legislation and amendments to legislation, and use our extensive political relationships to advocate client positions before local governments, executive agencies, the Legislature and the Florida Cabinet. We are fully engaged in local and statewide elections and regularly counsel clients about political contributions to candidates. In addition to Florida, we now can cover a number of agency and legislative matters in California.

▪ **Government Law and Consulting Practice Group Members**

Biographical information is located at www.CFJBLaw.com.

Nancy G. Linnan, Chair [^]	Tallahassee
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David E. Cannella.....	Orlando
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Michael J. Walls.....	Tampa
Thomas E. Warner.....	West Palm Beach

*Non-lawyer; ^Lobbyist

Government Law and Consulting Primary Team



H. Ray Allen II

Shareholder, Tampa

- Judicial and Administrative Litigation
- Appellate Law
- Land Use & Environmental and Water Permitting
- Eminent Domain
- Ad Valorem Taxes

As a result of his long history of representing local governments, he is familiar with the inner workings of local governments and has significant relationships with government officials and staff members at the local, state, and federal levels. He often works with federal agencies and water management districts in permitting activities.

Prior to joining the firm, Mr. Allen served as the Managing Attorney of the Land Use Section for the Hillsborough County Attorney's Office in Tampa, Florida. He also previously served as Assistant County Attorney in Sarasota, Florida and Assistant General Counsel, State of Florida Department of Environmental Regulation.



Martha Harrell Chumbler

Shareholder, Tallahassee

- Administrative Law
- Procurement
- Bid Protests
- State and Local Taxation
- Health Care Regulation
- Gaming

Marti Chumbler practices primarily in the area of state administrative law and administrative litigation. She has substantial experience in the area of public procurement, having represented both vendor and service providers, as well as public entities themselves in all phases of the contracting process, from the development of procurement procedures and solicitation documents through contract negotiation, implementation, and compliance.

Ms. Chumbler's experience incorporates significant involvement with state and local tax and land use

matters, including agency negotiations and formal proceedings before agencies, the Division of Administrative Hearings, and the Governor and Cabinet. She also has substantial experience representing clients in challenges of both adopted and proposed agency rules, as well as in licensing and enforcement proceedings. Ms. Chumbler is board certified in State & Federal Government and Administrative Practice by The Florida Bar.



Kelly A. Cruz-Brown

Shareholder, Tallahassee

- Insurance Regulation
- Financial Services Regulation
- Administrative Law
- Health Care Regulation

Kelly Cruz-Brown practices primarily in the areas of insurance regulation and administrative law. She represents individuals, insurers, and other entities regulated under Florida's Insurance Code before the Florida Department of Financial Services and Office of Insurance Regulation concerning form and rate filings, acquisitions, issuance of licenses/certificate of authority, market conduct and solvency examinations/investigations, market withdrawal or exits from the State of Florida, disciplinary matters, and in litigation concerning such matters, including challenges to agency administrative rules.

Ms. Cruz-Brown also represents individuals and business interests regarding licensure and disciplinary matters before the Department of Professional Regulation, Department of Health, Agency for Health Care Administration, and other state agencies.



Michael P. Donaldson

Shareholder, Tallahassee

- Affordable Housing
- Administrative, Land-Use and Environmental Law
- Business and Professional Regulation
- Construction Litigation
- Alcoholic Beverage Licensure

Mike Donaldson's practice is concentrated in the areas of administrative, land use and environmental law with a particular focus in assisting or

representing: developers of affordable housing seeking to obtain available funding from Florida Housing Finance Corporation, including LIHTC, SAIL, and MMRB funding as well as green building and workforce housing initiatives and incentives; developers and utilities before the Public Service Commission; building contractors and other licensed professionals with licensure issues before the Department of Business and Professional Regulation and corresponding local government regulatory agencies, including representing clients before the various licensing boards in disciplinary proceedings; clients in competitive bid protests and other contract procurement matters; clients with comprehensive planning and permitting issues before the Department of Economic Opportunity, Department of Environmental Protection and corresponding local government agencies. His practice also includes construction litigation and alcoholic beverage litigation.

Mr. Donaldson's practice also includes representing clients in general litigation matters in circuit court including construction litigation and foreclosures. From 1989 to 1994, Mr. Donaldson was an Assistant General Counsel for the Florida Department of Community Affairs, now known as the Department of Economic Opportunity, and the Florida Department of Environmental Protection.



W. Douglas Hall
Shareholder, Tallahassee

- Business and Administrative Litigation
- Land Use and Comprehensive Planning
- Contract Disputes
- Employment Litigation

Doug Hall practices business and administrative litigation. He handles a diverse range of complex commercial and administrative disputes in state and federal courts and administrative and local government forums.

Mr. Hall's business practice includes a wide range of commercial litigation, representing clients in contract disputes, actions involving commercial lease and mortgage agreements, insurance coverage disputes, business tort claims, and other commercial matters. He also regularly represents and advises employers in litigation involving discrimination, whistleblower, and other employment claims.

Mr. Hall focuses his administrative practice on land use and comprehensive planning issues. He has represented developers at trial and on appeal in numerous land use proceedings, including development order challenges, comprehensive plan consistency disputes, Bert Harris claims and other land use matters. Mr. Hall also has substantial experience handling bid protests, licensing disputes, and other types of administrative proceedings.

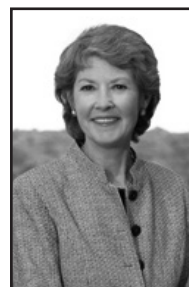
Mr. Hall is AV rated by Martindale-Hubbell and listed in The Best Lawyers in America editions in Commercial Litigation, Environmental Law, and Land Use & Zoning Law since 2007.



Kip Krieger
Associate, Tallahassee

Michael "Kip" Krieger is an associate in the government law and consulting practice group. Mr. Krieger handles administrative and Article V litigation, including foreclosures in North Florida, assists with appellate work, regulatory matters, environmental law, and procurement issues.

Michael Krieger is a member of the Florida Bar and graduated magna cum laude from Florida State University.



Nancy G. Linnan, Chair
Managing Shareholder,
Tallahassee Office

- Land Use/Environmental/ Administrative Law
- Executive/Legislative/Local Government Lobbying
- Education
- Local Government Law
- Mining and Agriculture
- Election Laws

Nancy Linnan practices primarily in the areas of environmental/land use and administrative law and government consulting. In the growth management area, she works with developments of regional impact, comprehensive plan amendments, sector

plans, and local land use approvals. She also works with the Florida legislature, state agencies, and local governments in policy development.

Ms. Linnan is involved with state, federal, and local environmental permitting. Included are water use permits, environmental resource permits, sovereign land issues for docks and marinas, and approvals for use of state-owned upland or sovereign lands.

Her general administrative law/government consulting activities include work before all state agencies with an emphasis on the Departments of Economic Opportunity (formerly Department of Community Affairs), Legal Affairs, Environmental Regulation, Management Services (state procurement), Revenue (state tax), Health, Business and Professional Regulation, the Agency for Health Care Administration, the Executive Office of the Governor, and the Florida Legislature.



Laurel E. Lockett
Shareholder, Tampa

- Environmental Law
- Commercial Real Estate
- Historical Preservation

Laurel Lockett practices in the areas of environmental law and commercial real estate. She has substantial experience with cleanup, purchase, sale and redevelopment of brownfields and other contaminated sites, including manuscripting of environmental insurance policies and other creative solutions to risk management including risk based corrective action and alternative closure strategies.

She also has experience dealing with issues such as industrial and domestic wastewater, storage tank regulation, landfill, used oil, and hazardous waste and air permitting and regulation; the negotiation of consent orders and remediation plans associated with the cleanup of hazardous waste, petroleum, chlorinated solvents and other contaminants with local, state, and federal environmental agencies, negotiation and oversight of consulting contracts, and other environmental aspects of real estate and commercial transactions, including asbestos and indoor air quality issues, vapor intrusion, and lead based paint.



Darrin F. Taylor*
Certified Planner & Government
Consultant, Tallahassee

- State and Local Urban and Regional Planning and Zoning
- Expert Witness
- Economic Development
- Due Diligence

Darrin Taylor has a wide range of experience in urban and regional planning from both the state and local perspective. His specialties include comprehensive planning, zoning, developments of regional impact (DRI), and sector plans. He works closely with attorneys in the firm to resolve land use issues. He has also been deemed an expert witness in the areas of comprehensive planning and land use planning.

Mr. Taylor is a certified planner through the American Institute of Certified Planners (AICP). He has served as a Planning Manager in the former Florida Department of Community Affairs, and as a Senior Planner with the Tallahassee-Leon County Planning Department. Mr. Taylor has a Masters degree in Urban Planning from Florida State University. He lectures often at planning and government conferences.



Kenneth A. Tinkler
Shareholder, Tampa

- Environmental and Energy Permitting
- Ethics Regulation & Election Law
- Land Use
- Local Government Law
- Economic Development
- Alcoholic Beverage Licensure

Ken Tinkler's practice involves a wide variety of government law issues with a focus on land use, environmental & energy permitting, ethics regulation and election law. His experience includes representation of individuals and corporations dealing with federal, state, and local government agencies, as well as representation of county government and constitutional officers. He has helped clients navigate a broad range of government law matters, including zoning,

future land use plans, real estate due diligence reviews, ad valorem tax assessments, property tax appeals, code enforcement, variances, annexations, alcohol beverage regulation, tax incentives, and economic development. Mr. Tinkler routinely handles public hearings and meetings on behalf of clients. He also advises on parliamentary procedure questions, Florida's Sunshine Law and public records regulation, and Florida Constitution and home rule issues related to City and County Charters, along with assisting local governments with implementing new legislation and ordinance drafting.

Mr. Tinkler also helps clients solve issues involving federal, state, regional, and local environmental regulators, including energy facility siting, Chinese drywall, submerged lands leases, and redevelopment of brownfields.

His election law experience includes representation of local government officials handling election procedures and Federal Voting Rights Act requirements, along with advising clients on campaign finance reporting and qualifying for election. He maintains a personal blog on these issues at www.floridaelectionlaw.com.

Mr. Tinkler is board certified in City, County and Local Government Law by The Florida Bar.

His work experience includes multiple large scale urban residential, commercial, and mixed-use developments, as well as, multiple agricultural, environmental, industrial, institutional, infrastructure, tower, utility, water resource, and mining projects in Southeast Florida.

He is a member of the American Planning Association (APA) and American Institute of Certified Planners (AICP) and a non-lawyer associate member of the American Bar Association (ABA). Mr. Verdone received his B.S., Architectural Construction Engineering, in 1989 from Florida A & M University.

Verdone has 23 years of experience, in land development, planning, urban design, permitting, project management, and implementation for both private and public entities.

**Non-lawyer*



Joseph J. Verdone, AICP*
Certified Planner & Government
Consultant, West Palm Beach

- Development
- Land Planning and Urban Design
- Land Use, Zoning, and Construction Permitting
- Environmental and Coastal Permitting
- Regulations and Enforcement
- Licensing
- Due Diligence
- Mining and Agriculture

Joseph Verdone deals with all aspects of planning and real estate development. His expertise extends to working in numerous jurisdictions concurrently. He has extensive experience with land development, planning, design, permitting, and project implementation for both private and public entities.

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Constitutional Amendments

Constitutional Amendments

Three measures are on the November 4, 2014 ballot in Florida.

- ***Amendment 1***
Florida Water and Land Conservation Initiative

The measure, upon voter approval, would dedicate thirty-three percent of net revenues from the existing excise tax on documents to the Land Acquisition Trust Fund. It was placed on the ballot by the citizens' initiative process. The official ballot title and summary are as follows:

- WATER AND LAND CONSERVATION – DEDICATES FUNDS TO ACQUIRE AND RESTORE FLORIDA CONSERVATION AND RECREATION LANDS — Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites, by dedicating 33 percent of net revenues from the existing excise tax on documents for 20 years.

- ***Amendment 2***
Florida Right to Medical Marijuana Initiative

The measure, upon voter approval, would legalize the cultivation, purchase, possession and use of marijuana to treat medical conditions when recommended by a licensed physician. The measure would also order the Florida Department of Health to register and regulate producers and distributors of medical marijuana and to issue identification cards to patients and caregivers utilizing marijuana. It was also placed on the ballot by the citizens' initiative process. The official ballot title and summary are as follows:

- USE OF MARIJUANA FOR CERTAIN MEDICAL CONDITIONS — Allows the medical use of marijuana for individuals with debilitating diseases as determined by a

licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not authorize violations of federal law or any non-medical use, possession or production of marijuana.

- ***Amendment 3***
Florida Judicial Vacancies Amendment

The measure, upon voter approval, would empower the governor to fill judicial vacancies in the Supreme Court or District Courts of Appeal by appointing a justice or judge from among at least three candidates, but not more than six, nominated by the judicial nominating commission. The measure would also allow the governor to "prospectively" fill a vacancy, meaning that the governor would not need to wait to until a judge completes his or her term to pick a successor. This was placed on the ballot by the 2014 Legislature. See CS/SJR 1188 (p.102) for more information. The official ballot summary reads:

- CONSTITUTIONAL AMENDMENT, ARTICLE V, SECTIONS 10, 11 PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES — Proposing an amendment to the State Constitution requiring the Governor to prospectively fill vacancies in a judicial office to which election for retention applies resulting from the justice's or judge's reaching the mandatory retirement age or failure to qualify for a retention election; and allowing prospective appointments if a justice or judge is not retained at an election. Currently, the Governor may not fill an expected vacancy until the current justice's or judge's term expires.

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Corporate Business & Professional Regulation

Corporate

▪ *CS/CS/HB 685* *Business Organizations*

This bill amends the Florida Business Corporation Act to allow for the creation of two new forms of corporate enterprise: the social purpose corporation and the benefit corporation. These new entities will allow businesses to engage in societal benefit programs that may not involve or satisfy the traditional corporate norm of profit maximization. Key elements of the social purpose corporation and the benefit corporation are:

- A social purpose corporation must pursue one or more narrowly identified public benefits.
- A benefit corporation must pursue a general public benefit, which is a broad purpose intended to encompass a broad range of social and environmental factors that are affected by the corporation.
- The corporation's directors and officers are required to consider the effects of any corporate action or inaction upon the benefit goals of the corporation.
- Like directors and officers of all corporations, the new entities' directors and officers are immune from personal liability for failure to pursue or achieve the corporation's benefit goals, but they are subject to duty of care and fiduciary principles applicable to all corporate directors and officers.
- Benefit enforcement judicial proceedings may be brought by a shareholder or certain individuals for claims that the directors or officers have failed to satisfy their obligations in making corporate decisions. Such proceedings are analogous to a shareholder derivative action and allow shareholders to hold a social purpose corporation or benefit corporation accountable to its required public benefit.
- The corporation must provide an annual benefit report to all its shareholders describing and assessing the corporation's efforts during the year to achieve the corporation's benefit goals.
- The name of a limited liability company, profit corporation, nonprofit corporation, or limited partnership must be distinguishable from the names of all other entities or filings on file with

the Department of State (DOS), with the exception of fictitious name registrations. However, the term "distinguishable" is not defined by any of these statutes. The bill specifies those differences that are not considered a distinguishing factor when determining if the name of a limited liability company, profit corporation, nonprofit corporation, or limited partnership is distinguishable from the names of all other entities or filings on the records of DOS.

If approved by the Governor, these provisions take effect July 1, 2014.

Business Regulation

▪ *CS/CS/SB 224* *Nicotine Dispensing Devices*

The bill extends the current prohibitions related to tobacco products to prohibit the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18.

The bill defines "nicotine dispensing devices" as any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette, any similar device or product, any replacement cartridge, and any container of nicotine in a solution or other form for such devices or products.

It defines a "nicotine product" as any product that contains nicotine, including liquid nicotine, that is intended for human consumption, whether inhaled, chewed, absorbed, dissolved or ingested by any means. The definition does not include a tobacco product under Florida law, a drug or device under Federal Law, or a product that contains incidental nicotine.

The bill provides that the sale or giving of "nicotine products" and "nicotine dispensing devices" to minors under the age of 18 is prohibited and punishable as a second degree misdemeanor, which is punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. It creates a noncriminal violation for persons under 18 years who possess, purchase, or misrepresent their age or military service to obtain "nicotine

products” or “nicotine dispensing devices.” It prohibits the sale or delivery of nicotine products or nicotine dispensing devices by means of self-service merchandising except when such products are under the direct control, or line of sight where effective control may be reasonably maintained by the retailer or their agent or employee.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 413***
Consumer Collection Practices

The bill expands the Office of Financial Regulation’s (OFR) registration and enforcement authority over consumer collection agencies under the Florida Consumer Collection Practices Act (the Act).

It creates new requirements in s. 559.555, F.S., for applicants, including a criminal background check. A “control person” of an applicant must submit live-scan fingerprints for processing by the Florida Department of Law Enforcement for state criminal background checks and by the Federal Bureau of Investigation for federal criminal background checks to enable the OFR to determine applicants’ fitness for registration. “Control person” is defined as an individual or entity that possesses the power to direct the management or policies of a company, whether through ownership of at least 10 percent of a class of voting securities, by contract, or otherwise.

The bill will subject approved registrants to reporting requirements provided in a new s. 559.5551, F.S. This section requires registrants to notify the OFR when control persons enter certain convictions or pleas, and when changes occur in the information contained in the initial application (such as a new business address) and in the registrant’s business organization (such as a new control person). The bill provides that the OFR may bring an administrative action to ensure compliance with the Act, in order to deter registrants from adding an unqualified control person without regulatory approval.

The bill creates a new section 559.5541, F.S., to authorize the OFR to make unannounced examinations and investigations to determine whether a person (as opposed to only registrants) has violated the Act or related rules, regardless

whether a consumer complaint has been filed against the consumer collection agency. The Act also permits the OFR to enter into joint or concurrent examinations with a state or federal regulatory agency, as long as the other regulator abides with the confidentiality provisions of ch. 119 and the Act.

The bill provides additional grounds for administrative action, such as unregistered activity, material misstatements on a registration application, regulatory actions and certain civil judgments, failure to maintain books and records, and acts of fraud and misrepresentation. These acts can subject an applicant or registrant to denial, suspension, revocation, and administrative fines. The bill provides that the OFR may impose an administrative fine of up to \$1,000 per day for each day that a CCA acts without a valid registration.

The bill authorizes the OFR to summarily suspend registrations pursuant to s. 120.60(6), F.S., based on the arrest for specified crimes of the registrant or control person, and provides that such arrests are deemed sufficient to constitute an immediate danger to the public’s health, safety, and welfare. The bill also allows the OFR to deny requests to terminate a registration or to withdraw a registration application if the OFR believes there are grounds for denial, suspension, restriction, or revocation.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/SB 450***
Telephone Solicitation

The bill revises the Florida Do Not Call Program to prohibit unsolicited text messages in addition to unsolicited telephone calls to Florida residents who have listed their residential, mobile, or paging device telephone number with the Florida Department of Agriculture and Consumer services. The bill also prohibits a telephone solicitor from initiating text messages in addition to telephone calls to a consumer who has previously communicated he or she does not wish to receive a telephone call or text message.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 590***
Money Services Businesses

The bill revises provisions relating to the regulation of money services businesses by the Office of Financial Regulation (OFR). Money services businesses (MSBs) offer financial services such as check cashing, money transmittals (wire transfers), sales of monetary instruments and currency exchange, and deferred presentment transactions (“payday loans”) outside the traditional banking environment. The bill provides the following changes:

- Allows the OFR to suspend the license of a MSB immediately pursuant to s. 120.60(6), F.S., if specified criminal charges are filed against a natural person listed on the application or if such person is arrested for specified crimes.
- Expands prohibited acts to include a violation under s. 560.310(2)(d), F.S., relating to the OFR database reporting requirements applicable to check cashers. A person who knowingly and willfully violates this provision commits a third-degree felony.
- Provides that a deferred presentment transaction is void if the person conducting the transaction is not authorized pursuant to ch. 560, F.S., and such person has no right to collect funds relating to such a transaction.
- Updates outdated cross references to federal regulations.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***HB 605***
Relating to Alcoholic Beverage Licenses, Lake and Sumter Counties (Local Bill)

The bill authorizes the Division of Alcoholic Beverages and Tobacco to grant special alcoholic beverage licenses to an entertainment or lodging complex within the commercial district of The Villages in Sumter County, including the incorporated Sumter County municipalities.

The bill also clarifies that the owner, operator, or controlling entity of an entire business complex does not need to individually satisfy the criteria in the special act for the composition of the complex.

Instead, the independent entities that make up the entire business complex can be aggregated to meet the criteria including the number of visitors, facilities, and restaurants within the entire business complex.

The bill was approved by the Governor on May 12, 2014, and became effective on that date.

▪ ***CS/CS/HB 629***
Charities

This bill updates the Solicitation of Contributions Act to provide increased oversight by the Department of Agriculture and Consumer Services (DACCS) of charitable organizations and sponsors, professional fundraising consultants, and professional solicitors.

The bill generally:

- Requires that any changes to information in a registration statement be submitted to DACCS within 10 days of the change;
- Requires automatic suspension of a registration for failure to disclose any information related to certain criminal or administrative actions;
- Permits increased processing times for DACCS if the applicant discloses any information related to certain criminal or administrative actions against it;
- Authorizes DACCS to deny or revoke an application if the applicant or its agent has had certain criminal or administrative action taken against it;
- Prohibits the employment of persons with certain criminal history;
- Requires notices to be provided for all solicitations and confirmations;
- Requires professional fundraising consultants and professional solicitors to only enter into contracts with charitable organizations and sponsors registered under ch. 496, F.S.;
- Removes blood banks from the list of regulated charities; and

Charitable Organizations and Sponsors

- Authorizes DACCS to enter a disqualification order for violations of the Solicitation of Contributions

Act, which disqualifies the charity from receiving sales tax exempt status for 1 year;

- Requires a non-exempt charity or sponsor that intends to solicit contributions either in Florida or from Florida to register with DACS before soliciting contributions;
- Clarifies the requirements related to financial statements;
- Authorizes DACS to order an audit or review of a charity's or solicitor's financial statement if DACS finds discrepancies in the financial statement;
- Requires certain charities to adopt conflict of interest policies; and
- Requires certain charities to file supplemental financial disclosures and quarterly disaster relief statements.

Professional Solicitors

- Creates a new, annual license for officers, directors, trustees, and owners of a professional solicitor and any employee of the solicitor conducting telephone solicitations during which personal financial information is collected;
- Requires professional solicitor license applicants to provide a set of fingerprints along with a fee for state and federal background screening;
- Updates the definition of "professional solicitor" to include solicitors located in Florida that solicit outside of Florida;
- Requires professional solicitation businesses to include additional application information, such as the name, date of birth, and identification of all individuals in charge of or engaged in any solicitation, all the telephone numbers the solicitor will use, and a copy of any script, presentation, or sales literature used;
- Requires professional solicitors to include additional information in the notice required before beginning a solicitation campaign, such as a statement of the minimum percentage of gross receipts from contributions that will be remitted to the charity; and
- Prohibits a professional solicitor from failing to remit to a charity the disclosed guaranteed minimum percentage of gross receipts from the solicitation campaign.

Donation Collection Receptacles

- Requires collection receptacles operated by charities to display a permanent sign that provides the name, address, telephone number, and registration number of the charity; and
- Requires collection receptacles operated by other organizations (such as for-profit businesses) to display a permanent sign on the receptacle that provides the organization's name, address, and telephone number, and the statement: "This is not a charity. Donations made here support a for-profit business and are not tax deductible."

Prohibited Acts and Penalties

- Prohibits a person from submitting false, misleading, or inaccurate information regardless of whether the person knows the information is false, misleading, or inaccurate;
- Increases from \$1,000 to \$5,000 the fine DACS may levy for violations of the chapter and makes the fine applicable to 501(c)(3) organizations; and
- Authorizes a fine up to \$10,000 for any violation that involves fraud or deception.

If approved by the Governor, these provisions take effect July 1, 2014.

CS/CS/HB 783 Motor Vehicle Financing

The bill prohibits an affiliated finance company from denying or charging an additional fee or surcharge on a motor vehicle finance contract, solely because that contract includes a competing third-party automotive-related product that is of similar nature, scope and quality to an automotive-related product offered by the finance company or its affiliates. Factors in determining whether an automotive related product is similar in nature, scope, and quality include, but are not limited to, the financial capacity of the third-party provider to meet all of its obligations, inclusive of any contractual liability insurance policies, and the third-party provider's history of compliance with any applicable state and federal regulations.

The bill provides that a violation of its provisions is not a criminal violation of ch. 545, F.S., which regulates the relationship between motor vehicle manufacturers and dealers.

With regard to the financing of a motor vehicle sale the bill defines:

- “Affiliated finance company” to mean a finance company which is affiliated with or controlled by a manufacturer or wholesale distributor through common ownership, officers, directors, or management; or has a contractual agreement with a manufacturer or wholesale distributor to finance, via sale or lease, motor vehicles produced or distributed by such manufacturer or wholesale distributor.
- “Automotive related product” to mean a motor vehicle service agreement as defined in s. 634.011, F.S., or a guaranteed asset protection product as defined in s. 520.02, F.S., or other non-tangible ancillary product that is purchased or otherwise provided as part of the sale or lease of a motor vehicle by a dealer.
- “Third-party provider” to mean a provider of an automotive related product that is not an affiliated finance company, manufacturer, or wholesale distributor.
- “Vehicle contract” to mean a conditional sales contract, retail installment sales contract, chattel mortgage, lease agreement, promissory note, or any other financial obligation arising from the retail sale or lease of a motor vehicle.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 836
Regulation of Medical Gas Providers***

The bill adds a member to the Drug Wholesale Distributor Advisor Council who is an employee of a permit holding medical gas manufacturer or wholesale distributor and who is recommended by the Compressed Gas Association.

It creates part III of ch. 499, F.S., entitled “Medical Gas,” administered and enforced by the Department of Business and Professional Regulation (department). The bill creates definitions under this part and sets forth requirements for obtaining and renewing a permit as a medical gas wholesale distributor, a medical gas manufacturer, or a medical oxygen retail establishment. The department shall adopt rules to establish the form, content, and fee for the application to obtain a permit and to renew a permit listed under this part. The bill provides for changes

in permit holder status or information, allowing certain changes with notice and acceptance by the department.

The bill sets forth minimum requirements for the permitting, storage, handling and distribution to safeguard the identity, strength, quality and purity of medical gas. The bill provides for specific security measures be taken to protect against unauthorized access to medical gas, theft of confidential information, and theft of nitrous oxide. The department is required to adopt rules that govern the distribution of medical oxygen for emergency use by persons authorized to receive emergency use oxygen, which must be consistent with federal regulations.

The bill requires inspection of the medical gas containers and the records documenting the acquisition of medical gas. All permit holders are required to establish and maintain a record of transactions regarding the receipt and the disposition of medical gases constituting an audit trail sufficient to perform a recall of medical gas. A wholesale distributor must act with due diligence and must also keep records sufficient to aid in the mandatory reporting of theft or loss of nitrous oxide.

The bill provides that trade secret information required to be submitted under this part must be maintained by the department.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/SB 1012
Financial Services***

The Office of Financial Regulation (OFR) regulates state-chartered financial institutions, loan originators, mortgage brokers, mortgage lenders, and other specified entities that provide financial services. The bill provides the following changes relating to the regulation of these financial services:

Financial Institutions

- Updates provisions of the Florida Control of Money Laundering in Financial Institutions Act to codify the requirements of the Federal USA PATRIOT Act and the Office of Foreign Asset Control, which will allow the OFR to enforce these provisions.

- Expands the scope of persons subject to prohibited acts and practices to include affiliates and related interests.
- Authorizes the OFR to issue immediate cease and desist orders for persons using misleading banking-related names to perpetrate fraud on Florida consumers.
- Clarifies permissible activities for out of state trust companies and business trusts.
- Expands competitive equality for Florida-chartered financial institutions by clarifying that the par value requirement only applies to the settlement of checks between financial institutions, and provides that such institutions may charge fees to cash checks.
- Expands competitive equality to Florida-chartered credit unions by authorizing employee benefit plans and specified types of insurance coverage that is consistent with regulations governing federal credit unions.
- Provides a general rule of preemption to the state for financial or lending activities, and requires financial institutions to report any administrative or civil proceedings or civil investigations initiated by a county or municipality to the OFR.
- Provides that a financial institution is not civilly liable for the actions or operations of a borrower solely by virtue of extending a loan or a line of credit to such borrower.
- Repeals the \$2,000 annual assessment imposed on each international representative office, international administrative office, and international trust company.
- Loan Originators, Mortgage Brokers, and Mortgage Lenders
- Provides licensees an additional 2 months to renew their license if such licensees remit a reinstatement or late fee in addition to the respective annual registry fees.
- Authorizes the OFR to take administrative action against applicants found to be in violation of the Nationwide Mortgage Licensing System (registry) Rules of Conduct relating to pre-licensure examination misconduct.
- Authorizes the OFR to conduct joint or concurrent examinations with any state

or federal regulatory agency and to share examination reports with those regulators.

- Revises provisions that are affected by the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and the related regulations of the Consumer Financial Protection Bureau (CFPB).
- Repeals the “Loans under Florida Uniform Land Sales Practices Law,” which prescribes terms and conditions for mortgage loans of \$35,000 or less that are secured by vacant land.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 1238*** ***Family Trust Companies***

The bill creates “Family Trust Companies” in Florida. Trust companies are for-profit business organizations that are authorized to engage in a trust business and to act as a fiduciary for the general public. Some states allow families to form and operate private or family trust companies that provide trust services similar to those that can be provided by an individual trustee or a financial institution. However, family trust companies are owned exclusively by family members and may not provide fiduciary services to the public. These private, family trust companies are generally formed to manage the wealth of high net-worth families in lieu of traditional individual or institutional trustee arrangements for a variety of personal, investment, regulatory, and tax reasons. Currently, there are no Florida statutes authorizing the formation of family trust companies, licensed family trust companies, and foreign licensed family trust companies.

The bill authorizes families to form and operate any of these three family trust companies in Florida, subject to varying regulatory requirements, including a license or registration with the Office of Financial Regulation (OFR), maintenance of minimum capital accounts with a principal place of business in Florida, and certain reporting requirements. The bill specifies the powers of family trust companies such as serving as a trustee of trusts held for the benefit of family members and providing fiduciary, investment advisory, and wealth management services to a family. A family trust company cannot perform these services for the general public.

The bill authorizes the OFR to investigate applications for licensure or registration, requires annual renewals and other regulatory filings from licensees and registrants, and authorizes the OFR to conduct periodic examinations of family trust companies, licensed family trust companies, and foreign licensed family trust companies.

If approved by the Governor, these provisions take effect October 1, 2015, if CS/CS/SB 1320 becomes law.

▪ **HB 7009**
Security for Public Deposits

The bill amends the Florida Security for Public Deposits Act (act), which authorizes local and state governmental units (public depositories) to place public deposits in qualified public depositories (QPD). Public deposits are funds in excess of amounts required to meet disbursement needs or expenses, and QPDs are banks, savings banks, or savings associations that meet specific criteria under the act. The QPDs must secure public deposits in accordance with the act and the collateral requirements and pledging levels established rule of the Chief Financial Officer. The bill provides the following changes to the act:

- Reduces and streamlines reporting requirements.
- Reduces the two highest collateral-pledging levels for public deposits, which would ease the regulatory burden for small and moderate sized QPDs.
- Provides protection from loss for a public depositor that fails to comply with a ministerial reporting requirement if the defaulting or insolvent QPD had classified, reported, and collateralized their account as public deposits.
- Repeals the Qualified Public Depository Oversight Board, which has been inactive since holding an initial meeting in December 2001.
- Revises and updates terminology and practices.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/CS/HB 7051**
Department of Agriculture and Consumer Services

This bill modifies several regulatory programs and activities under the jurisdiction of the Florida Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Expands the Board of Professional Surveying and Mapping's rulemaking authority by requiring it to adopt rules establishing "standards of practice" for surveyors and mappers.
- Eliminates the requirement that a private investigative, private security, or recovery service applicant obtain a letter from a fingerprinting technician or physician when a legible set of fingerprints cannot be obtained after two attempts.
- Revises recertification training requirements for Class "G" firearms licensees.
- Permits a Class "G" licensee to carry a .40 caliber handgun or a .45 caliber automatic colt pistol (ACP) handgun while on duty.
- Permits a Class "D" private security guard holding a Class "G" license to carry a concealed weapon while in plain clothes under certain circumstances.
- Permits the Division of Licensing within the department to access sealed criminal histories for applicants of a concealed weapon license to determine eligibility (effective January 1, 2015).
- Standardizes regulations and procedures by which a consumer can pursue a claim against the bond or other security of a health studio, telemarketer, pawnbroker, or seller of travel.
- Prohibits a person soliciting contributions on behalf of a charity from calling donors who have previously communicated to them that they do not wish to receive any more calls.
- Prohibits a telemarketer from accepting novelty payments, such as remotely created checks or payment orders, cash-to-cash money transfers, and cash reload mechanisms.
- Provides that antifreeze and brake fluid registrations expire one year from the date of issuance.

- Clarifies inconsistent language regarding administrative fines for noncompliant petroleum products.
- Requires the department to adopt quality standards and labeling requirements for motor oils.

If approved by the Governor, these provisions take effect July 1, 2014, except where otherwise provided.

Professional Regulation

▪ ***CS/CS/SB 404*** ***Professional Geology***

The bill revises requirements for licensure by examination of professional geologists. It changes the geological work experience necessary for licensure by examination from seven years of professional geological work experience to five years of “verified” professional geological work experience. The bill removes the ability of an applicant to have teaching experience and credit for undergraduate and graduate education considered as qualified work experience.

The bill creates requirements for registration as a geologist-in-training (GIT). GIT candidates must satisfy all requirements of a candidate under licensure by examination, apart from work experience. The Department of Business and Professional Regulation will be required to register each candidate who successfully completes the fundamentals of geology portion of the examination as a GIT. Application as a GIT is voluntary and is not required to become a licensed geologist.

If approved by the Governor, these provisions take effect January 1, 2015.

▪ ***CS/CS/CS/HB 487*** ***Agricultural Industry Certifications***

The bill requires the Department of Agriculture and Consumer Services (DACS), in cooperation with the Institute of Food and Agricultural Science at the University of Florida and the College of Agriculture and Food Sciences at Florida Agriculture and Mechanical University, to annually provide to the State Board of Education (SBE) and the Department of Education (DOE) information and industry certifications for farm occupations to

be considered for placement on the Industry Certification Funding List and the Postsecondary Industry Certification Funding List. The information and industry certification provided must be based on the best available data.

The bill defines industry certification as a voluntary process through which students are assessed by an independent, third-party certifying entity using predetermined standards for knowledge, skills, and competencies, resulting in the award of a credential that is nationally recognized and must be:

- Within an industry that addresses a critical local or statewide economic need;
- Linked to an occupation that is included in the workforce system’s targeted occupation list; or
- Linked to an occupation that is identified as emerging.

The bill requires the SBE to use the expertise of the DACS to develop and adopt rules for implementing an industry certification process, and specifies that, for farm occupations, industry certification must demonstrate student skill proficiency and be based upon the best available data to address critical local or statewide economic needs. The bill also requires the list of industry certifications approved by Workforce Florida, Inc., the DACS, and the DOE to be published and updated annually.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-33, Laws of Florida and becomes effective July 1, 2014.

▪ ***CS/CS/HB 713*** ***Engineers and Board of Professional Engineers***

The bill revises the qualifications and procedures for the appointment and reappointment of members on the Board of Professional Engineers. The bill removes the requirement that a specified number of engineers in each category make up the board, and allows appointments of qualified candidates in a range of provided engineering fields. The bill provides for staggered terms of board members. A professional or technical engineering society may submit a list of qualified candidates to be considered by the Governor for appointment.

The bill revises the procedure for an applicant who fails an examination for licensure more than three

times and wishes to retake the examination. The board now has the option of requiring the applicant to complete either additional college-level courses or a board approved relevant examination review course prior to further examination eligibility. The bill allows two additional attempts to take the examination for an applicant delayed in taking the examination due to his or her service in the U.S. Armed Forces or National Guard.

The bill removes options for an applicant for licensure by endorsement. The applicant will not be deemed by the board as having passed an examination substantially equivalent to the fundamentals examination if the applicant obtained an engineering doctoral degree and has an undergraduate degree from an accredited program or has an engineering doctorate degree and has taught engineering for three years at the college level.

The bill revises the requirements for licensure renewal for engineers by increasing professional development hours needed during a two-year renewal period from eight to eighteen. The bill lists acceptable continuing education modes. The board's rules must be consistent with the National Council's Continuing Professional Competency Guidelines.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 796***
Public Accountancy

The bill increases the number of quarter hours required to sit for the examination for licensure as a certified public accountant (CPA) from 160 quarter hours to 180 quarter hours, which is equivalent to the alternative 120 semester hours required to sit for the examination.

The bill requires that persons who apply to sit for the license examination must show that he or she has good moral character, and that the Board of Accountancy within the Department of Business and Professional Regulation must deny an applicant who fails to show good moral character. Good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

The bill requires the board to find a reasonable relationship between the lack of good moral character and an accountant's professional responsibilities. The board must furnish the applicant the findings, complete record, and notice of rights if the applicant is found to be unqualified because of lack of good moral character.

The bill provides a process for reactivation of CPA licenses that have become inactive due to failure to complete the continuing education requirements. It extends the deadlines in the process for reactivation of licenses that have become inactive due to failure to complete the continuing education requirements. The bill extends, from June 30, 2012 to June 30, 2014, the date by which a person must have been inactive or delinquent for failure to complete the continuing education requirement. The bill extends, from June 30, 2014 to June 30, 2016, the deadline to complete the reactivation of the license. To reactivate the license, the person must complete 120 hours of continuing education.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 1065***
Licensed Massage Therapists

The bill requires certain persons to submit to background screening. Such persons include applicants for licensure as a massage therapist and persons with an ownership interest in, or management responsibilities for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of, a massage establishment. Current licensees must comply by January 1, 2015. The applicant or licensee must submit fingerprints electronically to the Florida Department of Law Enforcement for an FBI national criminal history check and ongoing verification against incoming Florida arrests. The fingerprints and the results of the screens are entered into the Care Provider Background Clearinghouse for use by the Department of Health (DOH) in its licensing activities.

The bill requires the Board of Massage Therapy and the DOH to deny an application for new or renewed licensure if the applicant is determined to have been convicted of, or entered a plea of guilty or nolo contendere to, any of the following disqualifying offenses:

- Section 787.01, F.S., relating to kidnapping;
- Section 787.02, F.S., relating to false imprisonment;
- Section 787.025, F.S., relating to luring or enticing a child;
- Section 787.06, F.S., relating to human trafficking;
- Section 787.07, F.S., relating to human smuggling;
- Section 794.011, F.S., relating to sexual battery;
- Section 794.08, F.S., relating to female genital mutilation;
- Section 796.03, F.S., relating to procuring a person under the age of 18 for prostitution;
- Section 796.035, F.S., relating to the selling or buying of minors into prostitution;
- Section 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute;
- Section 796.05, F.S. relating to deriving support from the proceeds of a prostitute;
- Section 796.07(4)(c), F.S., relating to a felony of the third degree for a third or subsequent violation as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.;
- Section 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
- Section 825.1025(2)(b), F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person;
- Section 827.071, F.S., relating to sexual performance by a child;
- Section 847.0133, F.S., relating to the protection of minors;
- Section 847.0135, F.S., relating to computer pornography;
- Section 847.0138, F.S., relating to the transmission of material harmful to minors to a minor by electronic device or equipment; or
- Section 847.0145, F.S., relating to the selling or buying of minors.

The bill also requires the DOH to enter an emergency order suspending the license of a massage therapist or massage establishment if it learns that the massage therapist or person who is subject to background screening for the massage establishment license has been convicted of, or entered a plea of guilty or nolo contendere to, one of the specified criminal acts.

Finally, the bill exempts physicians and chiropractors who employ a licensed massage therapist to provide service to patients in their office from the requirement to obtain a massage establishment license.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***See also CS/CS/HB 7015, p. 44
Military and Veteran Support***

In the area of professional regulation, the bill provides:

Professional Licensing Initial Fee Waiver

The bill broadens eligibility for initial licensing fee waivers for professions regulated by the Department of Business and Professional Regulation and the Department of Health. Current law waives initial licensing fees for honorably discharged veterans who have separated from the military within 24 months. The bill expands the timeframe for eligibility to 60 months of separation and also extends the fee waiver to the spouse of an honorably discharged veteran (separated from the military within 60 months).

Reciprocal Licensure for Separated Military Health Care Practitioners

The bill authorizes a recently separated military service member who served as a health care practitioner in the military to obtain a license to practice as a health care practitioner in Florida if the applicant:

- Has an active license in another state;
- Had no disciplinary actions taken against his or her license within five years of applying for licensure;
- Received or will receive an honorable discharge within 6 months of applying for licensure; and

- Actively practiced the profession for three years prior to applying for licensure.

This reciprocal licensure process applies to a wide range of health care occupations that are licensed and regulated by the Division of Medical Quality Assurance within the Department of Health.

Temporary Certificates for Active Duty and Veteran Physicians

Current law allows active duty military physicians and veterans who served as military physicians to obtain a temporary certificate to practice medicine in an area of critical need in Florida. The bill requires the Board of Medicine and the Board of Osteopathic Medicine to establish a simplified application process for military and veteran physicians to obtain such a temporary certificate. The bill also allows a military or veteran physician with a temporary certificate to enter into a contract to provide volunteer services and obtain sovereign immunity pursuant to s. 766.1115, F.S.

Prescription Drug Wholesale Distributor Certification

The bill permits specified experience in the U.S. military to satisfy work experience requirements for certification by the Department of Business and Professional Regulation as a designated representative of a prescription drug wholesale distributor. Specifically, the bill allows an applicant with at least two years of “managerial experience with the U.S. military, where the applicant’s responsibilities included, but were not limited to, recordkeeping, warehousing, distribution, or other logistics services pertaining to prescription drugs” to meet the work experience required for certification.

**2014
Florida Legislature
Post-Session Report**

Education & Workforce Development

Education & Workforce Development

▪ **HB 23** ***Canned or Perishable Food Distributed Free of Charge by Public Schools***

The bill makes public schools exempt from civil and criminal liability for damages caused by food donated to local food banks and other charitable organizations. The bill adds public schools to the list of donors protected from civil and criminal liability if they donate food to charitable organizations and injury results from consumption of the food.

The bill was signed into law on May 12, 2014 as Ch. 2014-26, Laws of Florida. These provisions take effect July 1, 2014.

▪ **CS/CS/SB 188** ***Education Data Privacy***

The bill implements changes proposed by the Florida Department of Education (DOE) in its report on Student Data Privacy Recommendations. Students and parents must be provided with annual notice of their educational privacy rights.

Agencies or institutions (i.e., K-12 schools and agencies that provide administrative control or services) are prohibited from collecting or retaining information regarding the political affiliation, voting history, religious affiliation, or biometric information of a student, parent, or sibling of a student. The bill creates a limited exemption to permit a school district that used a palm scanner on a certain date to continue to use the scanner for one additional school year.

The DOE must establish a process for assigning a non-social security number as a Florida student identification number. Once DOE completes the process, a school district may not use social security numbers as student identification numbers in its management information systems.

The bill was signed into law on May 13, 2014, as Ch. No. 2014-41, Laws of Florida and became effective upon becoming law.

▪ **CS/HB 313** ***Single-Gender Public School Programs***

The bill provides additional guidelines for establishing single-gender elementary, middle, or high schools by requiring district school boards establishing such schools to:

- Separate students into grade-level single-gender classes for instruction in core courses;
- Open enrollment to all students within the school district;
- Require administrators and teachers to participate in professional development that includes scheduling and instructional strategies; and
- Provide the Department of Education a comparison of the academic performance of students in gender-specific schools with that of students in other public schools in the school district.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-30, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/SB 358** ***Athletic Coaches for Youth Athletic Teams***

The bill revises the background screening requirements for athletic coaches. The bill clarifies the definition of “athletic coach” to include coaches, assistant coaches, and referees. The bill requires independent sanctioning authorities that organize, operate, or coordinate youth athletic teams to conduct Level 1 background screening for athletic coaches. The bill prohibits sanctioning authorities from delegating this responsibility to individual teams.

The bill disqualifies athletic coaches from coaching if they fail to pass the background screening. The bill permits sanctioning authorities to allow a disqualified person to act as an athletic coach if they committed a felony more than three years prior to the screening, committed a misdemeanor, committed a felony that has since been reclassified as a misdemeanor, or were adjudicated delinquent.

The bill requires the sanctioning authority to maintain the results of screenings and notices of disqualification for at least five years.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-9, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/HB 433**
Educator Certification

The bill revises the requirements for instructional personnel who supervise or direct educator preparation students during field experience courses or internships. The bill also revises the K-12 educator certification requirements to authorize the use of additional assessment options, align competencies across preparation program types, and provide flexibility for training and in-service requirements.

The bill authorizes the State Board of Education to adopt rules regarding additional examinations that may be used by teacher certification applicants to demonstrate mastery of general knowledge and subject area knowledge and educator preparation programs that may be used to demonstrate professional preparation and education competence.

Under the bill, applicants with teaching experience in a Florida College System institution, state university, or private college or university must meet additional requirements to demonstrate mastery of professional preparation and education competence. The applicant must have taught on a part-time or full-time basis and must achieve a passing score on the professional education competency examination required by State Board of Education rule.

The bill requires that scientifically based reading instruction must be included in a district competency-based professional development certification and educator competency program.

With respect to renewal of a professional certificate, the bill provides that an applicant may renew a subject area specialization by passing a State Board of Education approved subject area test or another standardized examination in lieu of college course credit or in-service points.

In addition, the bill requires the State Board of Education to adopt rules that would expand training for renewal of professional certificates for educators

who must complete training in teaching students with disabilities.

The bill permits the assignment of newly hired instructional personnel to a school that has earned a grade of “F” in the previous year or any combination of three consecutive grades of “D” or “F” in the previous three years, if they meet specific requirements related to training, teaching experience, performance, and certification.

The bill also allows a consortium of charter schools to develop a professional development system and repeals a longitudinal study that compared the performance of Florida educators who met certification requirements through different mechanisms.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-32, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/SB 850**
Career and Professional Education

The bill builds on the Career and Professional Education (CAPE) provisions and expands rigorous acceleration, curricular, instructional, and assessment options for public elementary, middle, and high school students. In addition, the bill:

- Requires the Florida College System (FCS) institutions to establish a collegiate high school program for students in every school district in the colleges’ designated service area.
- Restructures middle grades education requirements regarding early warning indicators, anti-hazing policy, and professional development.
- Strengthens accountability, delivery, and review of Department of Juvenile Justice (DJJ) education programs.
- Creates the Florida Personal Learning Scholarship Accounts Program for students with disabilities.
- Provides diploma options for students with disabilities.
- Career and Professional Education (CAPE)
- Provides elementary and middle school students, including students with disabilities, options to earn CAPE Digital Tool certificates and CAPE industry certifications.

- Provides high school students a variety of options to earn CAPE industry certifications which may articulate for college credit.
- Requires identification of CAPE Digital Tool certificates and CAPE industry certifications on the CAPE Industry Certification Funding List.
- Requires the Articulation Coordinating Committee to review the statewide articulation agreement proposals for industry certifications and make recommendations to the State Board of Education (SBE) for approval.
- Requires district school boards to notify the parent of a student who earns an industry certification that articulates for postsecondary credit.
- Provides bonus funding to school districts for each CAPE Digital Tool certificate and CAPE industry certification earned by elementary, middle, and high school students.
- Provides bonus funding for teachers who teach a course that leads to the attainment of a CAPE industry certification.
- Requires weighting a grade in a course that leads to an industry certification the same as a grade in an Honors course for the purposes of calculating grade point average.
- Eliminates un-implemented CAPE provisions regarding Florida Cybersecurity and Florida Digital Arts recognitions.
- Authorizes a FCS institution to execute a contract with a school district outside the FCS institution's designated service area if the local FCS institution for that school district does not execute a contract with the school district, beginning with the 2015-2016 school year.
- Requires the collegiate high school program contract to be executed by January 1 of each school year for implementation of the program during the next school year.
- Authorizes state universities and independent colleges and universities that are not-for-profit, located and chartered in Florida, and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to execute contracts with school districts to establish collegiate high school programs.
- Requires students participating in the collegiate high school program to enter into a student performance contract which must be signed by each participating student, the parent, a representative of the school district, and a representative of the applicable FCS institution, state university, or independent college or university.
- Specifies funding for the collegiate high school program in accordance with the dual enrollment program and the Florida Education Finance Program.
- Requires the SBE to enforce compliance with the collegiate high school program requirements by withholding transfer of funds for the school districts and FCS institutions.

Collegiate High School Program

- Requires each school district and its local Florida College System (FCS) institution to execute a contract to establish one or more collegiate high school programs at a mutually agreed-upon location or locations.
- Requires that the collegiate high school program, at a minimum, include an option for public school students in grades 11 and 12 participating in the program, for at least one full school year, the opportunity to earn CAPE industry certifications and successfully complete 30 credit hours through the dual enrollment program toward the first year of college for an associate degree or a baccalaureate degree while enrolled in the collegiate high school program.

Middle Grades Education

- Creates a new middle grades early warning system to identify students who are at-risk of not graduating from high school.
- Requires public schools that include any of the middle grades to annually report information and data on the school's early warning system in the school improvement plan.
- Extends anti-hazing provisions to include grades 6 through 8 and revises the definition of "hazing".
- Requires DOE to provide web-based professional development to the school districts to help teachers integrate digital instruction into classrooms including access to web-based

materials on middle grades instructional techniques.

- Requires the SBE to remove any middle grades course in the Course Code Directory that does not fully integrate all appropriate curricular content required by the state's academic standards.

Department of Juvenile Justice (DJJ) Education Programs

- Modifies the multiagency plan for vocational education to mean the multiagency plan for career and professional education that establishes the curriculum, goals, and outcome measures for CAPE programs in juvenile justice education programs.
- Requires prevention and day treatment juvenile justice education programs to provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services.
- Requires residential juvenile justice education programs with a contracted minimum length of stay of nine months to provide CAPE courses that lead to preapprentice certifications and industry certifications.
- Requires school districts and juvenile justice education providers to develop individualized transition plans for students to assist the students in successful community reintegration upon release.
- Requires the DOE, in consultation with the DJJ, district school boards, and providers, to adopt additional rules..
- Requires the DOE, in collaboration with the DJJ, to collect data and report on commitment, day treatment, prevention, and detention programs.

Florida Tax Credit (FTC) Scholarship Program

- Expands access to the Florida Tax Credit (FTC) Scholarship Program as a choice option for students from low-income families and adds accountability measures for program administration.
- Repeals the prior public school year attendance requirement for student eligibility for participating in the FTC Scholarship Program.

- Makes out-of-home care students eligible for the FTC Scholarship Program.
- Designates the Learning System Institute at Florida State University as the independent research organization responsible for annually reporting on student performance associated with the FTC Scholarship Program on a statewide and individual school basis.
- Modifies student eligibility for participating in the FTC Scholarship Program by increasing the student household income from 230 percent to 260 percent of the federal poverty level, beginning with the 2016-2017 school year.
- Increases the scholarship amount from 80 percent of the unweighted full-time equivalent (FTE) funding amount to 82 percent of the unweighted FTE funding amount, beginning with the 2016-2017 school year.
- Modifies the partial scholarship amount based on student household income levels, beginning with the 2016-2017 school year.
- Adds additional background screening requirements for owners and operators of scholarship funding organizations (SFOs).
- Prohibits SFOs from using eligible contributions and application fees for lobbying or political activities.
- Requires SFOs to refund application fees if a student does not enroll in the FTC Scholarship Program at a private school within 12 months after applying for participating in the FTC Scholarship Program.
- Requires SFOs to submit to annual operational audits by the Auditor General.
- Requires SFOs to maintain a surety bond or letter of credit.
- Authorizes state universities and independent colleges and universities that are not-for-profit, located and chartered in Florida, and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to register with the DOE to become a SFO.

Florida Personal Learning Scholarship Accounts Program

- Creates the Florida Personal Learning Scholarship Accounts Program and assigns the administration of the program to a SFO.
- Charges the DOE with oversight of the Florida Personal Learning Scholarship Accounts Program.
- Authorizes a Florida private school student and home education program student to participate in the Florida Personal Learning Scholarship Accounts Program under certain circumstances.
- Defines disability, for the purposes of student eligibility for the Florida Personal Learning Scholarship Accounts Program, as autism, cerebral palsy, Down syndrome, an intellectual disability, Prader-Willi syndrome, Spina bifida, Williams syndrome, and, for a student in kindergarten, being a high-risk child, which means a child from 5 years of age with a developmental delay in cognition, language, or physical development.
- Requires a parent to be responsible for signing an agreement with the SFO and annually submitting a notarized, sworn compliance statement to the SFO affirming that the student meets the regular attendance requirements and takes all appropriate assessments.
- Requires parents to use the Florida Personal Learning Scholarship Accounts Program funds only for authorized purposes.
- Requires use of funds for specified purposes, such as instructional materials, curriculum, specialized services selected by the parent, enrollment in, or tuition or fees associated with enrollment in an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual instruction program, the Florida Virtual School, an approved online course, or contributions toward a Florida Prepaid College Program.
- Assigns students to a Level 3 services category for purposes of the scholarship amount and authorizes parents to request an IEP and a matrix of services to determine student eligibility for receiving a higher level of funding.

Diploma Options for Students with Disabilities

- Authorizes students with disabilities for whom the IEP team determines that the Florida Alternate Assessment is the most appropriate way to demonstrate skills to earn a standard high school diploma through a combination of course substitutions, industry certifications, portfolios, and other options.
- Authorizes students with disabilities for whom the IEP team determines that mastery of academic and employment competencies is the most appropriate way to demonstrate skills to earn a standard high school through documented successful employment.
- Repeals the special diploma option effective July 1, 2015.
- Authorizes students who are currently participating in the Road to Independence Program to continue to participate in the program.

If approved by the Governor, these provisions take effect upon becoming law unless another effective date is expressly specified for the provisions.

CS/CS/CS/HB 851 Postsecondary Education Tuition and Fees

The bill promotes postsecondary education affordability and accessibility and helps Florida's families plan for higher education. Specifically, the bill:

- Revises the Florida Prepaid Program contract conditions.
- Updates the tuition levels for postsecondary workforce education programs, Florida colleges, and state universities.
- Eliminates the out-of state fee for adult general education programs thereby charging residents and nonresidents the same tuition for adult general education programs.
- Eliminates the automatic annual tuition increases at state universities and Florida College System (FCS) institutions.
- Modifies the 15 percent cap on tuition differential for state universities by authorizing an increase

in tuition differential for up to 6 percent only for a state university that is designated as a preeminent state research university and that meets the specified performance standard targets established annually by the Board of Governors (BOG).

- Prohibits the establishment of an increase in tuition differential for a state university that is not designated as a preeminent state research university.
- Expands the tuition waiver benefit for recipients of a Purple Heart and other combat decorations enrolled at state universities and FCS institutions to also apply to Purple Heart and other combat decoration recipients enrolled at technical centers.
- Extends an in-state tuition benefit through an out-of-state fee waiver method to students, including, but not limited to, students who are undocumented for federal immigration purposes (undocumented students), who meet certain conditions.
- Limits the applicability of the out-of-state fee waiver for students, including, but not limited to, undocumented students, to 110 percent of the required credit hours of the degree or certificate program.
- Requires state universities, FCS institutions, and technical centers to report to the BOG and the State Board of Education (SBE), as applicable, the number and value of all out-of-state fee waivers granted annually to students, including, but not limited to, undocumented students.
- Requires the BOG and the SBE to annually report, by October 1 of each year, the percentage of resident and nonresident students enrolled system-wide.
- Prohibits the reporting of state university students who are granted the out-of-state fee waiver as residents for tuition purposes. Specifies that students, including, but not limited to, undocumented students, who are granted the out-of-state fee waiver are ineligible for state financial aid.
- Requires state universities, FCS institutions, and technical centers to prioritize, within the nonresident student enrollment system-wide, the enrollment of a veteran over a student who is

granted the out-of-state fee waiver based on attendance in a secondary school in Florida for three consecutive years immediately before graduating from a high school in Florida and enrollment in a state university, FCS institution, or technical center within 24 months after high school graduation.

- Codifies a 2012 United States District Court for the Southern District of Florida ruling that U.S. citizens, who would otherwise meet Florida's residency requirements for tuition purposes but for their status as dependents and their parents' undocumented immigration status, may not be denied in-state tuition benefits based solely upon their parents' undocumented immigration status.
- Modifies the definition of a "parent" to include either one or both parents of a student, any guardian of a student, or any person in a parental relationship to a student.
- Revises, for a dependent child, the residency classification for tuition purposes based on the period of continuous residence of the child in this state with an adult relative (who must be a legal resident of this state). Changes from five years to three years the period of continuous residence with an adult relative immediately before the child's enrollment in a state university, FCS institution, or technical center.
- Modifies the requirement regarding residency classification for tuition purposes based on marriage for an individual who physically resides in this state and marries a person who has maintained legal residence in this state for at least 12 consecutive months immediately prior to his or her spouse's enrollment in a state university, FCS institution, or technical center and is a legal resident of this state.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 864***
Instructional Materials for K-12
Public Education

The bill increases local control over public K-12 instructional materials. It provides that a district school board has the constitutional duty to select and provide adequate instructional materials, and is responsible for the content of all instructional materials used in a classroom.

A district school board must have instructional materials policies that:

- Allow a parent to object to his or her child's instructional materials, with a description of the process to handle objections and provide for resolution;
- Allow a parent to contest the district school board's adoption of instructional materials, with requirements to notice and hold the hearing on the challenge; and
- Notify a parent of the ability to access his or her child's instructional materials online.
- A district school board that implements its own instructional materials program must adopt rules that:
 - Identify the review cycle by subject area;
 - Select reviewers, including parents with children in public schools, and identify reviewer qualifications and responsibilities;
 - Establish a process by which the district school board will hold a public meeting to receive public comment, and a public hearing to adopt instructional materials; and
 - Allow student editions of recommended instructional materials to be viewed by the public online for at least 20 calendar days before the public meeting and public hearing.

For the state-level instructional materials process, the Department of Education may assess and collect fees from publishers that submit materials for approval to pay stipends to instructional materials reviewers. The fee may not exceed the actual cost of the reviewer process, or \$1,000, whichever is less.

The bill was signed into law on May 13, 2014, as Ch. No. 2014-15, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/SB 1642** **Education Accountability**

School Grades

The bill makes substantial changes to Florida's public school statewide assessment and a accountability system, including revisions to school grading and school improvement rating systems.

The bill re-focuses the school grading formula on student success measures of achievement, learning gains, graduation, and earning college credit or industry certifications. Specifically, the bill bases the grades on the percentage of total points earned, rather than the raw score of total points.

Provisions in the current grade calculation that may raise or lower a school's grade beyond what the percentage of points would indicate are not included in the revised grade model. There are no additional requirements, no additional weights or bonus points, and no automatic adjustments.

Transition

The bill provides for a one-year transition period to new statewide, standardized assessments. During the transition, the calculation of school grades and school improvement ratings for the 2013-2014 school year are based on the law and rules in effect on June 30, 2014. School grades are calculated based on new statewide, standardized assessments. The 2014-2015 school grades serve as a baseline for schools to work toward improved performance in future years.

The bill provides hold-harmless provisions during the transition for schools subject to a turnaround option, virtual schools or approved virtual instruction providers, and high performing charter school systems or school districts.

Exemptions

The bill provides for three exemptions from the statewide, standardized assessments for specific students with disabilities. The exemptions must be based on parental consent and appropriate medical documentation to support the individual education plan (IEP) team's determination that the child is a child with a medical complexity. A one-year exemption may be granted by the district school superintendent. The bill permits the Commissioner of Education to grant two additional types of exemptions. In granting either a one to three year exemption or a permanent exemption, the Commissioner must review the district school superintendent's recommendation for approval.

Educator Evaluations and Performance Pay

The bill allows district school boards to adopt teacher-selected or principal-selected local assessments that may be used for educator

evaluations and provides bonus funding to school districts that made progress in improving educator effectiveness, including implementation of performance pay.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-23, Laws of Florida and becomes effective July 1, 2014.

▪ **HB 5101**
Miscellaneous Education Funding

The bill:

- Authorizes payment to postsecondary institutions for summer term dual enrollment courses subject to annual appropriation.
- Amends s. 1004.32, F.S., to clarify that the mission of New College of Florida is not limited to undergraduate education and establishes a master's degree program in Data Science and Analytics at New College of Florida upon approval from the Board of Governors.
- Expands lab school eligibility for sparsity supplement funds to all lab schools with a permanent high school center in operation prior to September 1, 2013.
- Creates the Florida digital classrooms allocation within the Florida Education Finance Program to fund and support the use of technology enhancements in Florida's classrooms.
- Requires the State Board of Education to develop a Florida digital classrooms plan that establishes minimum protocols and parameters for the state and districts to meet statutory requirements and timelines for instruction, learning, assessments, and accountability.
- Requires school districts to develop district digital classroom plans for activities resulting from purchases for digital learning and technology infrastructure, professional development, digital tools, and online assessments to measure student performance outcomes.
- Creates the Complete Florida Plus Program at the University of West Florida and transfers the requirements and responsibilities associated with student support services that are currently administered through the Florida Virtual Campus to the new program.

- Establishes the Florida Academic Library Services Cooperative and reassigns the duties and resources regarding online library support services that are currently administered by the Florida Virtual Campus to the new center.
- Renames the Complete Florida Degree Program as the Complete Florida Degree Initiative (Initiative) and restructures the related functions under the new program.
- Establishes a one-year moratorium on new baccalaureate degree programs at Florida Colleges.
- Creates the Florida National Merit Scholar Incentive Program to encourage National Merit Scholars and National Achievement Scholars graduating from a Florida high school, to stay and enroll in Florida postsecondary institutions.
- Expands the extra hour for reading requirement to the lowest performing 300 elementary schools.
- Establishes the Florida Center for Cybersecurity at the University of South Florida and establishes goals for the center.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-56, Laws of Florida and becomes effective July 1, 2014.

▪ **See also CS/CS/HB 7015, p. 44**
Military and Veteran Support

Relating to education, the bill provides for the establishment of charter schools on military bases.

▪ **HB 7029**
Code of Student Conduct;
the Pop Tart Bill

The bill clarifies that students should not be disciplined for simulating a firearm or weapon while playing or wearing clothing or accessories which depict a firearm or weapon or expressing an opinion regarding Second Amendment rights. The bill defines simulating a firearm or weapon while playing to include:

- Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon (the origin of pop tart);
- Possessing a toy firearm or weapon which is two inches or less in overall length;

- Possessing a toy firearm or weapon made of plastic snap-together building blocks;
- Using a finger or hand to simulate a firearm or weapon;
- Vocalizing sounds of an imaginary firearm or weapon;
- Drawing a picture of, or possessing an image of, a firearm or weapon; or
- Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

The bill preserves school board authority to discipline students when simulating a firearm or weapon substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. Consequences imposed upon a student must be proportionate to the severity of the infraction and consistent with school board policies for similar infractions.

Disciplinary actions involving student clothing or accessories must be addressed according to the statutorily prescribed interventions for dress code violations, unless wearing the clothing item or accessory causes a substantial disruption to student learning. If it does, the infraction may be addressed in a manner that is consistent with school board policies for similar infractions.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***HB 7031***
Miscellaneous Education Bill

The bill clarifies the graduation requirements for certain cohorts of high school students. The bill identifies, with specificity, all course and assessment requirements for students entering grade 9 before the 2010-2011 school year, entering grade 9 in the 2010-2011 school year, entering grade 9 in the 2011-2012 school year, and entering grade 9 in the 2012-2013 school year.

The bill removes references to repealed s. 1003.428, F.S., (prior high school graduation requirements) and s. 1003.429, F.S., (prior 18-credit early graduation option) and adds references to s. 1003.4282, F.S., (current standard high school diploma requirements), s. 1003.4281, F.S., (current early high school graduation option),

and s. 1002.3105(5), F.S., (current 18-credit high school graduation option).

The bill provides additional options for satisfying requirements for the Scholar designation on a standard high school diploma. A student who is enrolled in an Advanced Placement (AP), International Baccalaureate (IB), or Advanced International Certificate of Education (AICE) Biology course and who takes the respective AP, IB, or AICE Biology assessment and earns the minimum score necessary to earn college credit meets the Scholar designation science requirement without having to take the statewide, standardized Biology I end-of-course (EOC) assessment.

The bill also provides that a student enrolled in an AP, IB, or AICE course that includes U.S. History topics, who takes the respective AP, IB, or AICE assessment and earns the minimum score necessary to earn college credit meets the Scholar designation social studies requirement without having to take the statewide, standardized U.S. History EOC assessment. Additionally, the bill provides that, beginning with students entering grade 9 in the 2014-2015 school year, a student must pass the statewide, standardized Geometry EOC assessment in order to earn a Scholar designation.

For the Adults with Disabilities Workforce Education Pilot program, the bill expands the eligibility age of participants from 30 to 40 and continues the program through June 30, 2016.

The bill also provides a process for a school board, subject to approval of the electors, to modify its membership.

The bill was signed into law on May 13, 2014, as Ch. No. 2014-39, Laws of Florida and became effective upon becoming law.

**2014
Florida Legislature
Post-Session Report**

**General Government,
Public Meetings,
& Transportation**

General Government

▪ **CS/HB 9**

Legislative Session Dates

The bill provides that the 2016 Regular Session of the Legislature shall convene on January 12, 2016 as a pilot on moving up the date in even-numbered years.

If approved by the Governor, these provisions take effect upon becoming law.

▪ **CS/SB 106**

County Employees

This bill clarifies the authority of counties related to employee benefits. It specifies that a county's power to employ personnel includes, but is not limited to, the authority to determine the benefits available to different types of personnel. However, it also specifies that the Florida Retirement System Act governs the participation of county employees in the Florida Retirement System.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-7, Laws of Florida and becomes effective July 1, 2014.

▪ **HB 117**

Public Retirement Plans

The bill provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to an incorporated municipality is eligible to receive the premium taxes reported for the municipality under certain circumstances. The bill requires the consolidated government to notify the Department of Management Services when it enters into an interlocal agreement to provide police services to a municipality within its boundaries. It provides that the municipality may enact an ordinance to levy a premium tax as authorized in law, and the municipality may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-28, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/HB 175**

Emergency Communication System

The bill lowers the E911 fee from 50 cents to 40 cents for all three categories of voice communication services: prepaid wireless service, wireless service, and nonwireless service. The bill creates a process for collection and distribution of the E911 fee on prepaid wireless services by sellers at the point of sale. A seller of prepaid wireless operating in the state before the fee is imposed can retain 100 percent of the prepaid E911 fees collected for the first two months to offset the costs of setup. After this two-month period, a seller may retain five percent of the prepaid wireless E911 fees that are collected as a retailer collection allowance. The remainder of fees collected must be remitted to the Department of Revenue, which is the agent authorized to collect and distribute the funds for the E911 Board, in the month following collection of the fee.

The bill expands the list of authorized county expenditures for which E911 funds may be used and modifies the distribution of funds to counties and wireless providers for E911 operations.

If approved by the Governor, these provisions take effect July 1, 2014, except as otherwise provided.

▪ **CS/CS/CS/SB 242**

Security of a Protected Consumer's Information

The bill, the Keeping I.D. Safe (KIDS) Act, enables a guardian or other advocate for a protected consumer to place a security freeze on the protected consumer's consumer report. A protected consumer includes a child who is younger than 16 and others who are represented by a guardian or other advocate, often as the result of mental incapacity. A security freeze generally prohibits a consumer reporting agency from releasing information in a consumer report to a third party without express authorization. A security freeze may prevent an unauthorized person from opening lines of credit in a protected consumer's name and engaging in identity theft.

Under the bill, a guardian or advocate who seeks a security freeze must submit a request to the consumer reporting agency along with proof of authority and identification and a fee of up to \$10. The fee is waived if the representative submits a

copy of a valid police report about the unlawful use of the protected consumer's identifying information.

The Department of Agriculture and Consumer Services must investigate complaints concerning violations of these consumer information provisions, and may impose an administrative penalty of \$500 for each violation. A person who obtains a consumer report or record under false pretenses or knowingly without a permissible purpose is liable for damages to the protected consumer and the credit reporting agency for at least \$1,000 each. The bill also requires consumer reporting agencies to provide written notice of the availability of a security freeze for protected consumers.

If approved by the Governor, these provisions take effect September 1, 2014.

▪ **CS/HB 609**
Article V Constitutional Conventions

The bill creates the "Article V Constitutional Convention Act" and establishes a framework for selecting and authorizing delegates to attend an Article V convention for the purpose of proposing amendments to the United States Constitution.

The bill provides that:

- Delegates and alternate delegates will be appointed by the Senate and House of Representatives pursuant to joint rules adopted by both chambers;
- Delegates must execute a written oath stating that the delegate will support the U.S. Constitution and the State Constitution and abide by any instructions adopted by the Legislature;
- The Legislature must adopt a concurrent resolution once delegates are appointed and provide instructions to the delegates regarding the rules of procedure and relevant matters relating to the Article V convention;
- A delegate who votes outside the scope of the instructions established by a concurrent resolution is subject to criminal penalties, forfeits his or her appointment, and the vote is void; and
- An advisory group shall be appointed to advise the delegates on whether certain actions would violate the instructions established by a concurrent resolution. The advisory group consists of an attorney appointed by the

President of the Senate, an attorney appointed by the Speaker of the House of Representatives, and an attorney selected by agreement of the appointed attorneys, who will serve as chair of the advisory group. The group will meet at the call of the chair and establish policies and procedures that the group deems necessary to carry out the provisions of this bill.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-52, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/SB 730**
Municipal Governing Body Meetings

The bill authorizes the governing body of a municipality to hold a joint meeting outside its borders with the governing body of the county where the municipality is located when there are matters of mutual interest between the two bodies. The governing body of a municipality may also meet in another municipality to discuss or act upon matters of mutual interest. The time and place of the meetings must be prescribed by ordinance or resolution.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-14, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/CS/SB 846**
Governmental Ethics

This bill applies the standards of conduct, anti-nepotism provisions, and voting conflicts provisions for state officers in the Code of Ethics to the following entities:

- The Florida Clerk of Courts Operations Corporation;
- Enterprise Florida, its divisions, and corporations required to contract with its divisions; and
- The Florida Development Finance Corporation.

The bill also provides that the Executive Director of Citizens Property Insurance is subject to the Code of Ethics. It prohibits the Executive Director, senior managers, and members of the Board of Directors of Citizens Property Insurance from having any employment or contractual relationship with an insurer that has entered a take-out bonus agreement with the corporation for a period of two years after retirement or termination of service to the corporation.

Additionally, the bill amends the Code of Ethics for Public Officers and Employees as follows:

- Provides that, beginning January 1, 2015, all elected municipal officers are required to complete four hours of training covering the ethics laws, public records laws, and open meetings laws;
- Clarifies that those subject to the ethics training requirement that take office prior to March 31, must complete the ethics training during that calendar year; while those who take office after that date do not have to complete the annual ethics training until the next calendar year;
- Requires those subject to the ethics training requirement to certify that they have completed the training on their annual financial disclosure form; and provides that failure to do so is not “immaterial, inconsequential, or de minimis;”
- Amends the financial disclosure statutes to require the Commission on Ethics to initiate an investigation of any financial disclosure filer who has accrued the maximum automatic fine and has failed to file their financial disclosure;
- If the Commission determines that the failure to file was willful, it is required to enter an order recommending removal of executive, county and municipal officers; in the case of a legislator the Commission may enter such an order if requested by the committee to which the matter was referred by the presiding officer;
- Specifies that the Division of Elections is only required to forward a copy of a candidate’s financial disclosure to the Commission if that candidate is an incumbent;
- Requires Citizen Support Organizations and Direct Support Organizations to adopt a code of ethics, which must be conspicuously posted on the organization’s website, and specifies some of the contents of that code of ethics;
- Prohibits a person from lobbying before a water management district until they have registered as a lobbyist;
- Permits a water management district to create its own lobbyist registration form or adopt the state executive branch or legislative branch lobbyist registration forms;
- Allows a water management district to adopt a lobbyist registration fee of up to \$40;

- Provides the Commission on Ethics jurisdiction to hear complaints against lobbyists of water management districts; and give the Governor authority to enforce the Commission’s findings; and
- Permits the water management to adopt rules to establish procedures, adopt forms, and set the lobbyist registration fees.

The bill also provides that state, county, and municipal officers may abstain from voting when presented with a conflict of interest established in an additional or more stringent standard of conduct adopted pursuant to s. 112.326, F.S. The disclosure requirement is satisfied by compliance with the agency, county, or municipal disclosure requirement. The bill also provides that a member of a board may abstain to assure a fair proceeding that is free from potential bias or prejudice.

Finally, the bill establishes a code of ethics for the Miami-Dade Expressway Authority which:

- Prohibits representing a person or entity for compensation before the Expressway Authority for two years after the end of service;
- Prohibits employment in connection with a contract under certain conditions;
- Provides that the General Counsel of the Expressway Authority is the Ethics Officer;
- Requires the Ethics Officer to review and update the Authority’s code of ethics biennially;
- Requires certain additional disclosures;
- Prohibits executive branch lobbyists, Authority employees, and consultants from serving on the Authority’s Board of Directors; and
- Provides that violations of the additional statutory standards of conduct carry the same punishment as violations of the state Code of Ethics for Public Officers and Employees.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***HB 953*** ***State Contracting***

The bill requires state agencies to consider the prior relevant experience of a vendor when evaluating the responses to a request for proposal or an invitation to negotiate. Currently, state agencies

may consider prior relevant experience but are not required by law to do so.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 955***
Fish and Wildlife Conservation Commission

The bill amends and repeals various statutes relating to programs under the authority of the Fish and Wildlife Conservation Commission (FWC). The bill:

- Requires boating law violators to complete a mandatory boating safety course in person or online;
- Requires boating violators to take an approved boater safety education course following conviction for a criminal boating violation or a reportable boating accident. The repealed subsection provided an exemption to taking the boater safety education course following a violation if the violator had previously taken an approved boater safety education course;
- Extends the FWC's anchoring and mooring pilot program until July 1, 2017, and requires an updated report by January 1, 2017;
- Expands the allowable uses of local government boating registration fees deposited into the Marine Resources Conservation Trust Fund to include maintaining or operating recreational channel markings and other uniform water way markers, boat piers, docks, and mooring buoys. It also allows for the removal of derelict vessels and debris that specifically impede boat access, but does not include the dredging of channels;
- Repeals the FWC's authorization to charge fees related to hunting on areas subject to cooperative agreements between the FWC and the U.S. Forest Service;
- Repeals licenses and fees for freshwater trawl seine gear and statewide freshwater haul seine gear;
- Repeals haul seine and trawl permits and fees in Lake Okeechobee;
- Repeals a provision permitting trawling for shrimp for personal use in the St. Johns River,

north of the Acosta Bridge, in Jacksonville, Florida;

- Specifies that the annual military gold sportsman's license authorizes the same activities as the annual gold sportsman's license;
- Eliminates the Special Recreational Spiny Lobster license; and

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 977***
Motor Vehicle Insurance and Driver Education for Children in Foster Care

The bill establishes a three-year pilot program within the Department of Children and Families to pay the cost of driver education, licensure, and motor vehicle insurance for young adults in foster care. It also requires a report by July 1, 2015, to the Governor, President of the Senate, and Speaker of the House of Representatives on the progress of the pilot and whether it should be continued.

The bill provides that school districts provide foster children with preferential enrollment in driver education courses and removes the disability of nonage of minors for foster children for the purpose of obtaining motor vehicle insurance. A disability for nonage is an incapacity due to the person's age, for example minors cannot enter into contracts. The bill removes the disability of nonage for motor vehicle insurance for foster children who are 16 years of age or older, residing in an out-of-home placement, and have completed a driver education course.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 979***
Affordable Housing for the Homeless

The bill adds homeless persons to the list of persons needing standard, affordable housing. It designates lead agencies of homeless assistance continuums of care as entities that may receive training and technical assistance. The training and technical assistance must be provided by a nonprofit entity that meets the requirements pursuant to s. 420.531, F.S.

The Council on Homelessness is authorized to accept and administer moneys appropriated to it

to provide annual “Challenge Grants” to lead agencies for homeless assistance. The grants may be used to fund any of the housing, program, or service needs included in the local homeless assistance continuum of care plan.

The Department of Economic Opportunity is required to secure the necessary expertise to provide training and technical assistance to local government and state agency staffs, community-based organizations, and to persons forming community-based organizations for the purpose of developing new housing or rehabilitating existing housing for the homeless, very-low-income, low-income, and moderate-income persons.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 1010***
Cable and Video Services

The bill repeals s. 610.119, F.S., which requires the Office of Program Policy Analysis and Government Accountability to submit a second and final report on the status of competition in the cable and video service industry. The law includes specifics about what the report should contain. Section 610.199(2), F.S., also required the Department of Agriculture and Consumer Services to make recommendations regarding the workload and staffing requirements associated with consumer complaints related to video and cable certificate holders, which was fulfilled in 2008. If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 1024***
Off-Highway Vehicles

The bill revises the definitions of two types of off-highway vehicles (OHVs), “all-terrain vehicle” (ATV) and “recreational off-highway vehicle” (ROV), to:

- Remove any reference to the seating type, the steering control mechanism, and the number of passengers; and
- Increase the authorized width of an ROV from 64 to 65 inches.

Due to these revisions, the definitions of ATV and ROV are distinguished by width, weight, and the number of non-highway wheels. Under both definitions the vehicle must be manufactured for recreational use by one or more persons. The type

of seating and the steering mechanism no longer distinguish the two vehicles.

The revisions potentially authorize an OHV currently defined as an ROV to meet the definition of an ATV if the vehicle is 50 inches or less in width, 1,200 pounds or less in dry weight, and designed to travel on three or more non-highway tires. A vehicle currently classified as an ROV that meets the definition of an ATV under the bill may be permitted to access lands not previously accessible, depending upon the rules of operation of the managing local, state, or federal agency.

The bill also clarifies the prohibition against carrying multiple passengers on OHV to prohibit the carriage of more passengers than the vehicle is specifically designed to carry.

Lastly, the bill revises the penalty provision in s. 261.20(6), F.S., to clarify a violator may have the privilege of operating any OHV on public land revoked, not just ATV use. The provisions of s. 261.20, F.S., apply to all OHVs.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 1161***
***Department of Transportation/
Outdoor Advertising***

The bill authorizes, but does not require, the Florida Department of Transportation (FDOT) to provide for the monetization of the revenue stream from leases for wireless communication facilities on FDOT property. Revenues from such purchases are to be used to increase capital funding for the statewide transportation system.

The bill also makes revisions to the control of outdoor advertising (also see SB 218 and HB 7175). The bill provides that Water Management District (WMD) public information systems are subject to the provisions of certain federal laws and agreements and effectively rewrites ch. 479, F.S., to revise various duties of the FDOT to modernize and streamline the administration and enforcement of state and federal outdoor advertising provisions. The substantive revisions:

- Provide criteria to be used in the permitting of signs in commercial or industrial zones, as determined by the local government, and require the FDOT to notify a sign applicant in writing if

the FDOT disagrees with a local government determination that a proposed sign location is on a parcel that is in a commercial or industrial zone;

- Require removal of a sign within 30 days if the FDOT determines the parcel does not meet sign permit requirements, and provide for a reduction in transportation funding to a local government if a local government fails to comply;
- Revise provisions relating to signs visible from more than one highway, make permanent a pilot program under which the distance between certain permitted signs may be reduced to 1,000 feet, revise provisions relating to vegetation management, and revise provisions relating to relocation or reconstruction of signs situated upon FDOT right-of-way;
- Provide for additional signs that can be erected without a permit, revise provisions increasing the legal height of a sign at its location if a noise-attenuation barrier is erected, and expand the logo sign program to the right-of-way of the limited-access system; and
- Repeal a pilot program authorized in 2012 for signs related to tourist-oriented commerce, which is replaced by authority to erect such signs without a permit.

The bill extends a pilot program for the Palm Beach County School District to recognize its business partners through signage on sports facilities.

The bill also authorizes the FDOT to enter into concession agreements for commercial sponsorship of multiuse trails and related facilities and to use the revenues for the maintenance of the trails and facilities. The bill requires provides sign location and size requirements.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 1194***
Citizen Support and Direct-support Organizations

Citizen Support Organizations (CSOs) and Direct Support Organizations (DSOs) are private entities, such as Friends of Florida State Parks, which are created to assist or support governmental entities in carrying out their duties. The bill creates new reporting and transparency requirements for

each CSO and DSO that is created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The bill requires each CSO and DSO to report information related to its organization, mission, and finances to the agency it was created to support. A contract between an agency and a CSO or DSO must require the CSO or DSO to provide such information to the agency, and must require the agency to terminate the contract if the CSO or DSO fails to provide the information for two consecutive years. The bill requires each agency receiving such information from a CSO or DSO to make the information available on its website, and to provide a link to the CSO's or DSO's website if such a website exists.

The bill requires each agency to annually report to the Governor, the Legislature, and the Office of Program Policy Analysis and Government Accountability the information provided to the agency by the CSO or DSO, and to make a recommendation on whether to continue, terminate, or modify the agency's association with the CSO or DSO.

The bill provides that a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. This sunset has led to a push for the Governor to veto the bill because it is claimed that groups won't raise funds if an organization may cease to exist. The bill directs the Legislature to review CSOs and DSOs in existence on the effective date of the bill by July 1, 2019.

The bill provides for the future repeal of certain sections of law authorizing CSOs and DSOs, unless those sections are reviewed and saved from repeal by the Legislature. The issue above applies here also.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/CS/HB 1363***
Vessel Safety

The bill authorizes the Fish and Wildlife Conservation Commission (FWC), officers of the FWC, and any law enforcement agency or officer specified in s. 327.70, F.S., which includes county

sheriffs, their deputies, and municipal police officers, to relocate or remove, or cause to be relocated or removed derelict vessels, vessels that interfere other vessels, and vessels that constitute navigational hazards. The bill limits liability for all damages to relocated vessels unless the damages result from gross negligence or willful misconduct, as defined in the bill.

It requires a contractor who performs removal or relocation services to be licensed in accordance with applicable U.S. Coast Guard regulations. The contractor must carry an insurance policy to insure against any accident, loss, injury, property damage, or other causality caused by or resulting from the contractor's actions. The bill also requires such contractors to be equipped to perform the work. Lastly, the bill provides for the recovery of all costs, including those costs owed to a third party, from the owner of the relocated or removed vessel and directs the FWC's Department of Legal Affairs to represent the FWC in actions to recover the costs of relocation or removal from the vessel owner.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 1524***
Security of Confidential Personal Information

Creates the "Florida Information Protection Act of 2014." The bill requires notice to be given to affected customers and the Department of Legal Affairs (DLA) when a breach of security of personal information occurs. The bill requires such notice to be given within 30 days of the discovery of the breach or belief that a breach occurred, unless delayed at the request of law enforcement for investigative purposes or for other good cause shown. The bill provides enforcement authority to the DLA under the Florida Deceptive and Unfair Trade Practices Act to civilly prosecute violations. A violator of the bill's provisions may also be subject to civil penalties, similar to current law, if breach notification is not provided timely. State governmental entities are required to provide notification of security breaches to the DLA, but are not liable for civil penalties for failure to timely report the security breaches. The bill provides exceptions for those entities that comply with breach notifications as required by the appropriate federal regulator.

The bill requires the DLA to submit an annual report to the Legislature, by February 1 of each year, detailing any reported breaches of security by governmental entities or their third-party agents for the preceding year, along with any recommendations for security improvement. The report must also identify any governmental entity that has violated the breach notification provisions.

The bill requires customer records, both physical and electronic, to be disposed in a manner that protects personal information from being disclosed. This provision does not apply to governmental entities.

The bill repeals s. 817.5681, F.S., which contains the current law requirements for breach notification.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 1636***
Renaming the Parole Commission

The bill changes the name of the Parole Commission to the Florida Commission on Offender Review to more accurately reflect the roles of the Commission. The bill provides a directive to the Division of Law Revision and Information to rename ch. 947, F.S., as "Florida Commission on Offender Review." The bill makes conforming and technical changes.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 1666***
Child Welfare

The bill makes numerous changes to laws and programs intended to protect children from abuse and neglect. The bill modifies requirements for child abuse investigation services provided by the Department of Children and Families and in some counties the sheriff's office. The bill also amends laws establishing the state's privatized child welfare services through the community-based care agencies. Specifically, the bill:

- Amends the purposes of ch. 39, F.S., relating to child protection and the foster care system to emphasize that the safety of children is the paramount concern in the dependency process.
- Establishes a new Assistant Secretary for Child Welfare in the Department of Children and

Families to provide direction and expertise in child welfare.

- Establishes a “Critical Incident Rapid Response Team” to quickly investigate child abuse deaths where the child was known to the child welfare system. The investigation is to determine the root causes and determine how the child welfare system failed to protect the child.
- Requires the Department of Children and Families to publish on its website basic information about all child abuse deaths.
- Strengthens provisions relating to safety plans for children who have been abused, neglected, or abandoned by their caregivers. Safety plans are used by the department, and in some counties the sheriff’s office, to set conditions whereby the child can safely remain in the home.
- Clarifies the relationship between the Department of Children and Families and community-based care agencies in dependency proceedings. The bill states that attorneys in the dependency process represent the Department of Children and Families, but must also consider the recommendations of the community-based care agency case managers.
- Defines “medically complex children” and “medical neglect” and requires the Department of Children and Families to have the medical expertise to investigate such cases.
- Directs that the Department of Children and Families investigate all calls of child-on-child sexual abuse among dependent children that are reported to the abuse hotline.
- Strengthens the requirement for the Department of Children and Families to keep siblings together when they are removed from their homes.
- Extends the requirement of the Rilya Wilson Act that children in the child welfare system attend preschool to those children under three years of age.
- Expands the current relative caregiver provisions to provide compensation to qualified non-relatives who provide homes for dependent children.
- Expands the scope of the work of the Child Abuse Death Review Committees in the

Department of Health. The bill requires that the committees investigate all child deaths reported to the abuse hotline, rather than just those deaths that the department finds were verified for abuse.

- Establishes a preference for hiring social workers as child protective investigators. The bill sets a goal for half of all Department of Children and Families investigators to be social workers by 2019. The bill allows other qualified workers to be hired, but directs the department to provide them with specialized training within a specified amount of time on the job.
- Creates a tuition exemption and loan forgiveness program to attract social workers to work in child welfare. The bill authorizes payments of up to \$3,000 per year to pay student loans of child welfare personnel with a social work degree.
- Creates a new part V of ch. 409, F.S., to be entitled “Community-Based Child Welfare.” In this new part, current law relating to community-based care is reorganized, obsolete provisions are removed, and some provisions are clarified.
- Establishes a new criminal offense for so called “re-homing” when an adopted child is given up illegally to another family.
- Establishes the Florida Institute for Child Welfare comprised of the state’s public and private university schools of social work to advise the state on child welfare policy, social work education, and child welfare worker training.

If approved by the Governor, these provisions take effect July 1, 2014, except where otherwise provided.

▪ ***HB 5001***
General Appropriations Act

The General Appropriations Act for Fiscal Year 2014-2015 provides for a total budget of \$77.1 billion, including:

- General revenue: \$27.9 billion
- Trust funds: \$49.2 billion
- Total reserves: \$3.1 billion
- Full time equivalent positions: 114,444.57

Law Enforcement

- \$2.2 million for enhancements to the Statewide Law Enforcement Radio System and \$3.5 million for the Interoperability Network and Mutual Aid Build-out for communication between law enforcement and other public-safety agencies.

Education:

- Increases spending for public schools by \$575 million. Includes nearly \$600 million for construction projects for public schools, charter schools, universities and colleges. There are no university tuition hikes this year.

Child Welfare:

- \$50 million for child protection efforts.

State Employees:

- No across-the-board pay raises. Includes a 5-percent pay raise for highway patrol troopers and other state law-enforcement officers and pay increases for court employees, assistant prosecutors and public defenders.

Taxes:

- A cut of taxes and fees of \$500 million.

Environment:

- \$170 million for projects to help the Indian River Lagoon and other water bodies dealing with discharges from Lake Okeechobee; \$30 million for Florida's springs; and \$25 million for beach restoration.

Economic Development:

- \$74 million for Visit Florida.

Signed into law on June 2, 2014, with an Appropriation Veto of \$68,850,121 as Ch. 2014-51, Laws of Florida. Provisions take effect July 1, 2014, or upon becoming law, whichever occurs later.

▪ SB 5003 Implementing 2014-2015 General Appropriations Act

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2014-2015. The statutory changes are effective for only

one year and either expire on July 1, 2015, or revert to the language as it existed before the changes made by the bill.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-53, Laws of Florida and becomes effective July 1, 2014.

▪ HB 5005 Florida Retirement System

The bill sets the employer-paid contribution rates for the Florida Retirement System (FRS) and the Retiree Health Insurance Subsidy (HIS) program, effective July 1, 2014. Employees of the state, counties, special districts, and schools are all usually members of the FRS.

The employer-paid contribution for the HIS program is increased from 1.20 percent of the employer's payroll to 1.26 percent of the employer's payroll. These funds will be deposited into the Retiree Health Insurance Subsidy Trust Fund to pay benefits to eligible retirees.

The employer-paid contribution rates to pay the normal costs and amortization of the unfunded actuarial liability of the FRS are increased. These rates are based on the rates recommended in the "Blended Rate Study" associated with the 2013 Actuarial Valuation of the FRS. These funds will be deposited into the FRS Trust Fund to fund retirement benefits to members participating in the FRS.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-54, Laws of Florida and becomes effective July 1, 2014.

▪ CS/CS/HB 7005 Department of Highway Safety and Motor Vehicles

The bill revises a number of transportation-related provisions. Most, but not all of the revisions, affect functions or programs under the jurisdiction of the Department of Highway Safety and Motor Vehicles (DHSMV). Some affect functions or programs under the jurisdiction of the Department of Transportation (FDOT).

Driver Licenses

- Provides additional circumstances under which a person may avoid driver license suspension for failure to pay child support.

- Prohibits the DHSMV from accepting the resubmission of a driver license suspension that has remained on the DHSMV's records for the required seven years.
- Requires the DHSMV (or its contractor) to prepare for development of an optional digital proof of driver license in a format that allows law enforcement to verify the authenticity of the digital proof.
- Reduces the mandatory period of revocation or suspension of a driver license from two years to one for persons convicted of certain drug offenses, and requires a court to make a determination as to whether a restricted license would be appropriate for such persons.
- Requires the driver licenses and identification cards of individuals designated as sexual predators to include to the marking "SEXUAL PREDATOR."
- Provides for a clerk to remove a habitual traffic offender designation if the offender meets certain conditions.
- Authorizes the DHSMV to issue a driver license to an applicant whose driving privilege is suspended or revoked in another state for an offense that would not have been grounds for suspension or revocation in this state.
- Authorizes a court that withholds issuance of, or suspends or revokes, the driver license of a person convicted of certain offenses relating to providing alcohol to minors, or suspends the driver license for an offense relating to theft, to direct the DHSMV to issue the person a license for business purposes only, if the person is otherwise qualified.
- Makes the suspension or revocation of a driver license of a person being prosecuted for passing a worthless check discretionary under certain conditions.
- Authorizes a court to dismiss an order of immobilization if the defendant provides proof a certified IID has been installed on all vehicles individually or jointly leased or owned and routinely operated by the convicted person.
- Authorizes a court to order a person, at that person's expense, to participate in a "qualified sobriety and drug monitoring program," in which participants are regularly tested for alcohol and drug use, in addition to the IID requirement.
- Provides conditions under which a person otherwise required to have an IID may operate a leased motor vehicle in the course and scope of employment without installation of an IID.
- Requires certified IIDs to meet or exceed current National Highway Traffic Safety Administration standards.
- Allows IID providers whose devices have been certified to contract with the DHSMV to become a service provider, requires the DHSMV to contract with any provider whose devices have been certified and who make a request to be a provider, and provides an extensive list of provisions to be included in the contract between the DHSMV and any provider.
- Requires the Office of Program Policy Analysis and Government Accountability to submit a study, by January 1, 2015, to the Governor, Senate President, and House Speaker on the effectiveness of IID use as an alternative to driver license suspension.

DUI/Ignition Interlock Devices

- Authorizes a court to order placement of an ignition interlock device (IID) at a first-time-convicted person's expense for at least six continuous months on all vehicles routinely operated by the person.

Vehicle Registration Withholding

- Limits the withholding of a license plate, revalidation sticker, or replacement license plate for a vehicle identified, or a vessel registration number or decal for a vessel, to only the vehicle or vessel identified in a lienor's written notice to surrender, rather than to all vehicles or vessels registered under the name of the person on the lienor's notice, and requires the notice to be signed under oath by the lienor.
- Provides for removal of a person's name from a list of those who may not be issued a registration by court order, in addition to currently authorized methods of removal.

- Requires the DHSMV to develop a plan addressing registration holds for failure to pay tolls or parking ticket violations, and failure to comply with certain civil penalties, which must include the ability to pay any outstanding toll, parking ticket, or civil penalty at the point of collection of the vehicle registration fee.

Vehicle Operation

- Defines “sanitation vehicle” and “utility service vehicle,” and mandates that drivers observe the requirements of the “Move Over Act” with respect to such vehicles.
- Extends the period allowing the use of low-speed vehicles and golf carts by seasonal delivery personnel from December 31 of each year to January 31 of each year.
- Adds accredited educational institutions to the organizations that may operate autonomous vehicles for testing purposes, and removes obsolete language relating to an already-submitted DHSMV report.
- Authorizes the Office of Insurance Regulation to approve a motor vehicle insurance premium discount for insured vehicles equipped with autonomous driving technology or electronic vehicle collision avoidance technology in compliance with National Highway Traffic Safety Administration standards.
- Exempts a vehicle started by remote control from “unattended motor vehicle” provisions.
- Authorizes the use of devices mounted on windshields, used for the purpose of monitoring or assisting in safe vehicle operation.
- Deletes a provision that negates the violation of failing to yield the left lane if the vehicle is traveling at up to 10 miles slower than the posted speed limit.
- Prohibits a bus from stopping to load or unload passengers in a manner that restricts the progression of traffic if another “reasonable means” exists.

Specialty and Special License Plates

- Changes the names of the “Sportsmen’s National Land Trust” and the “Catch Me, Release Me” license plates to the “Wildlife Foundation of Florida” and the “Protect Our Oceans” plates,

respectively, and revises the distribution of annual revenues from the Wildlife Foundation of Florida plate.

- Creates a new military-related special use license plate that will be stamped with the word “Veteran.”
- Requires that annual use fees from the sale of specialty license plates be expended only for use in this state, unless the annual use fee is derived from the sale of United States Armed Forces plates and certain other veteran-related plates.
- Defines “administrative expenses” to include certain direct operating costs and revises audit and attestation requirements for specialty license plate organizations.
- Allows amateur radio operators holding a valid official radio station license recognized, rather than issued by the Federal Communications Commission to obtain a special license plate.
- Extends the current moratorium on new specialty license plates from July 1, 2014, to July 1, 2016.

Miscellaneous

- Defines “automated license plate recognition system” and requires establishment of a retention schedule for records generated through the use of such systems.
- Authorizes a clerk to designate a local governmental entity to receive and keep a currently required affidavit and dismissal fee from a person who has a disabled parking placard or plate but receives a violation.
- Provides requirements for a licensed Recreational Vehicle dealer conducting an off-premises sale not in conjunction with a public vehicle show.
- Authorizes immediate removal and impoundment of an unauthorized wrecker operator’s tow truck used during certain prohibited acts upon order of a law enforcement officer.
- Requires a specified decal on each gas pump reflecting certain information relating to fueling assistance for disabled drivers at self-service gas stations; and provides that counties and municipalities are not barred from expanding the accessibility, safety, or availability of fueling assistance.

- Prohibits requiring a gas station to provide air or vacuum supply without charge and preempts all local ordinances to that effect.
- Provides a free identification card to a person who presents satisfactory evidence that he or she is homeless or that his or her annual income is at or below 100% of the federal poverty level.
- Limits the number of referenda for consolidation or dissolution of certain authorities and provides that a referendum not expressly agreed to by an authority applies only to future bond issuance.
- Requires a county or municipality to respond within 60 days after receiving a request from another county or municipality to which it provides traffic signal services regarding the evaluation, installation, operation, or maintenance of a signal.
- Authorizes counties to create a yellow dot critical motorist medical information program; provides for limited use of the medical information by emergency medical responders; and requires the county to adopt guidelines to ensure confidentiality of the information.
- Removes the prohibition against obscuring the word "Florida," on license plates effective July 1, 2016.

Florida Department of Transportation

- Authorizes, but does not require, the FDOT to enter into agreements under which investors may purchase the revenue stream from wireless communication leases on FDOT property.
- Exempts deepwater port vehicles and equipment from vehicle registration requirements when operated on public roads connecting facilities of a deepwater port for the purpose of transporting cargo, containers, and other equipment.

If approved by the Governor, these provisions take effect July 1, 2014, except where otherwise provided.

CS/CS/HB 7015 Military and Veteran Support

The bill amends various sections of law relating to employment, education, services, and benefits for current and former military personnel and their families.

Florida National Guard Education Dollars for Duty Program

The bill amends the existing Education Dollars for Duty (EDD) Program to authorize a broader use of program funds. The EDD program is the tuition assistance program for Florida National Guard members and is administered by the Florida Department of Military Affairs. Expanded authorized uses include online courses, training to obtain industry certifications, continuing education to maintain license certifications, industry examination fees, and reimbursement for books and fees. The bill also requires eligible Florida National Guard members who have deployed on federal military orders to be given priority consideration for participation in the program.

The bill appropriates \$1.53 million in recurring funds and \$250,000 in non-recurring funds to the Department of Military Affairs to supplement the EDD program and to upgrade EDD information technology infrastructure.

Florida Veterans' Walk of Honor and Memorial Garden

The bill authorizes the construction of a Florida Veterans' Walk of Honor and a Florida Veterans' Memorial Garden on the Capitol Complex grounds to recognize and honor those veterans who have made significant contributions to Florida through their service to the United States. The two memorials are to be administered and funded by the Florida Department of Veterans' Affairs' direct support organization, without appropriation of state funds. This provision became law upon approval by the Governor on March 31, 2014.

Veterans' Employment Preference

Current law mandates that priority and preference be given to certain veterans and their spouses in obtaining or retaining public sector employment in Florida. The bill expands eligibility for veterans' preference to also include:

- Any honorably-discharged veteran;
- A current member of the Florida National Guard or the reserves; and
- The mother, father, legal guardian, or unremarried widow or widower of a service member who died in the line of duty.

The bill also removes the existing requirement that a person receiving veterans' preference be a Florida resident and modifies the point system for which preference is awarded.

As it relates to veterans' preference in private sector employment, the bill authorizes, but does not require, a private sector employer to establish a voluntary veterans' employment preference. The bill authorizes preference to be given to an honorably discharged veteran, spouses of certain disabled veterans, and the widow or widower of a service member who died in the line of duty.

Enhancing Florida's Veteran-Friendly Status

The bill creates Florida Is For Veterans, Inc., (FIFV), a nonprofit corporation housed within the Florida Department of Veterans' Affairs. The FIFV is governed by a nine member board of directors appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and is created to:

- Promote Florida as a veteran-friendly state;
- Encourage retired and recently separated military personnel to reside in Florida;
- Promote the value of military skill sets to Florida businesses;
- Assist in tailoring the training of veterans to match the needs of Florida employers; and
- Assist in enhancing the entrepreneurial skills of veterans.

The FIFV and the Florida Tourism Industry Marketing Corporation (VISIT Florida) will partner to promote Florida as a veteran-friendly state. The FIFV is responsible for identifying the veteran target market. VISIT Florida is responsible for implementing a marketing campaign to encourage retired and recently separated military personnel to reside in Florida and must also perform outreach efforts to disseminate information regarding veteran benefits.

The bill creates the Veterans Employment and Training Services Program (VETS) to be administered by the FIFV. In addition to assisting veterans in achieving employment objectives, the FIFV will administer a grants program directed at providing matching funds to businesses to train veterans for the specific needs of each participating

business. The FIFV will also contract with public or private universities or colleges to provide entrepreneur mentoring programs for Florida veterans.

The FIFV is also responsible for submitting a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that identifies existing gaps in veteran resources and recommends best practices that may be used to assist veterans and improve current or new resources and programs.

The bill directs VISIT Florida to expend \$1 million annually to market Florida to veterans as a permanent home and disseminate information to veterans. In addition, it directs VISIT Florida to provide the FIFV with \$300,000 to conduct the market research required in the bill. The bill provides \$344,106 recurring and \$14,391 nonrecurring funds for the general operations and staffing of the FIFV. Finally, the bill provides \$56,768 in recurring and \$4,258 in nonrecurring funds for one full-time equivalent position in the Florida Department of Veterans' Affairs to assist the FIFV in performing state financial activities.

Florida State Veterans' Homes

The bill removes the requirement that a veteran be a resident of Florida for one year prior to applying for admission into a state veterans' nursing home or the state veterans' domiciliary home. Other existing admission requirements still apply, including the requirement that a veteran be a resident of Florida at the time of applying for admission. The Florida Department of Veterans' Affairs currently operates six veterans' nursing homes and one veterans' domiciliary home in Florida.

Driver License Privileges for Military Spouses and Dependents

The bill entitles military spouses and dependents to certain driver license privileges currently extended to active duty service members. In doing so, the bill exempts a service member's spouse and dependents from the requirement to obtain a Florida driver license solely for the purpose of enrolling a child in a Florida public school or accepting employment in Florida. The bill also clarifies that the spouse of a service member stationed outside of Florida is eligible for an automatic extension of a Florida driver license while the spouse resides with the service member outside of Florida.

Professional Licensing Initial Fee Waiver

The bill broadens eligibility for initial licensing fee waivers for professions regulated by the Department of Business and Professional Regulation and the Department of Health. Current law waives initial licensing fees for honorably discharged veterans who have separated from the military within 24 months. The bill expands the timeframe for eligibility to 60 months of separation and also extends the fee waiver to the spouse of an honorably discharged veteran (separated from the military within 60 months).

Reciprocal Licensure for Separated Military Health Care Practitioners

The bill authorizes a recently separated military service member who served as a health care practitioner in the military to obtain a license to practice as a health care practitioner in Florida if the applicant:

- Has an active license in another state;
- Had no disciplinary actions taken against his or her license within five years of applying for licensure;
- Received or will receive an honorable discharge within 6 months of applying for licensure; and
- Actively practiced the profession for three years prior to applying for licensure.

This reciprocal licensure process applies to a wide range of health care occupations that are licensed and regulated by the Division of Medical Quality Assurance within the Department of Health.

Temporary Certificates for Active Duty and Veteran Physicians

Current law allows active duty military physicians and veterans who served as military physicians to obtain a temporary certificate to practice medicine in an area of critical need in Florida. The bill requires the Board of Medicine and the Board of Osteopathic Medicine to establish a simplified application process for military and veteran physicians to obtain such a temporary certificate. The bill also allows a military or veteran physician with a temporary certificate to enter into a contract to provide volunteer services and obtain sovereign immunity pursuant to s. 766.1115, F.S.

Prescription Drug Wholesale Distributor Certification

The bill permits specified experience in the U.S. military to satisfy work experience requirements for certification by the Department of Business and Professional Regulation as a designated representative of a prescription drug wholesale distributor. Specifically, the bill allows an applicant with at least two years of “managerial experience with the U.S. military, where the applicant’s responsibilities included, but were not limited to, recordkeeping, warehousing, distribution, or other logistics services pertaining to prescription drugs” to meet the work experience required for certification.

Charter Schools

The bill provides legislative intent that the unique needs of military families be met and a framework be established to provide children of military families with a high-quality education. Military installation commanders are encouraged to work with the Commissioner of Education to increase military family student achievement, which may include the establishment of charter schools on military bases.

Out-of-state Fee Waivers for Non-resident Veterans

The bill creates the “Congressman C.W. Bill Young Veteran Tuition Waiver Act” to waive out-of-state tuition fees for veterans pursuing higher education in Florida who are not residents of this state. The fee waiver may be applied up to 110 percent of the credit hours needed to complete a degree or certificate program at a state university, a Florida College System institution, a career center operated by a school district, or a charter technical career center. A veteran must have received an honorable discharge and reside in Florida at the time of enrollment to qualify for the out-of-state fee waiver.

Florida National Guard Armory Renovation Funding

The bill appropriates \$12.5 million in nonrecurring funds to the Department of Military Affairs for the continuing renovations of the state’s National Guard armories to meet state and federal building codes.

Military Base Encroachment Protection Funding

The bill provides almost \$7.5 million for the acquisition of nonconservation lands adjacent to MacDill Air Force Base, Naval Support Activity Panama City, and Naval Station Mayport for the purpose of protecting those installations against encroachment. The lands are to be acquired by the Board of Trustees of the Internal Improvement Trust Fund pursuant to the nonconservation base buffering process outlined in s. 288.980, F.S.

The bill was signed into law on March 31, 2014, as Ch. No. 2014-1, Laws of Florida and, except as otherwise provided, take effect July 1, 2014.

▪ *HB 7073* *Information Technology Governance*

The bill establishes an enterprise information technology (IT) governance structure within the executive branch. Specifically the bill:

- Creates the Agency for State Technology (AST), administratively housed within the Department of Management Services (DMS), with an executive director who serves as the state's chief information officer, appointed by the Governor and confirmed by the Senate.
- Performing project oversight on agency IT projects of \$10 million or more,
- Performing project oversight on any cabinet agency IT project that has a total project cost of \$50 million or more and impacts another agency or agencies.
- Creates the state data center, and authorizes a type two transfer of the Northwood and Southwood Shared Resource Centers from the DMS to the AST.
- Establishes the Technology Advisory Council within the AST for purposes of making recommendations to the executive director of the AST.
- Repeals sections of law relating to the Agency for Enterprise Information Technology and the Northwood and Southwood Shared Resource Centers; energy efficient standards for data centers; and statewide e-mail service.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ *CS/HB 7091* *Department of Agriculture and Consumer Services*

The bill addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). Specifically the bill:

- Reorganizes ch. 570, F.S., the department's general authorizing statute, into five separate parts;
- Standardizes penalty language in the new part V which is cross-referenced in the various statutes enforced by the department;
- Removes obsolete language to ensure accuracy;
- Under certain conditions, allows property owners to file late for an agricultural classification for assessment purposes;
- States that lands classified as agricultural and participating in a dispersed water storage program shall continue to be classified as agricultural;
- Provides private landowners participating in a water storage program with an option to establish a baseline condition determining the extent of wetlands;
- Adds a representative of the department to the Joint Task Force on State Agency Law Enforcement Communications;
- Revises requirements for registration and distribution of discontinued pesticides;
- Updates the department's certification and licensure processes to include applying online;
- Expands the authority of the Florida Forest Service, under certain conditions, to grant leases, permits, privileges, and concessions for the use of state forest lands to include any lands leased by or assigned to the Florida Forest Service for management purposes;
- Authorizes the department to impose civil penalties for violations relating to private security, investigative, and repossession services;
- Removes security bond and certificate of deposit requirements for fertilizer license applicants, since the department has sufficient authority to impose fines or to revoke licensure for licensees who do not pay inspection fees;

- Adds additional criteria to determine whether commercial feed is adulterated;
- Simplifies the information required to register as a seed dealer;
- Revises food permit requirements, associated fees, and renewal procedures;
- Exempts manually operated vending stands serviced by the Department of Education's Division of Blind Services from permitting requirements;
- Authorizes the department to close a food facility if it is found to pose an immediate danger or threat to public health, safety, and welfare; Authorizes the department to inspect aquaculture facilities and to analyze their food samples;
- Repeals a pilot program and permit for the use of Australian pine trees as windbreaks for citrus groves; and
- Creates new requirements for qualifying as a "non-dealer" in limited sales of dressed poultry.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 7141***
Human Trafficking

Section 409.1678, F.S., governs safe homes. The bill changes statutory requirements for safe houses to establish standards for residential treatment of sexually exploited children and authorizes safe foster homes. The bill creates a certification program for safe houses and safe foster homes at the Department of Children and Families (DCF), and requires certification in order for these facilities to accept state funds specifically allocated to care for sexually exploited children.

The bill creates s. 409.1754, F.S., to establish requirements for DCF and the community-based care agencies (CBCs) related to sexually exploited children. The bill requires DCF to create or adopt initial screening and assessment instruments for use in identifying and serving sexually exploited children, and allows a child to be placed in a safe house if the assessment instrument determines that is the most appropriate setting and a safe house is available. The bill also requires DCF, the CBCs, and the Department of Juvenile Justice (DJJ) to specially train certain employees to work with sexually exploited children. The bill requires DCF

and the CBCs to hold multidisciplinary staffings to coordinate services for sexually exploited children.

Additionally, the bill requires DCF and the CBCs to plan and to have response protocols in place regarding serving sexually exploited children. The bill also requires DCF, the CBCs, and DJJ to participate on any local task forces related to this population.

Residential treatment centers and hospitals providing residential mental health treatment are required to provide specialized treatment for sexually exploited children in the custody of DCF placed in these facilities pursuant to existing law.

A statewide council on human trafficking is created within the Department of Legal Affairs, to enhance the development and coordination of law enforcement and social services responses and specifies the membership, organization, and duties of the council.

The Office of Program Policy Analysis and Government Accountability is directed to conduct a study on commercial sexual exploitation of children in Florida and specifies topics for inclusion in the study.

DCF is required to contract with a qualified consultant or organization with expertise in child welfare by December 31, 2014, to prepare a plan for development and implementation of a comprehensive, results-oriented accountability program. Subject to a specific appropriation to implement the accountability program, DCF is directed to establish a technical advisory panel to advise the department on the implementation of the result-oriented accountability program. The plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House by February 1, 2015. The bill contains the scope of issues to be addressed in the plan.

The bill allows DCF to request to transfer up to \$3 million in general revenue funds for implementation of the provisions of this legislation, as well as to provide services to youth expected to be determined as sexually exploited.

The bill has a fiscal impact to DCF due to the bill's requirements regarding safe home and safe foster home certification and inspection, the creation and evaluation of a pilot program, the development of screening and assessment tools,

and administrative modifications related to training and interdepartmental coordination efforts.

The bill also makes appropriations to DCF to implement the provisions of CS/SB 1666.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***HB 7163***
Ratification of Rules/Department of Juvenile Justice

The bill ratifies several administrative rules the Department of Juvenile Justice (DJJ) has recently adopted, resulting in them becoming effective. On February 24, 2014, the DJJ adopted Chapters 63M-2 and 63N-1, implementing a legislative mandate to adopt rules ensuring the effective provision of ordinary medical care, mental health services, substance abuse treatment services, and services to youth with developmental disabilities. The rules reflect existing policies, practices, and procedures of the DJJ.

If approved by the Governor, these provisions take effect upon becoming law.

Public Records & Public Meetings

▪ ***CS/HB 115***
Public Meetings/University Direct-Support Organization

The bill exempts from public meetings requirements a portion of a meeting of a university DSO board of directors, or the board's executive committee or other committees of the board, at which research funding proposals or plans or programs for research are discussed.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-27, Laws of Florida and becomes effective October 1, 2014.

▪ ***CS/HB 177***
Public Records/Prepaid Wireless E911 Fee

The bill expands the public record exemption for proprietary confidential business information submitted to the Board or Technology Program to

include such information when it is submitted to the Department of Revenue (DOR) as an agent of the E911 Board. DOR may provide the confidential and exempt information to the Secretary of the Department of Management Services (DMS) or to the E911 Board (Board) for use in the conduct of official business by DMS or the Board.

These provisions take effect on the same date that HB 175 or similar legislation takes effect.

▪ ***CS/CS/SB 226***
Public Records/Automated License Plate Recognition

The bill creates a public records exemption for all images obtained from an automatic license plate recognition system (ALPRS), as well as any personal identifying information in any data generated from images obtained from such a system. This information will be confidential and exempt from public disclosure. The bill provides an agency may release this information to a criminal justice agency in the performance of its official duties. This bill also provides a person to whom a license plate is registered may also have access to his or her own information, as long as the information is not subject to an active public criminal investigation. This bill also provides for retroactive application.

The bill contains a public necessity statement as required by the Florida Constitution which provides the release of personal identifying information collected by ALPRS, could enable third parties to track a person's movements, and the disclosure of such information would be an invasion of personal privacy. Moreover, such sensitive and personal information could be defamatory, or jeopardize an individual's safety and therefore, the harm from public disclosure outweighs any public benefit.

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2019, unless reviewed and reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 238
Public Records/Names of Spouses
and Children of Public Defenders
and Criminal Conflict and Civil
Regional Counsel***

The bill expands an existing public records exemption for certain personal identification and location information of current and former public defenders, of current and former criminal conflict and civil regional counsel, and of the spouses and children of such defenders and counsel. This bill provides that the exemption also protects the names of such spouses and children.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/SB 256
Public Records/Forensic Behavioral
Health Evaluation***

This bill creates s. 916.1065, F.S., to make forensic behavioral health evaluations filed with the court pursuant to ch. 916, F.S., confidential and exempt from public records disclosure requirements. The term “forensic behavioral health evaluation” is defined in the bill as meaning any record, including supporting documentation, derived from a competency, substance abuse, psychosexual, psychological, psychiatric, psychosocial, cognitive impairment, sanity, or other mental health evaluation of an individual.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 280
Public Records/Participants in
Treatment-based Drug Court
Programs***

The bill creates a public records exemption for information relating to a participant or a person considered for participation in a treatment-based drug court program which is contained in the following records: Screenings for participation in the program; substance abuse screenings; behavioral health evaluations; and subsequent treatment status reports;

This bill provides that records may be released by consent of the participant or to governmental entities.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/SB 366
Public Records/Trade Secrets/
Computers***

The bill expands an existing public records exemption for data, programs, or supporting documentation that contain trade secrets as defined in s. 812.081, F.S., reside or exist internal or external to a computer, computer system, or computer network, or electronic device, and are held by an agency. It is the public records companion to CS/CS/SB 364, which provides criminal penalties for computer related crimes.

These provisions take effect on the same date that SB 364 or similar legislation takes effect.

▪ ***CS/SB 390
Public Records/Identifying
Information of Personnel of
Department of Health***

The bill creates a public records exemption for identification and location information of certain current and former personnel of the Department of Health (DOH), their spouses, and their children. The exemption applies to records of those personnel whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints against health care practitioners, or the inspection of health care practitioners or health care facilities. The information that is exempt includes: The home addresses, telephone numbers, dates of birth, and photographs of the DOH personnel; the names, home addresses, telephone numbers, dates of birth, and places of employment of their spouses and children; and the names and locations of schools and day care facilities attended by the children of the DOH personnel.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/CS/HB 415
Public Records/Investigations and
Examinations by Office of Financial
Regulation***

The bill creates a public records exemption for certain information held by the Office of Financial Regulation (OFR) relating to investigations and examinations of consumer collection agencies. The linked bill, CS/CS/HB 413, increases the OFR's registration, examination, and investigation authority over consumer collection agencies but OFR has no authority to withhold from public disclosure any information relating to consumer complaints, investigations, examinations, and registrations. CS/CS/HB 413 also authorizes OFR to conduct joint or concurrent examinations with other state or federal regulatory agencies and to share examination materials.

This bill provides that information relative to an investigation or examination by OFR is confidential and exempt from public records requirements while the investigation or examination is active. For purposes of the public record exemption, "active" means OFR or a law enforcement or administrative agency is proceeding with reasonable dispatch and has a reasonable good faith belief that the case may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional grant of a registration. Once the investigation or examination is no longer active, information made confidential and exempt by this bill is no longer confidential and exempt unless disclosure would jeopardize another active investigation or examination, reveal the personal identifying information of a consumer, reveal the identity of a confidential source, reveal investigative techniques or procedures, or reveal trade secrets.

The bill also allows OFR to share confidential and exempt information with law enforcement and administrative agencies.

If approved by the Governor, these provisions take effect on the same day CS/CS/HB 413 or similar legislation becomes law.

▪ ***SB 506
Florida Insurance Guaranty
Association Exemption Continues***

The bill is the result of an Open Government Sunset Review (OGSR) by the Banking and Insurance Committee of a public records exemption for certain information held by the Florida Insurance Guaranty Association (FIGA). The FIGA provides a mechanism for the payment of claims of insolvent property and casualty insurance companies in Florida.

Current law provides that the following records are confidential and exempt, with prescribed limitations:

- Claim files;
- Medical records that are part of a claims file and other medical information relating to the claimant; and
- Information relating to matters covered by privileged attorney-client communications.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***SB 520
Public Records/Dental Workforce
Surveys***

The bill creates a public records exemption for personal identifying information provided by dentists or dental hygienists to the Department of Health (DOH) in their responses to dental workforce surveys. The DOH administers the surveys as part of license renewal, and participation is voluntary. Data collected through the surveys are used by the DOH and other stakeholders to plan for an adequate workforce and to support programs and policies which aim to improve oral health in Florida.

The bill makes the information confidential and exempt, but requires disclosure of the data with written consent of the licensee or his or her authorized representative or by court order, and allows disclosure to a research entity pursuant to an approved research protocol and purchase and use agreement. The DOH may deny the request of a research entity if it is intrusive to the licensees or administratively burdensome, or lacks scientific merit or a plan for disposing of records.

If approved by the Governor, these provisions take effect upon becoming law.

▪ **CS/CS/HB 523**
***Licensure to Carry a Concealed
Weapon or Firearm***

The bill authorizes the Department of Agriculture and Consumer Services (DACS) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications.

Under the provisions in the bill, applicant information will be electronically input and transmitted for processing to the DACS Division of Licensing (the division) in Tallahassee. Licenses will be issued by the division by mail.

The bill requires county tax collectors seeking appointment to submit a written request to the division. Upon approval of the request, the bill authorizes the division to enter into a Memorandum of Understanding (MOU) with the tax collector on behalf of the department.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S., by a related bill, CS/HB 525.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/HB 525**
***Public Records/Personal Identifying
Information/Licensure to Carry
Concealed Weapon or Firearm***

The bill amends s. 790.0601, F.S., to expand the current confidential and exempt status of the personal identifying information collected from a person applying for a license to carry a concealed weapon or firearm, or the renewal of a license, and held by DACS to the county tax collectors who will be collecting and holding the same information pursuant to the authorization in CS/CS/HB 523.

The exemption expanded by this bill applies to personal identifying information held by a county tax collector appointed by DACS to receive that information from a person who is applying through the county tax collector to DACS for a concealed weapon or firearm license or renewal. It applies to such information held by the tax collector before, on, or after the effective date of the bill.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/SB 646**
***Postsecondary Education Records
and Applicant Records***

The bill continues the current public records exemption for a student's education records and an applicant's records at a public postsecondary educational institution by removing the repeal date. The bill does not create a new exemption or substantially amend an existing exemption.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-11, Laws of Florida and becomes effective October 1, 2014.

▪ **CS/SB 648**
K-12 Education Records

The bill continues the current public records exemption for education records of students in kindergarten through grade twelve held by an educational agency or institution. Section 1002.221, Florida Statutes, makes education records of students in kindergarten through grade twelve (K-12) confidential and exempt from public records disclosure requirements.

Agencies and institutions that are part of Florida's education system may not release a student's education records, or personally identifiable information therein, without written consent from the student or student's parent except in accordance with federal law. Release of a student's records without consent is permitted within parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement, and other signatory agencies to determine the appropriate programs and services for a juvenile or the juvenile's family.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-12, Laws of Florida and becomes effective October 1, 2014.

▪ **CS/SB 650**
***Inventories of an Estate or Elective
Estate***

The bill removes the scheduled repeal of the public records exemptions for the inventory of an estate or elective estate or an accounting of an estate filed in

a probate proceeding. As a result, the documents will remain confidential and exempt from disclosure requirements under the public records laws when filed with the clerk of court. The continued existence of the public records exemptions reenacted by the bill may help protect heirs or beneficiaries of a decedent's estate from being targeted for fraud or theft.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 656***
Active Investigations of Allegations of Testing Impropriety

The bill continues the current public records exemption for the identity of a school or public postsecondary educational institution, personally identifiable information of personnel, and specific allegations related to alleged testing impropriety from public records requirements until the conclusion or inactivity of an investigation. The bill does not create a new exemption or substantially amend an existing exemption.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-13, Laws of Florida and becomes effective October 1, 2014.

▪ ***CS/CS/HB 711***
Public Meetings and Public Records/Alzheimer's Disease Research Grant Advisory Board

The bill creates a public records exemption for applications submitted to the Alzheimer's Disease Research Grant Advisory Board and records, except the final recommendations, generated by the board during its review. The information is confidential and exempt, but may be released, however, with the express written consent of the person to whom the information pertains or the person's legally authorized representative, or by court order upon showing of good cause.

The bill further provides that those portions of the board's meeting at which the grant applications are discussed are exempt from the public meetings law. However, the meeting must be recorded and the recording may be released under the same circumstances as the records.

If approved by the Governor, these provisions take effect on the same date that SB 872 takes effect.

▪ ***CS/CS/CS/HB 775***
Public Records

This bill provides a public-records exemption for a promoter's proprietary confidential business information in the written report after a match or obtained by the Florida State Boxing Commission (commission) in an audit of the promoter's books and records. The bill defines "proprietary confidential business information" as information controlled by the promoter, which a promoter intends to be private and that the disclosure of the information would cause harm to the promoter or its business operations. If a promoter discloses information pursuant to a statutory provision or an order of a court or administrative body, the disclosed information is still considered proprietary confidential business information. In addition, information is proprietary confidential business information if a private agreement provides that such information will not be released to the public. Proprietary confidential business information includes the number of ticket sales for a match, the amount of gross receipts after a match, trade secrets as defined by s. 688.002, F.S., business plans, internal auditing controls and reports of internal auditors, and external auditors' reports.

The bill provides that information made confidential and exempt by this subsection may be disclosed to another governmental entity in the performance of its duties and responsibilities.

The bill is linked to CS/CS/HB 773, relating to pugilistic exhibitions. If approved by the Governor, these provisions take effect on the same date that HB 773 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

▪ ***CS/SB 858***
Public Records and Meetings/Florida Defense Support Task Force

The bill reenacts this public record and meeting exemption, which was scheduled to expire on October 2, 2014, unless reenacted. The exemption is specific to Task Force records or discussions pertaining to Florida's position and strategy relative to the Department of Defense base realignment and closure process.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ **CS/CS/CS/HB 865**
Public Records/Motor Vehicle Crash Reports

Current law provides crash reports containing the identity and contact information of parties involved in a crash are confidential and exempt from public inspection and copying for 60 days. Certain free newspapers are an exception to this law, and they may have access to confidential and exempt information contained in crash reports before 60 days have elapsed.

The bill restricts the types of free newspapers which may have access to vehicle crash reports. In addition, the bill provides that if a newspaper requests 10 or more crash reports within a 24-hour period, the newspaper may not have access to the contact information of the parties involved in a crash.

The bill provides that a free newspaper may have access to crash reports if they:

- Have a distribution of least 7,500 copies by mail or carrier;
- Are intended to be generally distributed and circulated;
- Contain news of general interest; and
- Consist of a minimum of 10 pages per publication.

A free newspaper which requests 10 or more crash reports within 24 hours may not have access to the home, cellular, employment, or other telephone numbers or the home or employment address of any other the parties involved in the crash.

If approved by the Governor, these provisions take effect on the same date that CS/HB 863 is adopted and becomes law, which is July 1, 2014.

▪ **CS/HB 993**
Public Records/Animal Researchers at Public Research Facilities

The bill provides an exemption from public record requirements for personal identifying information of a person employed by, under contract with, or volunteering for a public research facility that

conducts animal research or is engaged in activities related to animal research.

The bill makes such personal identifying information exempt from public record requirements when it is contained in the following records:

- Animal records, including animal care and treatment records;
- Research protocols and approvals;
- Purchasing, funding, and billing records related to animal research or activities;
- Animal care and use committee records; and
- Facility and laboratory records related to animal research or activities.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-37, Laws of Florida and becomes effective July 1, 2014.

▪ **SB 996**
Scripps Florida Funding Corporation

In 2003, the Legislature appropriated \$310 million for the California-based Scripps Research Institute (SRI) to open a Florida research facility (Scripps Florida), the Legislature also created the Scripps Florida Funding Corporation (the Funding Corporation) to release the funds to Scripps Florida according to a 20-year agreement. Additionally, the Legislature created public records and public meeting exemptions for certain records and information provided by SRI or Scripps Florida to the Funding Corporation. These exemptions are codified in s. 288.9551, F.S., which is set to expire on October 2, 2014.

The bill repeals the public records and public meetings exemptions in s. 288.9551, F.S., because the Funding Corporation has indicated that it operates in the sunshine and does not receive such confidential and exempt information.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ **SB 1108**
Children of Agency Officers and Employees/Identifying Information

The bill removes the scheduled repeal of the public records exemption for the personal identifying information of an agency employee's dependent

child covered by an agency insurance plan. As a result, this information will remain exempt from the disclosure requirements under the public records laws.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/SB 1140***
Public Records/Division of Emergency Management/ Emergency Planning

The bill creates a public records exemption for any information provided to the Division of Emergency Management (DEM) by an individual or a business for the purpose of receiving assistance with emergency planning. The exemption applies retroactively to information held by the DEM before, on, or after the effective date of the bill.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 1262***
Public Records and Meetings/ Insurance Flood Loss Model

The bill makes confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State. Constitution trade secrets used in designing and constructing flood loss models that are provided to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the consumer advocate under s. 627.0628, F.S. The bill also makes exempt any portion of a meeting by the methodology commission or a rate filing by an insurer in which trade secrets pertaining to flood loss models are discussed.

If approved by the Governor, these provisions take effect upon becoming law if SB 542 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

▪ ***CS/CS/SB 1278***
Public Records/Office of Financial Regulation/Trade Secrets

The bill creates a public records exemption for informal enforcement actions of the Office of Financial Regulation (OFR) and trade secrets held by the OFR in accordance with its statutory duties

with respect to the Financial Institutions Codes. In addition, the bill defines:

- Examination report,
- Informal enforcement action,
- Working papers, and
- Personal financial information.

The OFR regulates and charters banks, trust companies, credit unions, and other financial institutions pursuant to the Financial Institutions Codes (codes), chapters 655 to 667, Florida Statutes. The OFR ensures Florida-chartered financial institutions' compliance with state and federal requirements for safety and soundness. Currently, s. 655.057, F.S., exempts certain records held by the OFR relating to the supervision and regulation of financial institutions chartered in Florida.

If approved by the Governor, these provisions take effect on the same date that CS/CS/SB 1012 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

▪ ***CS/CS/SB 1300***
Public Records/Office of Insurance Regulation/Insurance Insolvency

The bill, which is linked to CS/CS/SB 1308, a bill relating to insurer solvency, creates a public records exemption to incorporate the confidentiality elements for the Office of Insurance Regulation (OIR) to meet the National Association of Insurance Commissioners' accreditation standards. The bill provides that proprietary business information held by the OIR in accordance with its statutory duties relating to insurer solvency is confidential and exempt from public record requirements. Proprietary business information includes information contained in specified reports, such as an actuarial opinion summary, enterprise risk reports, and principle-based valuation reports. The bill specifies circumstances under which such confidential and exempt information may be disclosed.

If approved by the Governor, these provisions take effect October 1, 2014, if CS/CS/SB 1308 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

▪ **CS/CS/SB 1320**
Public Records/Office of Financial Regulation/Family Trust Companies

The bill creates a public records exemption for certain information held by the Office of Financial Regulation (OFR) relating to family trust companies, licensed family trust companies, and foreign licensed family trust companies. Linked bill CS/CS/SB 1238 authorizes families to form and operate any of these three family trust companies, subject to regulatory requirements. A family trust company is an entity which provides trust services similar to those that can be provided by an individual or financial institution. This includes serving as a trustee of trusts held for the benefit of the family members as well as providing other fiduciary, investment advisory, wealth management, and administrative services to the family. A family trust company must be owned exclusively by family members and may not provide fiduciary services to the public.

This bill provides that the following records relating to family trust companies, licensed family trust companies, and foreign licensed family trust companies held by the OFR are confidential and exempt from public disclosure:

- Personal identifying information appearing in records relating to a registration, an application, or an annual certification.
- Personal identifying information appearing in records relating to an examination.
- Personal identifying information appearing in reports of examinations, operations, or conditions.
- Any portion of a list of names of the shareholders or members.
- Information received from a person from another state or nation or the federal government which is otherwise confidential.
- An emergency cease and desist order until it is made permanent or unless the public is at substantial risk of financial loss.

The bill creates a third degree felony for willfully disclosing information made confidential and exempt by this bill.

If approved by the Governor, these provisions take effect the day that CS/CS/SB 1238 takes effect.

▪ **CS/CS/SB 1526**
Public Records/Department of Legal Affairs/Security Breaches

The bill provides the public records exemptions for CS/CS/SB 1524, which establishes the Florida Information Protection Act of 2014. The Act requires commercial entities and certain government agencies to provide notice to the Department of Legal Affairs and affected individuals when a security breach occurs and personal information held in electronic form is illegally accessed.

The bill provides that certain information reported to the Department of Legal Affairs relating to security breaches or received pursuant to investigations is confidential and exempt from public inspection pursuant to statute and the State Constitution

If approved by the Governor, these provisions take effect on the same date that CS/CS/SB 1524 takes effect, if such legislation is adopted in this legislative session and becomes a law.

▪ **SB 1678**
Public Records/Agency Personnel Information

The bill continues the existing public records exemption for former and current agency employees' social security numbers. This bill amends the current public records exemption to allow an agency to disclose an employee's social security number under the following circumstances: as required by law or a court order; if another agency needs an employee's social security number in order to perform its duties; or if an employee consents to the release of his or her social security number.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ **SB 1700**
Public Records/Personal Identifying Information/Compassionate Use Registry

The bill creates a new public records exemption for patient and physician personal identifying information held by the Department of Health (DOH) in the compassionate use registry (created by the passage of CS/CS/SB 1030). The bill makes such information confidential and exempt from

the public records requirements of s. 119.07(1), F.S., and Art. I, s. 24(a), State Constitution. The bill allows law enforcement agencies, low-THC marijuana dispensing organizations, physicians, the DOH's relevant health care regulatory boards, and persons engaged in bona fide research to access the information in the registry under certain circumstances. The bill also requires that such confidential information remain confidential once released from the registry, provides penalties for violating the provisions of the exemption, and states the public necessity of creating the public records exemption.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/HB 7007***
Public Records/Payment of Toll and Associated Charges

The bill expands the existing public records exemption for personal identifying information held by the Department of Transportation, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges.

Specifically, this bill expands the exemption to include personal identifying information held by a municipality. It also removes references to specific payment types and instead provides the exemption applies to personal identifying information of individuals held for the purpose of paying, prepaying, or collecting tolls and associated charges. This includes personal identifying information of Toll-By-Plate customers, who are invoiced and make payment after a toll is incurred. Finally, this bill protects personal identifying information that has been or is currently held by the Department of Transportation, a county, an expressway or a municipality.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***HB 7177***
Public Records/Prescription Drug Monitoring Program

The bill reenacts the public records exemption for personal identifying information held by the Department of Health (DOH) in the Prescription Drug Monitoring Program database (PDMP). If not

reenacted by the Legislature the public records exemption would have been automatically repealed on October 2, 2014.

The bill also makes several substantive changes to the public records exemption. The bill requires a law enforcement agency to enter into a user agreement with the DOH before the DOH may release PDMP information to that agency. Information released to the Attorney General's Medicaid fraud investigators, the DOH's health care regulatory boards, and law enforcement agencies may only be shared with criminal justice agencies if the information is relevant to the investigation that prompted the request. Before sharing such information, the person or entity disclosing the information must take steps to ensure the continued confidentiality of all confidential and exempt information including, but not limited to, redacting any nonrelevant information.

The bill prohibits a state attorney from releasing confidential and exempt information shared by the Attorney General's Medicaid fraud investigators or law enforcement agencies in response to a discovery demand unless the information is directly related to the criminal case for which the information was requested. Unrelated information may be released upon a court order. If approved by the Governor, these provisions take effect October 1, 2014.

Transportation

▪ ***CS/CS/CS/SB 218***
Transportation, Utilities, and Outdoor Advertising

Authority of FDOT

- Authorizes, but does not require the Florida Department of Transportation (FDOT or department) to provide for the monetization of the revenue stream from leases for wireless communication facilities on property owned, or controlled by the FDOT, and to seek investors to purchase the monetized streams.
- Authorizes the department to use appropriated funds to support the development of a statewide system of interconnected multiuse trails. Operation and maintenance of such trails is not an obligation of the FDOT.

- Authorizes, but does not require FDOT to improve and maintain a city or county road that is part of the city or county road system, and which provides access to a state park.

Utility Relocation

- Provides an exception for certain publicly-owned utilities in rural areas of critical economic concern (RACEC), from the requirement to pay the cost to remove or relocate utility lines on the State Highway System in certain circumstances, and allows municipalities within a RACEC or a RACEC community, to compete for project funding using the Small County Outreach Program criteria. [Note that HB 7023 changes RACEC name to Rural Areas of Opportunity]
- Revises the responsibility of utility providers to remove water, sewage, gas, power, telephone, other utility, and television lines at no cost to a county, if the county widens, repairs, or reconstructs a road.
- Requires the county to find such lines to be “unreasonably interfering” in order to invoke the no-cost removal. The county, or other authority, may be responsible for utility relocation costs, even if the utility provider certifies the utility does not have evidence of a compensable property right where the utility is located. Also, with the exception of SunRail, utility relocation costs for commuter or high-speed rail projects drawing down federal funds, shall be paid using federal funds in the proportion to which they were drawn.

Outdoor Advertising

- Repeals unnecessary rulemaking authority relating to lighting restrictions for certain outdoor advertising signs.
- Exempts certain signs placed by tourist-oriented businesses, farm signs placed during harvest seasons, “acknowledgement signs” on public school premises, and displays on specific sports facilities from permitting requirements.
- Provides certain exemptions from sign permitting may not be implemented if such exemptions will adversely impact the allocation of federal funds to the FDOT.
- Directs the FDOT to notify a sign owner that a sign must be removed if federal funds are adversely impacted, and authorizes the FDOT

to remove the sign and assess costs to the sign owner if the sign is not removed.

- Expands the tourist-oriented directional sign program to all rural and conventional roads and clarifies provisions relating to the program.
- Also see SB 218 and HB 7175, which relate to outdoor advertising.

Other Transportation Issues

- Authorizes the Tampa-Hillsborough Expressway Authority to provide managed lanes and other transit support facilities and to expand its service area into adjacent counties with the consent of those counties.
- Provides a process for disposing of personal property found on a public transportation system.
- Authorizes the display of an amber light on a commercial vehicle or trailer designed for transporting unprocessed logs or pulpwood.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ CS/HB 225 Child Safety Devices in Motor Vehicles

The bill revises current law to allow the use of a child booster seat as an approved child restraint device for use when transporting children from four through five years of age in a motor vehicle, and removes a provision allowing a seat belt to be used in lieu of a specialized device. An exception is made to allow the use of a seat belt for children between four and five years of age when the motor vehicle operator is not a member of the child’s immediate family and the child is being transported gratuitously, in the case of an emergency, or when a medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

If approved by the Governor, these provisions take effect January 1, 2015.

▪ CS/CS/SB 230 Orlando-Orange County Expressway Authority

The bill re-names the Orlando-Orange County Expressway Authority (OOCEA) as the Central Florida Expressway Authority (CFX) and expands the area served by the CFX to include the counties

of Seminole, Lake, and Osceola Counties in addition to Orange County. The bill provides for the immediate transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the OOCEA System to the CFX and, in addition:

- Provides Legislative intent that the CFX be the successor party to the OOCEA under certain land acquisition contracts.
- Provides for the composition of the nine-member governing body of the CFX.
- Provides for the appointment of the CFX officers and the expiration of terms of the standing OOCEA board members, and revises quorum and voting requirements applicable to the CFX.
- Provides ethics and financial disclosure requirements for members and the executive director of the CFX, as well as ethics requirements for the CFX employees and consultants.
- Extends the term of authorized lease-purchase agreements from 40 to 99 years and prohibits the CFX from entering into other lease-purchase agreements with the Florida Department of Transportation (FDOT) or amending an existing agreement in a manner that expands the FDOT's obligations unless the FDOT determines it necessary to permit the refunding of bonds issued before July 1, 2013.
- Prohibits use of toll revenues attributable to an increase in toll rates after the effective date of the act for use of a portion of the system to construct or expand a different portion of the system unless a two-thirds majority of the members approve such use.
- Removes the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Requires that the CFX encourage the inclusion of local, small, minority, and women-owned businesses in its procurement and contracting opportunities.
- Removes the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.

- Provides that upon termination of the lease-purchase agreement title in fee simple absolute to the former OOCEA system will be transferred to the state.
- Provides for the transfer of the Osceola County Expressway System to the CFX and provides for the repeal of part V of ch. 348, F.S., on the same date the Osceola County Expressway System is transferred to the CFX.

Osceola County Expressway Authority (OCX)

- Upon the act becoming law, limits the OCX's exercise of its powers to studying, planning, designing, financing, constructing, operating, and maintaining projects identified in the May 8, 2012, Master Plan, and an additional extension of the Osceola Parkway Extension two miles to the east of its intersection with the Northeast Connector Expressway.
- Transfers governance and control of the OCX system to the CFX on 12/31/2018.
- Upon the transfer, provides the OCX system facilities are each "non-system projects" of the CFX, meaning revenues of the CFX system may not be pledged to such projects.
- Provides for extension of the transfer until the date on which the current and forecasted total debt service coverage ratio is equal to or greater than 1.5 for each year during which obligations are scheduled to be outstanding.
- Provides that if the transfer is extended, after 12/31/2018, the OCX may only exercise its powers through a contract with another governmental entity and only for the purpose of operating and maintaining those projects that were completed before that date, and completing construction of those projects for which financing was obtained and construction began before 12/31/2018.
- Provides that after the transfer of the OCX system to the CFX, the CFX shall include the uncompleted elements of the OCX Master Plan, and the additional extension of the Osceola Parkway Extension in the equivalent CFX master or long-range plan, each as a non-system project (so that only revenues from the non-system project may be pledged, and not the revenues of the CFX system).

- Requires the FDOT to include elements of the OCX Master Plan and the additional extension of the Osceola Parkway Extension in its work program as tolled facilities.
- Expands the CFX's obligation to reimburse governmental entities to include reimbursement of Polk County, in addition to Osceola County.
- Authorizes, but does not require, the CFX to make any payment from other revenues of the CFX available after payment of the specified (and unchanged) obligations.
- Provides that revenues generated by the OCX system Master Plan facilities after payment of all O&M and administrative expenses, payment of debt service, and payment of all amounts required by any trust agreement or indenture may be used.
- Provides that if the CFX votes to financially support any element of the OCX Master Plan or the addition extension of the Parkway Extension, the CFX is authorized to enter into new or amended lease-purchase agreements with Osceola County for the leasing, construction, operation, and maintenance of any facility described in the OCX Master Plan and the additional Parkway Extension.
- Directs the FDOT to cooperate with the OCX, the CFX, and Osceola County to identify solutions to potential barriers to implementation of the projects in the Master Plan and the additional extension of the Parkway Extension, including funding sources and revenues that may be available.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/CS/HB 343***
Rental Car Surcharge

The bill provides that a member of a car-sharing service who uses a motor vehicle for less than 24 hours must pay a surcharge of \$1.00 per usage. A member of a car-sharing service who uses the same motor vehicle for at least 24 consecutive hours must pay a surcharge of \$2.00 per day or any part of a day.

The bill provides that the new hourly surcharge on a car-sharing service does not apply to the lease, rental, or use of a motor vehicle from a location

owned, operated, leased by or for the benefit of an airport or airport authority.

If approved by the Governor, these provisions take effect January 1, 2015.

▪ ***SB 392***
State Speed Zones

The bill revises statutes that control minimum and maximum speed limits on certain roadways in the state. The bill authorizes, but does not require, the Florida Department of Transportation (FDOT) to increase the speed limit on certain highways. The FDOT is authorized to increase speed limits on the identified roadways, subject to new maximum limits, and to set minimum speed limits on those roadways.

More specifically, the bill eliminates statutorily specified minimum speed limits on all highways that are a part of the National System of Interstate and Defense Highways with at least four lanes and authorizes the FDOT to determine the safe and advisable minimum speed limit on all such highways. Discretion to set minimum speed limits on all highways that are a part of the National System of Interstate and Defense Highways with at least four lanes is granted to the FDOT.

The bill authorizes a five-mile-per-hour increase in existing statutory maximum speed limits on state highways in Florida as follows:

- 75 mph on limited access highways;
- 70 mph on any other highways outside an urban area of 5,000 or more persons with at least four lanes divided by a median strip; and
- 65 mph on other roadways under the FDOT jurisdiction.

Vetoed by the Governor on June 2, 2014.

▪ ***CS/CS/SB 754***
Motor Vehicle Certificates of Title

The bill revises the process for applying for a salvage certificate of title or a certificate of destruction (COD) on a total loss motor vehicle. The bill defines a "late model vehicle" to mean an automobile 7 years or newer. The bill raises the 80 percent repair-to-value COD threshold to 90 percent, and limits its application to late model

vehicles with a value of at least \$7,500 just prior to sustaining the damage resulting in total loss.

The bill further creates a new valuation standard requiring all other vehicles to be issued a COD if the vehicle after the total loss:

- Is damaged, wrecked or burned to the extent that the only residual value of the vehicle is a source of parts or scrap metal; or
- Comes into this state under a title or other ownership that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

Lastly, the bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding certificates of title for rebuilt vehicles. The summary report shall include the DHSMV recommendations to the Legislature to address any needed improvements to, and correct any problems with, the process used to issue certificates of title for rebuilt motor vehicles. Additionally, the report by the DHSMV must offer recommendations as to the need, and appropriate process, for inspecting the roadworthiness of rebuilt motor vehicles based on relevant data and data on crashes caused by vehicle defects involving rebuilt motor vehicles. Such report is to be presented on or before October 31, 2015.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 863***
Motor Vehicle Crash Reports

The bill revises motor vehicle crash report access requirements. Currently, crash reports are confidential and exempt from public record disclosure requirements for a period of 60 days after the date they are filed. However, they are available to various entities, including but not limited to, the parties involved in the crash, and their legal and insurance representatives, prosecutors, law enforcement, the Department of Transportation, and legitimate news media such as radio and television stations licensed by the Federal Communications Commission, qualified newspapers, and free newspapers of general circulation.

A person attempting to access a crash report within the 60 day period is required to:

- Present a valid driver license or other photographic identification, proof of status, or identification that demonstrates his or her qualifications to access; and
- File a written sworn statement with the state or local agency in possession of the information stating that information from a crash report made confidential and exempt by this section will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party during the time that information remains confidential and exempt.

The bill revises the crash report access requirement relating to filing written sworn statements within the 60-day confidential and exempt period. The bill requires a written sworn statement for each individual crash report requested.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 2514***
Bicycle and Pedestrian Ways / Cross Florida Bike/Pedestrian Trail

The bill authorizes the use of statewide transportation revenues by the Florida Department of Transportation for the cost of planning, land acquisition, design and construction of multi-use trails.

The department is required to give funding priority to projects identified by the Florida Greenways and Trails Council as a priority within the Florida Greenways and Trails System under ch. 260, F.S., which support the transportation needs of bicyclists and pedestrians; have national, statewide, or regional importance; and facilitate an interconnected system by completing gaps between existing trails.

Priority projects recommended for funding must be included in the department's tentative work program developed pursuant to s. 339.135, F.S.; and, after the construction is complete, there is no further obligation of the department to provide funds for the operation and maintenance of the trail.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-50, Laws of Florida and becomes effective July 1, 2014.

▪ **HB 7175**
Department of Transportation
Omnibus Bill

The bill makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT).

Accountability and Efficiency

- Extends the Florida Transportation Commission's (FTC) oversight of expressway and bridge authorities to the Mid-Bay Bridge Authority, which is not currently monitored by any entity.
- Repeals the Florida Statewide Passenger Rail Commission, leaving oversight of all publicly-funded passenger rail systems to the FTC, thereby eliminating duplicate monitoring.
- Prohibits the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2014. Lease-purchase agreements existing as of July 1, 2013, will remain in effect. The bill will not limit FDOT's authority to enter into public-private partnership agreements with private entities to build, operate, own and finance a transportation facility.
- Authorizes the FDOT to enter into a concession agreement with a not-for-profit or private entity for commercial sponsorship displays on multiuse trails and related facilities and to use the agreement revenues for the maintenance of the trails and facilities, subject to the Highway Beautification Act and all federal laws and agreements, when applicable, to avoid any potential federal funds penalty.
- Removes a provision requiring a contractor of the FDOT to submit an affidavit relating to registration of the contractor's vehicles in favor of simply requiring the contractor's vehicles be registered in accordance with ch. 320, F.S.
- Provides an exception to the general rule that a contractor qualified by the FDOT may not also qualify to perform testing services, or construction, engineering, and inspection services to the FDOT. The exception allows a contractor to perform such services if the FDOT determines by written order that the limitation is not in the best interests of the public. However, a contractor may not perform such services on

a construction contract under which that contractor is performing any work.

- Streamlines the FDOT's authority to dispose of surplus property in an attempt to return property not needed for transportation purposes to local tax rolls.
- Provides additional guidance to the FDOT when considering a lease of property for joint public-private development by generally aligning the process with the more detailed statutory provisions relating to proposals for public-private partnerships.
- Establishes a date no later than June of 2018 by which time the FDOT will no longer use toll revenues of the Alligator Alley to pay the costs of operation of a local fire station.
- Improves the process for mitigation of environmental impacts of transportation projects, allowing the FDOT to program funds based on the estimated actual cost of necessary mitigation (rather than an arbitrary dollar amount per mitigation credit), while also resulting in a savings to the state.
- Makes a number of revisions to the control of outdoor advertising (also see SB 218 and HB 1161). The bill provides Water Management District (WMD) public information systems are subject to the provisions of certain federal laws and agreements and effectively rewrites ch. 479, F.S., to relocate, revise, and repeal various definitions, and to revise various duties of the FDOT to modernize and streamline the administration and enforcement of state and federal outdoor advertising provisions. The substantive revisions:
 - Provide criteria to be used in the permitting of signs in commercial or industrial zones, as determined by the local government, and require the FDOT to notify a sign applicant in writing if the FDOT disagrees with a local government determination that a proposed sign location is on a parcel that is in a commercial or industrial zone;
 - Require removal of a sign within 30 days if the FDOT determines the parcel does not meet sign permit requirements, and provide for a reduction in transportation funding to a local government if a local government fails to comply;

- Revise provisions relating to signs visible from more than one highway, make permanent a pilot program under which the distance between certain permitted signs may be reduced to 1,000 feet, revise provisions relating to vegetation management, and revise provisions relating to relocation or reconstruction of signs situated upon right-of-way acquired by the FDOT;
- Provide for additional signs that can be erected without a permit, revises provisions relating to increasing the height of a sign at its location if a noise-attenuation barrier is erected, and expand the logo sign program to the right-of-way of the limited-access system; and
- Repeal a pilot program authorized in 2012 for signs related to tourist-oriented commerce, which is replaced by authority to erect such signs without a permit.
- Extend a pilot program for the Palm Beach County School District to recognize its business partners by displaying the partner names on school district property in the unincorporated areas of the county.
- Authorize the FDOT to pay maintenance costs of the Pinellas Bayway from Bayway toll revenues, thereby avoiding increased accumulation of long-term debt owed to the State Transportation Trust Fund.

Economic Development

- Authorizes the FDOT to fund up to 100% of certain airport investment projects that are strategic from a statewide perspective.
- Authorizes, but does not require, the FDOT to improve and maintain a city or county road that is part of the city or county road system and which provides access to a state park.
- Authorizes, but does not require, the FDOT to enter into agreements under which investors purchase the revenue stream from wireless communication leases on property owned or controlled by the FDOT, the revenues of which are to be used to increase capital funding for the statewide transportation system.
- Authorizes Enterprise Florida, Inc., to act as a consultant to the FDOT in approving economic development transportation project contracts; provides authority for the FDOT to terminate a grant award if construction of the transportation

project does not begin within four years after the date of the initial grant award; and expands the type of authorized transportation facility projects to include spaceports.

Compliance with Federal Law

- Increases the allowable weight of idle-reduction technology (auxiliary power units) on commercial motor vehicles from 400 to 550 pounds, in accordance with federal law, thereby reducing a potential fine by \$7.50.
- Authorizes the FDOT to purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation, thereby avoiding a potential penalty which may result in a 10 percent loss of federal highway funds.
- Revises provisions relating to designation and apportionment of metropolitan planning organization (MPO) to conform to federal law and facilitates a more regional approach to transportation planning by increasing the number of voting members allowed on an MPO that is expanded to include a new urbanized area or when two or more MPOs are consolidated.

Statutory Cleanup

- Repeals the never-used Florida Transportation Corporation Act, which authorized the formation of corporations to act on behalf of the FDOT for promotion and development of transportation facilities and systems. Related authority of the Auditor General to audit such corporations is also repealed.
- Repeals obsolete and superseded language relating to towing disabled vehicles.
- Clarifies a document revealing the identify of potential bidders on contracts of the FDOT remains a public record before the period in current law during which such a document is confidential and exempt from the provisions of s. 119.07(1), F.S.
- Repeals two separate references to the previously-repealed Toll Facilities Revolving Trust Fund.

Miscellaneous

- Requires the FTC to conduct a study of the potential for the state to obtain revenue from any parking meters located within or along the right-of-way limits of a state road.
- Requires each municipality and county that receives revenue from any such parking meters to provide the FTC a written inventory of the location of such meters, the total revenue collected from them for the last three fiscal years, and any pledge of revenues to the payment of any debt service.
- Requires the FTC to develop specific recommendations relating to the allocation of revenue generated by such meters installed before July 1, 2014, and thereafter.
- Authorizes the FDOT to remove any such meters if a municipality or county fails to provide the required information; and prohibits installation of any new meters on state right-of-way from July 1, 2014, through July 1, 2015.

If approved by the Governor, these provisions take effect July 1, 2014, except where otherwise provided.

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**Energy, Environment,
Growth Management,
Real Property, & Utilities**

Energy

▪ *CS/HB 7147* *Building Construction Policies*

Southern States Energy Compact

The bill deletes a statutory provision that the Department of Agriculture and Consumer Services (DACS or department) is to represent Florida in the Southern States Energy Compact. It also authorizes the Commissioner of Agriculture to appoint a member of the Southern States Energy Board, increasing the Florida membership to a total of four.

Department of Agriculture and Consumer Services & Department's Office of Energy

The bill modifies the department's duties to promote solar energy by requiring that it promote all forms of renewable energy. The DACS is also to study and make recommendations on energy efficiency in its annual report to the Governor and the Legislature. Finally, in aiding and promoting the commercialization of renewable energy, the DACS is to work with the Florida Energy Systems Consortium, in addition to those entities currently listed.

The statutes which create the solar energy and energy-efficient appliance rebate programs (which were operated by the Office of Energy but are no longer operational) are repealed.

The DACS is authorized to post information on its website relating to alternative fueling stations and electric vehicle charging stations that are available to the public.

A representative of the Office of Energy, to be appointed by the Governor, is added to the membership of the Florida Building Commission.

Building Energy-Efficiency Rating System

The bill changes the criteria for the building energy-efficiency rating system, requiring that the system include:

- The ability to provide reliable and scientifically-based analysis of a building's energy consumption or energy features;

- The ability to compare similar building types in similar climate zones;
- Use of standard calculations, formulas, and scoring methods;
- National applicability;
- Clearly defined and researched baselines or benchmarks;
- Ratings that are performed by qualified professionals;
- A labeling and recognition program with specific criteria or levels;
- Residential program benchmarks that must be consistent with national building standards and home energy rating standards; and
- At least one level of oversight performed by a group of professionals with subject matter expertise in energy efficiency, energy rating, and evaluation methods.

Building Construction

The bill allows proof that compensation has been secured for an employer's employees, which is required as a condition of applying for a building permit, to be shown electronically or physically. It also allows site plans or building permits to be maintained at the worksite in the original form or in the form of an electronic copy.

Agencies and local government are prohibited from requiring that existing mechanical equipment located on or above the surface of a roof comply with the requirements of the Florida Building Code relating to roof-mounted mechanical units except when the equipment is being replaced or is being removed during reroofing. In a single-family dwelling, make-up air is not required for range hood exhaust systems capable of exhausting either 400 cubic feet per minute or less or more than 400 cubic feet per minute but no more than 800 cubic feet per minute if there are no gravity vent appliances within the conditioned living space of the structure.

The bill adds inspection criteria that must be adopted by the Florida Building Commission within the Florida Building Code.

Florida Fire Prevention Code

The bill creates smoke alarm battery requirements. A one-family or two-family dwelling or a townhouse that is undergoing a repair may use smoke alarms with a non-removable, non-replaceable, 10-year battery, instead of hardwiring a smoke alarm into the electrical system. Effective January 15, 2015, a battery-powered smoke alarm that is newly installed or replaces an existing battery-powered smoke alarm must be powered by a nonremovable, nonreplaceable battery that powers the alarm for at least 10 years. These battery requirements do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system.

Tents up to 30 feet by 30 feet are exempted from the Florida Fire Prevention Code.

Pool Construction and Operation in Florida

The bill allows the Department of Health (DOH) to grant variances from the Florida Building Code relating to public swimming pools and bathing places when the owner establishes that compliance would be a hardship. It requires building officials to recognize and enforce these variance orders.

The bill creates additional requirements for an application for an operating permit for a public swimming pool, including a requirement that those desiring to construct, develop, or modify a public swimming pool apply to the DOH for an operating permit before applying for a building permit. Similarly, the bill prohibits a local enforcing agency from issuing a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit. These provisions take effect October 1, 2014.

If approved by the Governor, except as otherwise provided, these provisions take effect July 1, 2014.

Environment

▪ CS/CS/CS/HB 325 Brownfields

The bill clarifies procedures for brownfield designation under the Brownfield Redevelopment Act. It specifies that a local government does not

have to use the term “brownfield area” in the name once one has been designated. The bill provides additional liability protection from damages to property for individuals who successfully complete a brownfield site rehabilitation agreement (BSRA). The liability protection applies to causes of action accruing on or after July 1, 2014. The bill specifies that liability protection does not apply to a person who caused the discharge at a property subject to a BSRA, commits fraud in demonstrating site conditions or in completing site rehabilitation of a property subject to a BSRA, or exacerbates contamination of a property subject to a BSRA in violation of applicable laws.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ CS/CS/SB 536 Reclaimed Water

This bill directs the Florida Department of Environmental Protection (DEP) in coordination with the stakeholders to conduct a comprehensive study and to submit a report on the expansion of the beneficial use of reclaimed water, stormwater, and excess surface water in Florida. The bill specifies the elements the report must include. The bill directs the DEP to hold a minimum of two public meetings to gather input on the study and to accept written comments from the public before the report is submitted. Lastly, the bill requires the report to be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2015.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ HB 7089 Ratification of Rules of the Department of Environmental Protection

The bill ratifies Rules 62-772.300 and 62-772.400, Florida Administrative Code, relating to competitive bidding and contractor qualifications for the Petroleum Restoration Program. The bill specifies that upon becoming law, the enactment and the effective dates of the bill are to be noted in the Florida Administrative Code or the Florida Administrative Register, as appropriate. The bill specifies that it serves no other purpose other than to ratify these rules.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***See Also CS/HB 7091, p. 47***
Department of Agriculture and Consumer Services

As it relates to the environment, this bill:

- Provides private landowners participating in a water storage program with an option to establish a baseline condition determining the extent of wetlands.

▪ ***CS/HB 7093***
Department of Environmental Protection Miscellaneous Bill

The bill revises the legislative intent for the Petroleum Restoration Program in the Department of Environmental Protection (DEP). It requires competitive procurement for cleanup contracts as provided for in ch. 287, F.S., and amends contractor qualifications. It deletes obsolete provisions related to the reimbursement program and repeals sections of statute related to the Petroleum Preapproval Program. The bill also contains numerous conforming and technical changes related to the DEP's transitioning to the new competitive procurement process.

The bill authorizes the DEP to grant area-wide and general permits for coastal construction activities and requires the DEP to adopt rules to establish the criteria and guidelines for these permits. It allows the DEP to receive gifts and donations for the administration, development, improvement, promotion, and maintenance of aquatic preserves, as well as for the future acquisition or development of aquatic preserves. The bill also directs the DEP to promote the public use of aquatic preserves by authorizing privileges or concessions for visitor accommodations.

The bill authorizes the DEP to approve the use of additional safety and warning devices to be used in conjunction with the display of uniform warning and safety flags at public beaches.

The bill provides \$1.5 million in nonrecurring funds from the General Revenue Fund to the DEP to be distributed to the Southwest Florida Water Management District to purchase 41.47 acres of property for construction of a storm water retention

pond within the Heritage Lakes Community at the Oaks at Riverside property in Pasco County. The bill specifies that the Southwest Florida Water Management District agreement cannot preclude shared use of the land for open space and passive recreation.

Lastly, the bill prohibits the DEP from granting new concession agreements after May 1, 2014, in a state park that provides beach access and contains less than 7,000 feet of shoreline if the type of concession is available within 1,500 feet of the park's boundaries. The bill does not apply to concession agreements for accommodations offered at a park on or before May 1, 2014.

If approved by the Governor, these provisions take effect July 1, 2014, unless otherwise provided.

▪ ***HB 7171***
Establishing Minimum Water Flows and Levels for Water Bodies

The bill exempts Rule 62-42.300, Florida Administrative Code, from legislative ratification. The rule establishes minimum flows and levels for the Ichetucknee and Lower Santa Fe Rivers and associated priority springs. The bill specifies that it serves no other purpose than to exempt the rule from ratification, and it may not be codified in the Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.

Growth Management

▪ ***SB 356***
Vacation Rentals

The bill prohibits local laws, ordinances, or regulations that regulate the duration or frequency of rental of vacation rentals. However, it repeals the provisions in current law that prohibit local laws, ordinances, or regulations that restrict the use of vacation rentals or that regulate vacation rentals based solely on their classification, use, or occupancy. The bill maintains the current prohibition against local laws, ordinances, or regulations that prohibit vacation rentals.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **SB 374**
**Growth Management Initiatives
and Referendums**

The bill prohibits local initiative or referendum processes for any local comprehensive plan amendment or map amendment unless the initiative or referendum process is expressly authorized by specific language in a local government charter which was in effect on June 1, 2011. The bill exempts the Town of Longboat Key's referendum charter provision from the state statutory provision prohibiting such initiative or referendum processes for local comprehensive plan amendments or map amendments.

If approved by the Governor, these provisions take effect upon becoming law.

▪ **CS/CS/SB 1070**
Preemption on Fuel Terminals

The bill prohibits a local government from adopting amendments after July 1, 2014, to a comprehensive plan, land use designation or regulation, or zoning district so as to conflict with an existing fuel terminal's classification as a permitted and allowable use, including amendments that would render a fuel terminal a nonconforming use. A local government must allow a fuel terminal that is damaged or destroyed by a natural disaster or other catastrophe to timely repair the fuel terminal to its pre-existing capacity. The bill does not limit the authority of a local government to adopt and enforce laws regarding the safety and building standards of the fuel terminal.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/CS/CS/SB 1632**
Special Districts

This is an omnibus special district bill that reorganizes, renumbers and makes numerous technical and conforming changes to special district provisions in ch. 189, F.S. The bill outlines a process by which the Joint Legislative Auditing Committee (JLAC) and the Department of Economic Opportunity (DEO) may enforce reporting and other requirements when special districts fall out of compliance with their obligations or become inactive. After notifying the DEO, relevant legislators and the local general-purpose government, and

after a public hearing, the JLAC may request that the DEO file a petition for enforcement with the Circuit Court of Leon County. Additionally, the bill:

- Requires special districts to maintain a website that offers the public specified information;
- Requires special districts to give the website address to the DEO for publication on its website;
- Amends the definition of agency in the Code of Ethics to specifically include special districts;
- Redefines the term special district in s. 189.403, F.S.;
- Removes provisions concerning a special district's application to amend its charter;
- Amends the circumstances under which the DEO may declare a special district inactive;
- Requires the DEO to notify the chair of the county legislative delegation and the Legislative Auditing Committee;
- Prohibits inactive districts from collecting taxes, fees, and assessments;
- Changes the required education for new special district members;
- Revises the provisions concerning the failure to file certain reports;
- Requires administrative fees be placed into the Grants and Donations Trust Fund; and
- Requires public hearings concerning certain noncompliance.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-22, Laws of Florida and becomes effective July 1, 2014.

▪ **See also CS/CS/HB 7015, p. 44**
Military and Veteran Support

As it relates to growth management, the bill provides military base encroachment protection funding.

▪ **See Also CS/HB 7023, p. 120**
Economic Development

As it relates to growth management, the bill:

- Extends and renews certain building permits issued by the Department of Environmental

Protection, by a water management district, or a local government for a period of 2 years.

- Requires permit holders to apply for a permit extension, in writing, by December 31, 2014.
- Provides that the permit extensions do not apply to permits issued by the Army Corp of Engineers, permits in significant noncompliance, or permits that, if extended, would prevent compliance with a court order.
- Allows a local government to require an applicant for a permit extension to maintain and secure the property in compliance with applicable laws and ordinances.

Real Property

▪ *CS/CS/SB 440* *Condominiums*

The bill amends several provisions in s. 718.112, F.S., which specifies the provisions that must be included in the bylaws of condominiums, to distinguish the bylaws requirements for residential condominiums from those for commercial condominiums. The bill limits the following bylaw requirements to residential condominiums:

- The time periods for associations to respond to a unit owner's written inquiries;
- The requirements for the election of board members, the use of staggered terms for members of the board, and the use of limited and general proxies;
- Prohibitions on persons who are not eligible to serve on the board of a condominium association, including co-owners of a unit, persons who have been suspended, persons who are delinquent in the payment of a monetary obligation due to the association, and persons convicted of a felony;
- The pre-election certification requirements for newly elected or appointed board members; and;
- The requirement that the bylaws of the association must provide for mandatory nonbinding arbitration of disputes by the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation.

The bill also limits the requirement that associations initiate an application for a building permit for the required installation of a sprinkler system by the specified date to residential condominiums. The bill also extends the specified date by which residential condominium associations must make the application for a building permit from the end of 2019 to January 1, 2020.

The bill also limits the following condominium laws to residential condominiums:

- Requirements that condominium boards adopt shutter specifications for each building within each condominium operated by the association;
- Requirements that condominium boards approve a unit owner's installation of hurricane protections that conform to the specifications adopted by the board;
- Requirements that the alternative dispute resolution provisions in s. 718.1255, F.S., which provide for the mediation and voluntary non-binding arbitration of certain disputes, do not apply to nonresidential condominiums unless specifically provided for in the declaration of the nonresidential condominium;
- Limitations on the ability of the developer to modify the plot plan for phase condominiums; and
- Requirements that certain information related to the development of a phase condominium be described in the original declaration of condominium or approved by an amendment.

The bill also extends the bulk buyer provisions in s. 718.505, F.S., from July 1, 2015 to July 1, 2016.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ *CS/CS/CS/HB 489* *Subsurface Rights Disclosure*

The bill requires sellers of residential property to provide prospective purchasers with a disclosure summary at or before the execution of the contract for sale if any of the subsurface rights or right of entry are or will be severed or retained by the seller.

The bill provides that the disclosure summary must be conspicuous, in boldface type, and in a form substantially similar to the language provided in the bill. If the disclosure summary is not included

in the contract for sale, the contract must refer to and incorporate by reference the disclosure summary and must include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary.

The bill defines “subsurface rights” as the rights to all minerals, mineral fuels, and other resources, including but not limited to, oil, gas, coal, oil shale, uranium, metals, and phosphate, whether or not it may be mixed with any other substance, found, or located beneath the surface of the earth.

The bill defines “seller” as a seller of real property which, at the time of sale, is zoned for residential use and where a new dwelling is being constructed, is to be constructed, or has been constructed since the last transfer of property.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-34 and becomes effective October 1, 2014.

▪ **CS/CS/CS/HB 807** **Residential Properties**

The bill relates to the operation and regulation of condominium associations, cooperative associations, homeowners’ associations, and timeshare projects.

For homeowners’ associations, the bill clarifies the notice requirements for the preservation of association covenants and restrictions under the Marketable Record Title Act.

Timeshare Projects

- Defines the term “timeshare project” to mean any timeshare property as defined in ch. 721, F.S., which is located in this state and that is also a transient public lodging establishment;
- Provides that public lodging units that are classified as timeshare projects are not subject to the requirement of at least biannual inspections by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (DBPR or department);
- Exempts timeshare projects from the requirements that public lodging establishments maintain public bathroom facilities, provide soap and clean towels or other approved hand-drying

devices in the main public bathroom, and provide guests with clean pillowslips and under and top sheets; and

- Removes timeshare plans from the definition of a “vacation rental,” and provides that a vacation rental is a transient public lodging establishment that is not a timeshare project.

Condominium Associations

- Authorizes the associations to enter an abandoned unit to inspect the unit and adjoining common elements, to make specific repairs, and to maintain the unit, and permits the association to charge the unit owner for expenses incurred by the association,
- Provides the circumstances in which a unit may be considered abandoned;
- Provides that the insurance responsibility of the association or unit owners for reconstruction, repair, or replacement in the absence of an insurable event shall be determined by the provisions of the declaration or bylaws;
- Permits board and committee members to participate, including voting, in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication, and for such participation to count towards a quorum;
- Provides that the previous owner does not include an association that acquires the title to a delinquent property through foreclosure or by deed in lieu of foreclosure. The present unit owner’s liability for these costs associated with the collection process is limited to the amounts that accrued before the association acquired the title to the delinquent property.
- Prohibits condominium associations from recording a termination of condominium that failed to receive the required approval (80 percent of the voting interested and 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage). It provides that a new attempt to terminate the condominium may not be proposed at a meeting or by solicitation for joinder and consent for 180 days after the date the failed plan was first given to all unit owns;

- Repeals the Community Association Living Study Council; and
- Extends the time period to be classified as a bulk buyer or bulk assignee from July 1, 2015 to July 1, 2016.

Cooperative Associations

- Revises the financial reporting requirements by increasing from 60 days to 90 days the time to prepare a financial statement, or to contract with a third party to prepare the financial statement;
- Specifies the type of financial reporting required based on the association's total annual revenue amounts;
- Limits the financial reporting requirement, for associations of fewer than 50 units, regardless of the association's annual revenues, to the preparation of a report of cash receipts and expenditures, unless otherwise required by the declaration or other recorded governing documents;
- Provides that persons who have been suspended or removed by the division or who are delinquent in the payment of any monetary obligation due to the association are not eligible to be a candidate for board membership and may not be listed on the ballot; and
- Provides for the removal from office of a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property.

Homeowners' Associations

- Requires that meetings of the board of directors of a homeowners' association and meetings of the association's membership must be held at locations that are accessible to physically handicapped persons; and
- Provides that an association does not have to provide members with copies of an amendment to the governing documents after it is approved by the membership if a copy of the proposed amendment was previously provided to the members before the vote on the amendment and the proposed amendment was not changed before the vote.

In regard to condominium and cooperative associations, the bill requires outgoing board

or committee members to relinquish all official records and property of the association in their possession or control to the incoming board within five days after the election. The bill provides that an outgoing board or committee member who violates this requirement is personally subject to a civil penalty by the Division of Florida Condominiums, Timeshares, and Mobile Homes. It also prohibits a board member from voting by e-mail.

For cooperative and homeowners' associations, the bill authorizes boards to exercise specified emergency powers in response to the declaration of a state of emergency, including the authority to implement a disaster plan, mitigate damages, and borrow money with the approval of the membership.

In regard to condominium, cooperative, and homeowners' associations, the bill provides that unit owners may consent in writing to the disclosure of contact information to which other owners are prohibited from having access.

If approved by the Governor, these provisions take effect July 1, 2014.

CS/CS/HB 7037 Residential Communities

The bill expands the services that may be performed by community association managers on behalf of condominiums, cooperatives, and homeowners' associations. The bill permits community association managers to:

- Determine the number of days required for statutory notices;
- Determine the amounts due the association;
- Collect amounts due to the association before filing a civil action;
- Calculate the votes required for a quorum or to approve a proposition or amendment;
- Complete forms related to the management of a community association that have been created by statute or by a state agency;
- Draft meeting notices and agendas;
- Calculate and prepare certificates of assessment and estoppel certificates;
- Respond to requests for certificates of assessment and estoppel certificates;

- Negotiate monetary or performance terms of a contract subject to approval by an association;
- Draft pre-arbitration demands;
- Coordinate or perform maintenance for real or personal property and other routine services involved in the operation of a community association; and
- Comply with the association’s governing documents and the requirements of law as necessary to perform such practices.

The bill provides a “notice of intent to file a claim of lien” form, “notice of contest of lien” form, and a “release of lien” form for condominium, cooperative, and homeowners’ associations. It provides a “delinquent assessment” form for condominium and homeowners’ associations. It also provides a “notice of contest of lien” form for cooperative associations.

The bill provides professional standards for community association managers and firms. It provides for indemnification by the association and specifies the actions that cannot be indemnified.

The bill provides that the claim of lien of a cooperative association is not effective one year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. It provides that the one-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. This conforms the requirements for a claim of lien by cooperative associations with the claim of lien requirements for condominium associations.

If approved by the Governor, these provisions take effect July 1, 2014.

in revocation of the utility’s certificate of authority. The bill provides petition criteria and factors the commission must consider in its review of the petition and the action it may take to dispose of the petition. The commission is authorized to adopt rules to administer the provisions. Once a petition has been filed in compliance with the section, a utility is prohibited from filing a rate case until the commission has issued a final order.

The bill adds secondary water quality standards to the criteria that the PSC must consider when setting rates for water service. The bill provides guidelines for the secondary water quality standards. The bill authorizes the commission to reduce the utility’s return on equity of up to 100 basis points or deny all or part of a rate increase for a utility’s system or part of a system if it determines that the quality of water service is less than satisfactory for the time the system remains unsatisfactory. The bill requires a utility to provide an estimate of the costs and benefits of plausible solutions for each concern that the commission finds, meet with the customers to discuss the costs and solutions, and periodically report on the progress of implementation. The commission may require the utility to resolve certain problems and require benchmarks and periodic progress reporting. The bill authorizes the commission to adopt rules to assess and enforce compliance with the secondary water standards and prescribe penalties for a utility’s failure to adequately address each concern.

The bill appropriates \$212,521 in recurring funds and \$12,012 in nonrecurring funds from the General Revenue Fund to the PSC and authorizes three full-time equivalent positions for the 2014-2015 fiscal year to implement the provisions in this act.

If approved by the Governor, these provisions take effect July 1, 2014.

Utilities

▪ *CS/CS/CS/SB 272* *Water Utilities*

The bill creates a process for customers to petition the Florida Public Service Commission (PSC or commission) to require compliance with secondary water quality standards. If a utility fails to comply with commission orders, the process could result

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Health Care & Health Insurance

Health Care & Health Insurance

▪ **CS/SB 86** ***Dentists / HMO's***

The bill prohibits an insurer, health maintenance organization, or prepaid limited health service organization from contracting with a licensed dentist to provide services to an insured or subscriber at a specified fee unless such services are “covered services” under the applicable contract. “Covered services” are defined as dental care services for which a reimbursement is available under the insured’s contract, or for which a reimbursement would be available for the application of a contractual limitation. The bill also prohibits an insurer from requiring that a contracted health care provider accept the terms of other practitioner contracts with a prepaid limited health service organization that is under common management and control with the contracting insurer.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **HB 97** ***Access to Dental Care for the Underserved***

The bill expands the circumstances under which a volunteer dentist or dental hygienist is not personally liable for negligence. Under existing law, the liability protections apply to free dental services provided to low-income patients pursuant to a government contract. Under the bill, the dentist or dental hygienist may accept voluntary contributions for the cost of laboratory work and retain the protections from personal liability.

The bill does not change the liability of the government entity that contracts with the dentist or dental hygienist to provide the free dental services. The government entity remains liable, subject to the state’s sovereign immunity limitations, for any negligent dental services.

The bill also authorizes any volunteer health care provider—not just dentists or dental hygienists—to retain sovereign immunity and provide care for up to 30 days after a patient is determined not to meet the financial eligibility standard of the program to allow the patient time to find a new provider.

Finally, the bill extends the future repeal date of the health access dental license by 5 years to January 1, 2020. The Health Access Dental License authorizes out-of-state dentists to practice in facilities that provide care to low income patients in underserved areas.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/SB 260** ***Consent to Medical Treatment for Unaccompanied Homeless Youths***

The bill allows an unaccompanied certified homeless youth 16 years of age or older to consent to medical treatment for himself or herself and for his or her child under specified circumstances. Such treatment includes medical, dental, psychological, substance abuse, and surgical diagnosis and treatment. The bill will enable homeless youth to consent to treatment without the necessity of obtaining a court order.

The bill does not affect the requirements of s. 390.01114, F.S., the Parental Notice of Abortion Act.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/CS/HB 287** ***Nursing Home Certificates of Need***

The bill amends various section of the Florida Statutes relating to nursing home certificates of need (CON).

The bill repeals the moratorium on CONs for new nursing homes, but imposes a cap on the AHCA issuing any CONs for new nursing home beds after 3,750 new nursing home beds have been approved between July 1, 2014, and June 30, 2017.

The bill reduces the nursing home bed-need methodology threshold from 94 to 92 percent, allows applicants to combine need numbers for geographically contiguous subdistricts, and establishes a positive CON factor for an applicant who voluntarily relinquishes licensed nursing home beds in a subdistrict with no bed-need.

The bill provides for an expedited CON review for relocating a portion of a nursing home’s beds within a contiguous subdistrict to an established or new facility if the total number of beds in the state

does not increase. Expedited CON review is also available for the replacement of a nursing home:

- Within a 30-mile radius of the existing nursing home, regardless of district boundaries. If the new site is in another subdistrict, the occupancy rate in that subdistrict must be at least 85 percent; or
- Outside of a 30-mile radius, if the new nursing home will be within the same or a contiguous subdistrict. If the new site is in a contiguous subdistrict, the occupancy rate in that subdistrict must be at least 85 percent.
- The bill amends exemptions from the CON process for nursing homes as follows:
 - Creates a new exemption for nursing homes to add up to the lesser of 30 beds or 25 percent of its current beds when replacing a nursing home;
 - Reduces from 96 to 94 percent the required average occupancy rate when adding the greater of 10 beds or 10 percent of the nursing home's beds;
 - Increases, from three to five miles, the distance from the original nursing home that a replacement nursing home in the same subdistrict may be located; and
 - Allows the consolidation of nursing home beds under shared controlled interest in the same district, changing the previous subdistrict limit, if the relocation site is within 30 miles of all the nursing homes from which the beds are moved.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 323***
Pharmacy

The bill removes the cap on the number of pharmacy technicians the Board of Pharmacy may authorize one pharmacist to supervise and revises the composition of the board. The number of pharmacists representing community and Class II institutional pharmacies is increased from a minimum of one in each category, to a minimum of two each. The bill directs the Governor to appoint members reflecting the new composition as current members' terms expire or when a vacancy occurs.

The bill authorizes pharmacists to administer the meningococcal vaccine under physician protocol

and removes the requirement for a pharmacist to have a prescription from a physician to administer the shingles vaccine.

The bill revises the format for written prescriptions for controlled substances by permitting the date to be in numeric month/day/year format or the month written out in whole, and by removing the requirement that the quantity and date appear on the face of the prescription.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 591***
Newborn Health Screening

The bill expands the list of health care practitioners who may receive the results of a newborn's hearing and metabolic tests or screenings from the State Public Health Laboratory to include additional health care practitioners who may treat a child. This change is expected to expedite and simplify treatment since these practitioners will no longer be required to wait for the results to be transferred from the primary care physician. The bill revises the definition of "hearing impairment" to conform to national standards.

Additionally, if an audiologist diagnoses an infant or toddler with hearing loss, the bill requires that the audiologist or his or her designee ask the parent or guardian if he or she would like to receive information about services directly from Early Steps providers. This provision is expected to assist parents and guardians of newly-diagnosed children with hearing impairment in obtaining access to needed services.

The bill also makes two technical corrections, deleting an obsolete date and updating a cross-reference to federal law.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 670***
Nursing Home Litigation

The bill amends statutory provisions relating to civil causes of action against nursing homes, establishes provisions to help ensure timely payment of adverse final judgments, and amends provisions relating to the release of nursing home resident records.

Civil Causes of Action against Nursing Homes

The bill limits the classes of persons who may be sued in the initial pleading for negligence or a violation of a nursing home resident's rights to only the nursing home licensee and its management or consulting company, managing employees, and direct caregivers, whether employees or contracted. The bill defines the terms licensee, management or consulting company, and passive investor. Passive investors are shielded from liability.

In order to sue a party other than one of the classes noted above, the bill requires the court, or an arbitration panel as applicable, to hold a hearing on a motion for leave to amend the initial pleading. The court or panel must determine that there is sufficient evidence in the record or proffered by the claimant to establish a reasonable showing that the individual or entity owed and breached a duty of reasonable care to the resident and that the breach is the legal cause of the loss, injury, death, or damage to the resident before the other parties may be sued.

The bill makes these provisions of law the exclusive remedy against a nursing home licensee, its management or consulting company, managing employees, and direct caregivers for a cause of action alleging direct or vicarious liability for the recovery of damages for the personal injury or death of a nursing home resident arising out of negligence or a violation of a resident's statutory rights. The bill also specifies that the claimant must elect either survival damages or wrongful death damages after the verdict but before the judgment is entered, and requires certain proposed amended pleadings to relate back to the original pleading.

The court must also hold an evidentiary hearing to determine if there is sufficient admissible evidence for a punitive damages claim relating to direct liability or vicarious liability. The claimant must show a reasonable basis to believe that the claimant will be able to demonstrate at trial by clear and convincing evidence that punitive damages are warranted before a claim for punitive damages may be brought. A defendant may be held liable for punitive damages if the defendant actively and knowingly participated in intentional misconduct or engaged in conduct that constitutes gross negligence and contributed to the loss, damages, or injury suffered by the claimant. The terms

intentional misconduct and gross negligence are defined in current law.

The bill specifies that these provisions only apply to causes of action accruing on or after the bill takes effect.

Failure of a Nursing Home to Satisfy a Judgment

Once a final judgment has been entered by a Florida court against a nursing home for a claim arising under s. 400.023, F.S., the nursing home is required to pay the judgment within 60 days unless a different timeframe is mutually agreed to among the parties. Failure to make such a payment results in additional grounds for the Agency for Health Care Administration (AHCA) to revoke or refuse to renew a nursing home license. The bill specifies when the AHCA is placed on notice of an unsatisfied judgment and that, within 30 days of receiving such notice, the licensee must provide proof of satisfaction of the judgment. If no such proof is provided, the AHCA must issue an emergency order declaring that the facility lacks the financial ability to operate and a notice of intent to revoke or deny the facility's license. The bill also specifies that the AHCA may refuse to renew the facility's license or refuse to approve a change of ownership for a facility that is out of compliance with these provisions.

Nursing Home Resident Records

The bill revises provisions relating to the release of a nursing home resident's records to comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and to provide for release of a deceased resident's medical records. Specifically, the bill requires nursing homes to furnish copies of a resident's paper and electronic records if the request complies with HIPAA and the person requesting is authorized to make the request under HIPAA. The records released must include medical records and records concerning the care and treatment of the resident except for progress notes and consultation reports of a psychiatric nature.

The facility is required to provide the records within 14 working days for a request relating to a current resident or within 30 working days for a request concerning a former resident. Records for deceased residents may be made by a specified person appointed by the court. If no judicial

appointment has been made, a person designated by the resident to act on his or her behalf may request such records. If no judicial appointment or resident designation has been made, the surviving spouse, child, or parent may request such records. The bill details the documentation that must be submitted for deceased resident's records.

The bill also details the fees which a facility may charge to furnish records, provides for indemnification of facilities for releasing records in good faith, and specifies that facilities are not required to release records more than once per month except that physician reports must be released as often as necessary to allow effective monitoring of a resident's condition.

The bill specifies that a nursing home may not be cited by AHCA for noncompliance with these requirements and that these requirements do not limit any right to obtain records by subpoena or other court process.

If approved by the Governor, these provisions take effect upon becoming law.

▪ **CS/CS/SB 674**
Health Care Background Screening

The bill revises the background screening provisions for persons required by law to undergo criminal background screening.

The bill updates the disqualifying offenses to include additional offenses involving fraudulent activity for persons screened as a part of health care facility licensure and adds offenses involving attempting, soliciting, or conspiring to commit a listed disqualifying offense for any person subject to background screening. A person may apply for an exemption from disqualification due to rescreening if the person was previously screened and qualified under the applicable statutes but has a disqualifying offense that became effective July 1, 2014 and the disqualifying offense was committed before last screening.

The 3-year waiting period after payment of court-ordered monetary amounts in order to be eligible for an exemption from disqualification for certain felony convictions is eliminated. Screenings handled through the Care Provider Background Screening Clearinghouse (clearinghouse) must now be initiated and registered through the clearinghouse prior to referring the employee or

potential employee for fingerprinting. Additionally, certain identifying information of the person to be fingerprinted must be submitted on behalf of all persons to be screened.

The bill provides for the submission of an individual taxpayer identification number if a social security number cannot be obtained and allows health care facilities and employers that are required to conduct background screenings to submit an attestation, rather than an affidavit, that they have complied with the screening requirements.

The statutory placement of the requirement for submission of a photograph taken at the time of fingerprinting is relocated so that it is not a requirement for all screenings but only for those handled through the clearinghouse.

The Department of Highway Safety and Motor Vehicles is authorized to provide driver's license photographs to the Department of Health and the Agency for Health Care Administration pursuant to an interagency agreement with each agency.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/CS/CS/SB 702**
Pharmacy Audits

The bill establishes the rights of a pharmacy when it is audited by a managed care company, insurance company, third-party payor, pharmacy benefit manager, or an entity that represents responsible parties such as companies or groups, collectively referred to as an "entity" in the bill. The rights include:

- To have at least 7 days prior notice of each initial on-site audit;
- To have an on-site audit scheduled after the first 3 days of the month;
- To limit the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity;
- To have an audit that requires clinical or professional judgment conducted by or in consultation with a pharmacist;
- To use the written and verifiable records of a hospital, physician, or other authorized practitioner to validate the pharmacy records in accordance with state and federal law;

- To be reimbursed for a claim that was retroactively denied for a clerical, typographical, scrivener's, or computer error, if the prescription was properly dispensed, unless the pharmacy has a pattern of such errors or fraudulent billing is alleged or the error results in actual financial loss to the entity;
- To receive the preliminary audit report within 120 days after the audit is concluded and to receive the final audit report within 6 months after receiving the preliminary report;
- To have 10 business days after the preliminary audit report is delivered to produce documentation to address a discrepancy or audit finding; and
- To have recoupment or penalties based on actual overpayments, not extrapolation.

The rights do not apply to audits that are based on a suspicion of fraud or willful misrepresentation; audits of claims paid for by federally-funded programs; or concurrent reviews or desk audits that occur within 3 business days after transmission where no chargeback or recoupment is demanded.

An entity that audits a pharmacy located within a Health Care Fraud Prevention and Enforcement Action Team Task Force area designated by the United States Department of Health and Human Services and the United States Department of Justice is not required to provide 7 days prior notice of an audit if the pharmacy has been a member of a credentialed provider network for less than 12 months.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/HB 709
Alzheimer's Disease***

The bill makes a number of changes related to Alzheimer's disease to implement recommendations of the Purple Ribbon Task Force which was created by the Legislature in 2012.

The bill requires the Division of Emergency Management (DEM) to develop a special needs shelter registration program by January 1, 2015, and to fully implement the program by March 1, 2015. The effect is to shift primary responsibility for maintaining a registry from the local emergency management agencies to the DEM, working in

coordination with the local agencies. The bill directs the DEM to develop a uniform electronic registration form and database, as a minimum component of the registration program, which the local agencies can use to upload registration information they receive. The bill adds memory disorder clinics and aging and disability resource centers to the existing list of providers and agencies that are required to provide information and assistance to individuals with special needs and their caregivers regarding special needs shelter registration, and to register their clients annually. The bill authorizes, but does not require, licensed physicians and pharmacies to provide these same services.

The bill requires county health departments to staff special needs shelters with a person who is familiar with the needs of persons with Alzheimer's disease and requires that all special needs shelters establish sheltering areas for persons with Alzheimer's disease or related dementia.

The bill creates the Ed and Ethel Moore Alzheimer's Disease Research Program (Moore program) to fund research for the prevention and cure of Alzheimer's disease. Long-term goals of the Moore program are to:

- Enhance the health of Floridians by researching improved prevention, diagnosis, treatment, and cure of Alzheimer's disease;
- Expand the foundation of knowledge relating to the prevention, diagnosis, treatment, and cure of Alzheimer's disease; and
- Stimulate activity in the state related to Alzheimer's disease research.

Moore program grants and fellowships will be awarded by the State Surgeon General on the basis of scientific merit. Funding applications may be submitted from any university or established research institute in the state, and qualified investigators, regardless of institution, will have equal access to competitive funding. Implementation of the program is contingent upon a legislative appropriation. The 2014 Legislature approved \$3 million to fund the program as part of the General Appropriations Act.

The bill also creates the Alzheimer's Disease Research Grant Advisory Board, which is an 11-member board of clinical professionals, to advise the State Surgeon General. The board must submit a fiscal year progress report to the Governor, the

President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General annually that includes:

- A list of funded projects;
- A list of funded researchers;
- A list of publications in peer-reviewed journals involving research supported by grants or fellowships awarded under the Moore program;
- The state ranking and total amount of Alzheimer’s disease research funding received from the National Institutes of Health;
- New grants for Alzheimer’s disease research which were based on research funded by the Moore program;
- Progress toward the goals of the Moore program; and,
- Recommendations to further the mission of the Moore program.

Finally, the bill requires the Department of Elder Affairs to develop performance standards for memory disorders clinics and to condition contract funding on compliance with the standards. The bill also renames the memory disorder clinic in Brevard County.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 1036***
Nursing Education Programs

The bill establishes a schedule for all registered nurse (RN) prelicensure education programs to become accredited by a specialized nursing accrediting agency that is recognized by the U.S. Secretary of Education. The accrediting agencies that are currently recognized include the Commission on Collegiate Nursing Education and the Accreditation Commission for Education in Nursing.

It requires an applicant for licensure who takes the exam more than 6 months after graduation to take a licensure examination preparatory course. The applicant may not use state or federal financial aid to pay for the course.

The bill revises the graduate passage rate a licensed practical nurse or RN education program

which is not accredited must have in order to retain its approval from the Board of Nursing to operate. The rate must be based only on the results for first-time test takers who take the licensure examination within 6 months of graduation. In addition, the board must exclude the test scores of a student who transfers with 12 or more credits from a program that was terminated by the board, when it recalculates the passage rate of the school that accepts the transferring student. If a program falls below the required rate and has been placed on probation, the board is authorized to extend its probationary period for one year if the program is meeting a majority of the benchmarks in its plan for remediation. This would allow a program to continue operating for up to 3 years without being terminated. The bill extends the study of the implementation of the nursing program approval process to January 30, 2020.

In addition, the bill:

- Increases the limit on clinical training that can be by simulation from 25 percent to 50 percent; adds clinical simulation to the definition of clinical training, thereby allowing it to count toward the required amount; and specifies that the required clinical training be completed in the United States, the District of Columbia, or a possession or territory of the United States.
- Exempts a nurse who is certified by a health care specialty program that is accredited by the National Commission for Certifying Agencies or Accreditation Board for Specialty Nursing Certification from the biennial continuing education requirement.
- Modifies the definition of practice of practical nursing to include the teaching of general principles of health and wellness to the public.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***HB 5201***
Medicaid

The bill provides for the following:

Definition of Rural Hospital

The bill amends the definition of “rural hospital” to include hospitals meeting the qualifications of a federal “sole community hospital” having up to 340

beds. The bill also removes an obsolete statutory provision in the definition of rural hospital.

Residency Program Reconciliation

For the Statewide Medicaid Residency Program, the bill requires the Agency for Health Care Administration (AHCA) – beginning in the 2015-2016 fiscal year – to reconcile each participating hospital’s number of residents calculated under the program’s statutory formula with the most recent Medicare cost report submitted by the hospital. In any year in which retroactive adjustments are needed due to the reconciliation, those adjustments will be applied to the hospital’s allocation for that year.

Disproportionate Share Hospital Program

The bill updates statute so that data used by the AHCA to measure hospitals’ Medicaid and charity care will be applied to the 2014-2015 fiscal year. The bill provides that any non-state-owned or operated hospital that was eligible for public-hospital disproportionate share payments on July 1, 2011, remains eligible for those payments during the 2014-2015 fiscal year.

Statewide Medicaid Managed Care Enrollment

The bill adds Medicaid recipients residing in APD-licensed group homes and children receiving services in a prescribed pediatric extended care (PPEC) center, to the list of recipients who are exempt from mandatory managed care enrollment under Statewide Medicaid Managed Care but who are allowed to join managed care plans voluntarily.

Reimbursement for PPEC Services

The bill provides that reimbursement for PPEC services provided to children enrolled in a Medicaid managed care plan will be paid to the PPEC service provider by AHCA on a fee-for-service basis.

Medically Needy in Statewide Medicaid Managed Care

The bill repeals the requirement in the Statewide Medicaid Managed Care program that persons eligible for the Medically Needy program must enroll in managed care plans and pay a monthly premium of an amount up to their share of cost calculated under the Medically Needy program.

The bill also repeals requirements for Medicaid managed care plans related to Medically Needy.

Corrections to the GAA

The bill contains two non-statutory sections of law that correct scrivener’s errors in the 2014-2015 General Appropriations Act (HB 5001).

The bill was signed into law on June 2, 2014, as Ch. No. 2014-57, Laws of Florida and becomes effective July 1, 2014.

▪ *HB 5203 Cancer Centers*

The bill provides that:

- The Florida Consortium of National Cancer Institute Centers (NCI) Program is added to the list of cancer research programs that the Biomedical Research Trust Fund (BRTF) is authorized to fund.
- Statutory language currently requiring that \$5 million each be appropriated annually from the BRTF to the Moffitt Cancer Center, the Sylvester Cancer Center, and the Shands Cancer Hospital, is repealed.
- The Florida Consortium of National Cancer Institute Centers Program is created within the Department of Health (DOH) as a competitive grant program, to provide funding to Florida-based cancer centers recognized as NCI-designated comprehensive cancer centers, NCI-designated cancer centers, and cancer center working to achieve NCI-designation.
- Any cancer center receiving funds under the program will receive a minimum of \$16 million annually.
- The DOH and participating cancer centers are required to report specific metrics relating to cancer mortality and external funding for cancer-related research to Florida’s Cancer Control and Research Advisory Council.
- Aggregate funding for the consortium program is subject to annual legislative appropriations.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **HB 7077**
**Nonresident Sterile
Compounding Permits**

The bill requires a nonresident pharmacy or an outsourcing facility that is not located in this state to obtain a nonresident sterile compounding permit prior to sending a compounded sterile product into this state. Currently-registered nonresident pharmacies must be permitted by February 28, 2015. However, any compounded sterile product shipped, mailed, delivered, or dispensed into this state must meet or exceed this state's standards for sterile compounding.

An outsourcing facility is defined in the bill as a single physical location registered as an outsourcing facility under the federal Drug Quality and Security Act, Pub. L. No. 113-54, at which sterile compounding of a drug or product is conducted.

The bill establishes application and inspection requirements for the nonresident sterile compounding permit as well as responsibilities for the Department of Health (department) and the Board of Pharmacy (board) to develop application forms, fees, and additional procedures to administer the permit.

The department and board are provided with enhanced oversight responsibility for these entities including authority to inspect a nonresident pharmacy or a nonresident sterile compounding permittee; the cost of which is to be borne by the pharmacy or permittee. The board is authorized to discipline a nonresident pharmacy for conduct which causes or could cause serious bodily or psychological injury to a human or serious bodily injury to an animal immediately, without waiting 180 days for the resident state to act. The board is also authorized to discipline nonresident pharmacies and nonresident sterile compounding permittees for specified acts of noncompliance.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ **HB 7145**
**Ratification of Rules/Department
of Health**

The bill provides legislative ratification of the Department of Health, Rule 64J-2.006 of the Florida Administrative Code, Trauma Registry and Trauma Quality Improvement Program. The rule amendment requires Level I and Level II verified trauma centers to maintain participation in the American College of Surgeons, Trauma Quality Improvement Program (ACS-TQIP). The ACS-TQIP is a national benchmarking tool which provides feedback to participating trauma centers on their relative performance in order to improve the quality of care of trauma patients.

If approved by the Governor, these provisions take effect July 1, 2014.

**2014
Florida Legislature
Post-Session Report**

Insurance & Financial Services

Insurance & Financial Services

▪ *CS/CS/HB 271* *Workers' Compensation*

The bill amends provisions related to stop work orders (SWO) and associated penalties relating to Florida's Workers' Compensation Law as follows:

- Extends the number of days for an employer to provide requested records to the Department of Financial Services (DFS) from five to 10 days or be subject to a SWO.
- Authorizes the DFS to issue an order of conditional release from a SWO to an employer that has secured appropriate coverage if the employer pays \$1,000 as a down payment and agrees to pay the remainder of the penalty in periodic installments or in full.
- Authorizes an immediate reinstatement of the SWO if the employer does not pay the full penalty or enter into a payment agreement within 28 days after service of the SWO upon the employer.
- Credits the initial payment of the premium made by the employer to secure coverage against the assessed penalty for not having coverage if the employer that has not previously been issued a SWO. The bill provides a similar credit if coverage is secured through an employee leasing company. The bill provides a minimum \$1,000 penalty if the calculated penalty, after the application of the credit, is less than \$1,000.
- Reduces the look-back period for failure to comply with coverage requirements from 3 to 2 years and increases the penalty multiplier from 1.5 to 2 times the amount of unpaid premiums.

The bill codifies a recent court decision regarding the calculation of workers' compensation indemnity benefits to allow the payment of such benefits at either 66.67 percent or the current 66 2/3 percent of the employee's average weekly wage. This change has no fiscal impact because it reflects current procedures used by carriers.

The bill also revises the assessment methodology for the Workers' Compensation Special Disability Trust Fund (trust fund). The trust fund reimburses employers (or their carriers) for the excess in workers compensation benefits they have provided

to an employee with a pre-existing impairment who is subsequently injured in a compensable accident. The bill requires the assessment to be calculated by the DFS based upon the net premiums written by carriers and self-insurers, the amount of premiums calculated by the department for self-insured employers, and the anticipated disbursements and expenses of the trust fund. This change in the assessment calculation will allow the DFS to draw down the trust fund balance to pay older, approved reimbursement requests without increasing the assessment rate. The bill requires all approved but unpaid reimbursement requests, as of June 30, 2014, to be paid by October 31, 2014. The bill reduces the maximum assessment rate from 4.52 percent to 2.50 percent. These provisions will not have a fiscal impact on DFS.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ *HB 291* *Warranty Associations*

Under the bill, the parameters for delivery of motor vehicle service agreements, home warranties, and service warranty contracts are consistent and the same. The bill allows the electronic delivery of motor vehicle service agreements, home warranties, and service warranty contracts. The bill specifies electronic transmission of motor vehicle service agreements, home warranty agreements, and service warranty agreements constitutes delivery of the agreement to the purchaser. All electronic transmissions of agreements must include a notice to the purchaser indicating the purchaser's right to receive a paper copy of the agreement. If the purchaser notifies the company that he or she does not agree to an electronic transmission of the agreement, a paper copy must be sent via US mail to the purchaser. The bill requires service warranty contracts to be hand delivered, delivered by US mail, or electronically delivered. Current law does not require any method of delivery for a service warranty contract. The same delivery requirements apply to motor vehicle service agreements and home warranties under the bill.

The bill allows service warranty associations an additional exemption from the required 7-to-1 ratio of gross written premium to net assets. Under the bill, a service warranty association licensed in any other part of ch. 634, F.S., can be exempt for

the 7-to-1 premium to assets ratio for the service warranty premium written under part III, if the association has an insurance policy covering all claims after the point of the association's insolvency under s. 634.406(3), F.S. The insurer issuing the policy must maintain a minimum capital surplus of \$200 million and an "A" or higher A.M. Best rating. The bill eliminates a current prohibition in s. 634.406(6)(c)3., F.S., that bans affiliations between contractual liability insurers and warranty associations.

Additionally, the bill removes an exemption for writing ratio requirements that applies to nationally traded companies issuing in states other than Florida in s. 634.406(7), F.S. The OIR indicates a majority of these national companies choose to receive their exemption though s. 634.406(6), F.S., and those affected by the change in the bill will be able to do the same.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 321***
Title Insurance

The bill changes the unearned premium reserve requirement for title insurers holding \$50 million or more in surplus to policyholders. Those title insurers must have a reserve of a minimum of 6.5 percent of the total of (1) direct premiums written and (2) premiums for reinsurance assumed, with certain adjustments. Title insurers having less than \$50 million in surplus as to policyholders must continue to record unearned premium reserve in accordance with current law (30 cents per \$1,000 of net retained liability).

This bill amends statutes relating to the release of unearned premium reserve. This bill creates a new schedule for the release of the unearned premium reserve over 20 years for companies with more than \$50 million in surplus, as follows: 35 percent of the initial sum during the year following the year the premium was written or assumed, 15 percent during each year of the next succeeding 2 years, 10 percent during the next succeeding year, 3 percent during each of the next succeeding 3 years, 2 percent during each of the next succeeding 3 years, and 1 percent during each of the next succeeding 10 years. This bill allows a title insurer organized under the laws of another state which transfers its domicile to Florida to have an unearned premium reserve as required by the laws

of the title insurer's former state. That reserve is released according to the requirements of law in effect in the former state at the time of domicile. The release of reserve based on premium written after the insurer moves to Florida is governed by Florida law.

This bill provides that only contract remedies are available for the breach of a duty that arises solely from the terms of a contract of title insurance or other instrument, relating to real estate closings, issued and approved by the Office of Insurance Regulation.

This bill provides that title insurance agency and agent applications created by the Department of Financial Services need not be on a printed form and will allow the use of online applications. This bill applies the same naming requirements applicable to title insurance agents to title insurance agencies, effective October 1, 2014. This bill removes the requirement that a title insurance agency deposit securities with the department having a market value of \$35,000 or a bond in the same amount at the time of application for licensure.

This bill changes from March 31 to May 31, the date which title insurers and agencies must report information required by the Office of Insurance Regulation for the analysis of title insurance premium rates.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 424***
Discriminatory Insurance Practices

The bill provides that it is an unfair, discriminatory practice for a personal lines property or automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm or ammunition by the applicant, insured, or a household member of the applicant or insured.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity of the insurer unless the insurer discloses to the applicant the need for the disclosure, and the applicant or insured expressly consents or "opts in" to the disclosure.

The bill provides limited exceptions to the general provision of the bill regarding sharing firearm-related information. These exceptions occur only when it becomes necessary to disclose the information in order to quote or bind coverage, continue coverage, or adjust a claim.

The bill provides that an insurer is not prohibited from charging a supplemental premium when a separate rider is voluntarily requested by a policyholder or prospective policyholder to insure a firearm or firearm collection (if the value of the collection exceeds standard policy coverage) so long as it is not unfairly discriminatory.

If an insurer engages in discriminatory practices prohibited under part IX, of ch. 626, F.S., the insurer would be subject to fines and other administrative actions by the Office of Insurance Regulation.

The bill may provide additional coverage options for persons who have had coverage denied or cancelled due to such lawful ownership, possession, or use of a firearm.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 490***
Motor Vehicle Liability Policy Requirements

The bill extends the underwriting period for non-cancellable coverage required to reinstate driving privileges revoked or suspended for failure to maintain required security or for driving under the influence (DUI). During the underwriting period, the policy is effective but the insurer may cancel the policy. The bill also allows the insured to change the coverage amounts without requiring the policy to be cancelled, so long as the minimum required coverage amounts are maintained. The bill has no fiscal impact.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/CS/SB 542***
Flood Insurance Regulation by State

The bill creates s. 627.715, F.S., governing the sale of personal lines, residential flood insurance. Authorized insurers may sell four different types of flood insurance products:

- Standard coverage, which covers only losses from the peril of flood as defined in the bill, which is the definition used by the National Flood Insurance Program (NFIP). The policy must be the same as coverage offered from the NFIP regarding the definition of flood, coverage, deductibles, and loss adjustment.
- Preferred coverage, which includes the same coverage as standard flood insurance and also must cover flood losses caused by water intrusion from outside the structure that are not otherwise covered under the definition of flood in the bill.
- Customized coverage, which is coverage that is broader than standard flood coverage.
- Supplemental coverage, which supplements an NFIP flood policy or a standard or preferred policy from a private market insurer. Supplemental coverage may provide coverage for jewelry, art, deductibles, and additional living expenses. It does not include excess flood coverage over other flood policies.

The bill requires prominent notice on the policy declarations or face page of deductibles and any other limitations on flood coverage or policy limits. Insurance agents that receive a flood insurance application must obtain a signed acknowledgement from the applicant stating that the full risk rate for flood insurance may apply to the property if flood insurance is later obtained under the NFIP.

An insurer may establish flood rates through the standard process in s. 627.062, F.S. Alternatively, rates filed before October 1, 2019, may be established through a rate filing with the Office of Insurance Regulation (OIR) that is not required to be reviewed by the OIR before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). Specifically, the flood rate is exempt from the “file and use” and “use and file” requirements of s. 627.062(2)(a), F.S. Such filings are also exempt from the requirement to provide information necessary to evaluate the company and the reasonableness of the rate. The OIR may, however, examine a rate filing at its discretion. To enable the office to conduct such examinations, insurers must maintain actuarial data related to flood coverage for 2 years after the effective date of the rate change. Upon examination, the OIR will use actuarial techniques and the standards of the rating law to

determine if the rate is excessive, inadequate or unfairly discriminatory.

Insurers that write flood coverage must notify the OIR at least 30 days before doing so in this state and file a plan of operation, financial projections, and any such revisions with the OIR.

The bill allows surplus lines agents to export flood insurance without making a diligent effort to seek coverage from three or more authorized insurers. This provision expires July 1, 2017.

The bill prohibits Citizens Property Insurance Corporation from providing flood insurance and prohibits the Florida Hurricane Catastrophe Fund from reimbursing flood losses. The bill allows projected flood losses for personal residential property insurance to be a rating factor. Flood losses may be estimated using a model or straight average of models found reliable by the Florida Commission on Hurricane Loss Projection Methodology.

The bill also specifies that the OIR Commissioner may provide a certification required by federal law or rule as a condition of qualifying for private flood insurance or disaster assistance. The certification is not subject to review under ch. 120, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/CS/HB 633
Regulation of Insurance Agents and
Agency Services***

The bill amends statutes relating to the regulation of insurance agents and agencies by the Department of Financial Services (DFS). This bill:

- Provides for service of documents used to initiate administrative proceedings by electronic mail if service cannot be obtained by other means, allows for service by hand delivery by a department investigator and service by publication.
- Eliminates the insurance agency licensing requirement for agencies owned and operated by a single licensed agent if the branch agencies transact business under the same tax identification number and if the agent has designated an agent in charge for each location.
- Allows third parties to sign agency applications.

- Repeals a provision allowing insurance agencies to obtain a registration in lieu of a license, converts all agency registrations to licenses, and eliminates the 3-year expiration period for agency licenses.
- Provides for agency licenses to automatically expire if the agency does not designate a new agent in charge with the DFS within 90 days after the agent in charge on record has left the agency.
- Creates a new type of insurance agent, an unaffiliated insurance agent, to allow an agent who is not appointed by an insurance company to maintain his or her license instead of allowing the license to expire after 4 years.
- Requires the DFS to immediately suspend the license or appointment of licensees charged with crimes that would preclude them from applying for licensure from the DFS.
- Provides new conditions in which the DFS can deny an application for certification or suspend certification or approval as a neutral evaluator or mediator including misstatements on an application, demonstrated lack of fitness or trustworthiness, and fraudulent or dishonest practices.
- Provides that individuals seeking to act as DFS approved mediators must be certified by the Florida Supreme Court as circuit court mediators or have been active mediators for the DFS prior to July 1, 2014.
- Exempts members of the United States Armed Forces, their spouses, and veterans who have retired within 24 months from the application filing fee for specified licenses.

If approved by the Governor, these provisions take effect July 1, 2014, except as otherwise provided in the bill.

▪ ***CS/CS/SB 708
Homeowners Insurance Claims***

The bill creates a "Homeowner Claims Bill of Rights" and requires a residential property insurer to provide a Homeowner Claims Bill of Rights to policyholders within 14 days of receiving a communication relating to a claim. The Bill of Rights informs consumers of their right to an acknowledgment within 14 days, their right to receive confirmation that a claim is covered in

full or in part, that a claim is denied, or a claim is being investigated within 30 days after submitting a proof of loss form. The Bill of Rights also informs consumers of services offered by the Department of Financial Services (DFS) and provides advice for dealing with property insurance issues. The Bill of Rights does not create a civil cause of action against insurers but insurers can be disciplined by the state regulator for failing to provide it.

The bill amends provisions relating to mediators and neutral evaluators. It gives the DFS increased power to take disciplinary action against neutral evaluators similar to how the DFS may take disciplinary action against insurance agents.

The bill prohibits insurers from denying claims or canceling an insurance policy or contract based on credit information available in the public record if the insurance policy or contract has been in effect for more than 90 days.

Insurance contracts often contain an appraisal provision allowing parties who agree that there is a covered loss to use an umpire to determine the amount of the loss. This bill allows parties to disqualify an umpire for specified conflicts of interest such as where the umpire is related to one of the parties or has been employed by one of the parties.

If approved by the Governor, these provisions take effect July 1, 2014, except as otherwise provided in the bill.

▪ ***CS/HB 785***
Workers' Compensation

The bill revises provisions relating to the regulation of workers' compensation retrospective rating plans by the Office of Insurance Regulation (OIR). Currently, under such a plan, the final workers' compensation insurance premium paid by the employer is based on the actual loss experience of the employer during the policy, plus negotiated expenses and charges. If the employer controls the amount of claims, it pays lower premiums. The bill authorizes retrospective rating plans to contain a provision that allows the employer and insurer to negotiate the premium when the employer has multistate exposure, an estimated annual standard premium in Florida of \$100,000 or more, and an annual estimated countrywide standard premium of \$750,000 or more. Only insurers with \$500 million

or more in surplus would be eligible to engage in the negotiation of premiums with eligible employers.

The bill exempts these retrospective rating plans from the provisions of s. 627.072(1), F.S., which specifies the factors used in determining workers' compensation rates. The bill requires such retrospective rating plans and associated forms to be filed by the rating organization, the National Council on Compensation Insurance, and approved by the OIR. However, an individual employer's premium negotiated pursuant to an approved retrospective rating plan is not subject to part I of ch. 627, F.S.

The bill also provides that reimbursement for oral vitamins, nutrient preparations, or dietary supplements is prohibited. Reimbursement will not be made for medical foods, as defined in 21 U.S.C. s. 360(b)(3), unless the self-insured employer or the carrier in its sole discretion authorizes the provision of such food. Such authorization may be limited by frequency, type, dosage, and reimbursement of such food as part of a proposed written course of medical treatment.

The bill may reduce workers' compensation premiums for employers participating in such retrospective rating plans.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 805***
Title Insurer Reserves

This is partially identical to CS/CS/HB 321 earlier. It changes the unearned premium reserve requirement for title insurers holding \$50 million or more in surplus to policyholders. Those title insurers must have a minimum reserve of 6.5 percent of the total of direct premiums written and premiums for reinsurance assumed, with certain adjustments. Title insurers having less than \$50 million in surplus as to policyholders must continue to record unearned premium reserve in accordance with current law (30 cents per \$1,000 of net retained liability).

The bill amends statutes relating to the release of unearned premium reserve. The bill creates a new schedule for the release of the unearned premium reserve over 20 years for companies with more than \$50 million in surplus, as follows: 35 percent of the initial sum during the year following the year

the premium was written or assumed, 15 percent during each year of the next succeeding 2 years, 10 percent during the next succeeding year, 3 percent during each of the next succeeding 3 years, 2 percent during each of the next succeeding 3 years, and 1 percent during each of the next succeeding 10 years.

The bill allows a title insurer organized under the laws of another state which transfers its domicile to Florida to have an unearned premium reserve as required by the laws of the title insurer's former state. That reserve is released according to the requirements of law in effect in the former state at the time of domicile. The release of reserve based on premiums written after the insurer moves to Florida is governed by Florida law.

The bill reduces the insurance premium tax paid by title insurers, effective January 1, 2015. The bill provides that the premium tax shall not be imposed on any portion of the title insurance premium retained by a title insurance agent or agency. Currently, title insurance agents and agencies retain up to 70 percent of the premium for the performance of title insurance services while the insurer pays the premium tax on the entire premium. The bill provides that provision reducing the premium tax expires December 31, 2017, unless reenacted by the Legislature. It provides legislative intent that the premium tax reduction is contingent on title insurers adding employees to their payroll. The bill requires title insurers to add a minimum of 600 Florida-based employees to their payroll as verified by the Department of Economic Opportunity and requires the department to report such verification to the President of the Senate and the Speaker of the House by October 1, 2016.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided in the bill.

▪ ***CS/CS/HB 1089***
Citizens Property Insurance Corporation

The bill postpones by one year, beginning July 1, 2015, after which new construction or substantial improvements of existing structures seaward of the coastal construction control line or within the Coastal Barrier Resources System are ineligible to receive coverage from the Citizens Property Insurance Corporation (Citizens). The bill also

establishes that wind-only coverage from Citizens for commercial lines residential condominiums is not available for condominiums where 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 1308***
Insurer Solvency

The bill revises provisions within the Insurance Code relating to solvency requirements and regulatory oversight of insurers by the Office of Insurance Regulation (OIR). The bill incorporates provisions of model acts of the National Association of Insurance Commissioners (NAIC) necessary for accreditation purposes. Many of the NAIC provisions in the bill are in response to the 2008 financial crisis and the globalization of the insurance market and are intended to enhance the regulation of insurers as well as their affiliated entities and provide more tools for evaluating solvency risks within insurance groups. The bill:

- Authorizes the OIR to implement principle-based reserving for life insurers, which allows life insurers to calculate reserves that reflect current mortality rates, the life insurer's business model, and its particular risk profile.
- Requires persons that acquire controlling interests to disclose enterprise risk, and requires that ultimate controlling persons file an annual enterprise risk report with the OIR, which identifies material risk within the insurance company holding company system that could pose a risk or have a material adverse effect upon the insurer.
- Incorporates a risk-based capital trend test for life and health as well as property and casualty insurers and requires health maintenance organizations and prepaid limited health service organizations to file risk-based capital reports.
- Requires insurers to file actuarial opinion summaries and supporting workpapers annually and creates an evidentiary privilege for memoranda supporting actuarial opinions on reserves, actuarial opinion summaries and related information and provides for confidentiality of enterprise risk reports, actuarial opinion summaries, and other information.

- Authorizes the OIR to impose sanctions for noncompliance with the annual enterprise risk and registration statement reporting requirements.
- Allows the OIR to participate in supervisory colleges with other regulators for the regulation of any domestic insurer that is part of an insurance holding company system having international operations.

If approved by the Governor, these provisions take effect October 1, 2014, except as otherwise expressly provided in this act, if CS/CS/SB 1300 or similar legislation is adopted in the same legislative session, or an extension thereof and becomes a law.

▪ ***CS/CS/SB 1344***
Insurance

The bill provides that the Property Casualty Insurers Association of America and the Florida Insurance Council will make recommendations to the Chief Financial Officer (CFO) for appointments to the board of governors of the Florida Medical Malpractice Joint Underwriting Association.

It provides that the CFO may select the representative of casualty insurers on the Florida Birth-Related Neurological Injury Compensation Association (NICA) board of directors from a list of at least three names, one recommended by the Property Casualty Insurers Association of America, one recommended by the Florida Insurance Council, and one recommended by the American Insurance Association. This bill provides that the American Congress of Obstetricians and Gynecologists, District XII will make recommendations to the CFO for an appointment to the NICA board of directors. The CFO is not required to make a selection from the trade association nominees.

This bill provides that the Governor must appoint one member to the eleven member board of directors of the Florida Workers' Compensation Insurance Guaranty Association. This member must have commercial insurance experience. This bill reduces from 3 to 2 the members of the board of directors that are selected by self-insurance funds and appointed by the CFO.

This bill changes the information that must be filed with the Office of Insurance Regulation (OIR) as part of an application for a certificate of authority to act as an insurance administrator and allows an insurer that uses the services of an administrator to contract with a qualified third party to conduct the required semiannual review of an administrator. The bill requires the applicant to provide the names, addresses, official positions and professional qualifications of individuals who are employed or retained by the administrator and who are responsible for the conduct of the affairs of the administrator. This bill allows an insurer who uses the services of an administrator to contract with a qualified third party to conduct the required semiannual review of an administrator that administers benefits for more than 100 certificate-holders on behalf of the insurer. This bill also requires that the written agreement between an insurer and an administrator specifies the rights, duties, and obligations of the administrator and insurer.

This bill amends s. 626.89, F.S., to change the filing date for annual reports with the OIR from March 1, to within 3 months after the end of the administrator's fiscal year. This bill also allows the financial statement to cover the previous fiscal year, rather than a calendar year, if the administrator's accounting is on a fiscal year basis.

This bill amends sections 626.9541 and 627.7283, F.S., to allow the refund of unearned motor vehicle insurance premium by electronic transfer.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/SB 1672***
Miscellaneous Property Insurance

The bill directs Citizens Property Insurance Corporation (Citizens) to offer new, separate commercial residential wind-only and all-other perils policies in the Coastal Account instead of multi-peril policies. Current Citizens commercial-residential multi-peril policies in the Coastal Account will be allowed to be renewed going forward.

The bill prohibits a public adjuster, a public adjuster apprentice, or any person acting on behalf of an adjuster or apprentice from accepting power of attorney on an adjusted property and choosing the repair contractor.

The bill prohibits referral fees from being paid to an insurance agency, agent, adjuster, or agency employee related to a mitigation inspection or any property inspection used to calculate property insurance premiums.

The bill prohibits a contractor, or a person acting on behalf of a contractor from knowingly or willfully and with intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible applicable to payment to the contractor, or a person acting on behalf of a contractor, for repairs to property covered by a property insurance policy. A violation is a third degree felony.

The bill allows insurers and Citizens to use a quality assurance program related to the windstorm mitigation inspection form. The bill clarifies that an insurer is not required to independently verify a form if the inspector or inspection company has a quality assurance program approved by the insurer. Citizens may not re-inspect insured properties for 5 years if the initial windstorm mitigation inspection form was verified by a quality assurance program approved by Citizens prior to acceptance of the form.

Allows procurement protests within Citizens to be resolved by the Department of Administrative Hearings at Citizens' expense. Requires Citizens to annually report to the legislature its estimated claims paying capacity. A duplicative legislative report from Citizens is repealed.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***HB 5403***
Surplus Lines Tax Revenue

The bill:

- Redirects the taxes on surplus lines insurance policies and independently procured coverages to deposit 8.8 percent of revenues into the Insurance Regulatory Trust Fund within the Department of Financial Services and 91.2 percent of revenues into the General Revenue Fund.
- Repeals the June 30, 2014, sunset of previous distribution of 100 percent to the General Revenue Fund.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-60, Laws of Florida and becomes effective upon becoming law.

▪ ***HB 7097***
Ratification of Rules/Office of Insurance Regulation

Pursuant to s. 120.541, F.S., a rule that meets any of three thresholds must be ratified by the Legislature. The bill ratifies Rule 69O-186.013, F.A.C., titled Title Insurance Statistical Gathering, as filed for adoption with the Department of State pursuant to the certification package dated December 30, 2013. The rule, which implements s. 627.782(8), F.S., requires Florida licensed title insurance agencies and the retail sales offices of licensed title insurers selling directly to customers to annually submit specified statistical data that the OIR determines are necessary to analyze title insurance premiums, title search costs, and the condition of the title insurance industry in Florida. The data will be used by the Financial Services Commission in its promulgation of title insurance rates. The ratification is for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S.

The estimated cumulative 5-year impact of the rule is \$22 million.

If approved by the Governor, these provisions take effect upon becoming law.

**2014
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Legal

- **Courts**
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Courts

▪ **CS/HB 227**

Victims of Wrongful Incarceration

The existing Victims of Wrongful Incarceration Act (“Act”) provides an administrative process for persons who have been found to have been wrongfully incarcerated to qualify for and receive compensation. Among the conditions for eligibility, an applicant must provide a copy of a court order vacating his or her conviction and sentence.

This bill provides a limited expansion of the Act for those persons who cannot obtain the court order. Under the bill, a person who has been wrongfully incarcerated can qualify for compensation if:

- The person was convicted and sentenced to death on or before December 31, 1979;
- A Governor issued an executive order appointing a special prosecutor to review the conviction;
- The special prosecutor entered a nolle prosequi, or a dismissal of the charges for which the defendant was convicted and sentenced to death; and
- The wrongfully incarcerated person applies for compensation by July 1, 2016.

An applicant for compensation must comply with all other requirements of the Act.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **SB 386**

Application of Foreign Law in Courts

The law of a foreign jurisdiction or system may be recognized in Florida in a variety of circumstances. Contracts may contain a clause which provides that disputes must be decided according to the laws of another jurisdiction or that disputes must be adjudicated in another jurisdiction. These are known as “choice of law” and “forum selection” provisions, respectively. Further, a party may seek to enforce a judgment rendered in a foreign country in a Florida court, which invokes the principle of “comity” or the recognition of foreign decrees. Last, a court may decline to hear a matter on the basis that the dispute would be better handled in a foreign jurisdiction.

The bill provides that foreign law will not be recognized in Florida where it contravenes the “strong public policy” of this state. The bill is limited in its application to dissolution proceedings and support enforcement under the Uniform Interstate Family Support Act.

The bill became law on May 12, 2014 as Chapter 2014-10, Laws of Florida and becomes effective October 1, 2014.

▪ **CS/CS/HB 405**

Trusts

A directing trustee is a cotrustee of a trust who has specific powers to the exclusion of other cotrustees, known as excluded trustees. Under existing law, the excluded trustee may be liable for complying with a directive by the directing trustee, if an excluded trustee has actual knowledge of the willful misconduct of the directing cotrustee. Under the bill, institutions or individuals who serve as an excluded trustee are not liable for complying with a directive by a directing cotrustee unless the excluded trustee’s conduct constitutes willful misconduct.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/CS/SB 522**

Involuntary Civil Commitment of Sexually Violent Predators

The bill requires additional persons to be assessed for civil commitment as a sexually violent predator. Such persons include those in municipal or county jails who have a prior criminal offense for which the state attorney previously referred them to the Department of Children and Families for civil commitment proceedings.

The definition of “total confinement” is amended to include persons serving a sentence in a county or municipal jail for a sexually violent offense. The term also includes cases in which a court determined that the person should have been released at an earlier date and should have been assessed for civil commitment as a sexually violent predator when they were released. This provision will allow the Department of Children and Families to assess individuals for civil commitment as sexually violent predators who were inadvertently released from custody.

The bill makes improvements to the operations of the five-member multidisciplinary team within the Department of Children and Families that assesses persons for possible civil commitment. The bill requires the department to recommend that the state attorney file a petition for civil commitment when two or more members of the multidisciplinary team determine that the person meets the definition of a sexually violent predator. The bill also requires the team to treat an attempt, solicitation, or conspiracy to commit a sexually violent offense, the same as if the person completed the sexually violent offense.

The bill allows both the civilly committed sexually violent predator and the state attorney to be present and provide evidence at a hearing to determine whether the sexually violent predator may be discharged safely from civil commitment.

The bill facilitates monitoring of sexually violent predators by requiring the Department of Children and Families to provide notice to local law enforcement agencies when a sexually violent predator is released. The department must also alert the state attorney when a person who was previously committed as a sexually violent predator is arrested for a subsequent criminal offense. The bill requires the department to notify victims of the release of sexual offenders who are detained by the sexually violent predator program, based on a finding of probable cause, but who were not committed.

The Department of Corrections is required to compile recidivism data on persons referred, detained, or committed to the sexually violent predator program.

The bill was signed into law on April 1, 2014, as Ch. No. 2014-2, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/SB 524**
Sexually Violent Predators

The bill creates the “Protecting Our Children and Adults from Sexual Predators Act.” The purpose of the bill is to improve the assessment of sex offenders for possible civil commitment as sexually violent predators and to improve public notification of the location of sexual offenders and predators.

The bill revises the operations of the five member multidisciplinary team within the Department of

Children and Families that determine whether the sex offender meets the definition of a sexually violent predator. Specifically, the bill requires the department to train team members, provide feedback to team members, and create a process for measuring the performance of team members.

To develop the clinical assessments for consideration by the multidisciplinary team, the department contracts with psychiatrists and psychologists. The bill limits such contracts to one-year terms, but allows the contracts to be renewed. The bill requires the department to evaluate the contractors based on performance each year. This will allow the department to replace contractors who are performing poorly.

The bill requires the department to recommend that the state attorney file a petition for civil commitment when two or more members of the multidisciplinary team determine that the person meets the definition of a sexually violent predator. Currently, the multidisciplinary team makes recommendations based on a consensus among the team members.

The Florida Department of Law Enforcement maintains a web site and toll-free telephone number to provide information to the public on the location and offenses of sex offenders and predators. The bill requires public and private colleges and universities to inform students and employees about the website and the toll-free number to improve public safety on higher education campuses.

The bill was signed into law on April 1, 2014, as Ch. No. 2014-3, Laws of Florida and becomes effective July 1, 2014.

▪ **CS/CS/HB 561**
Attorneys for Dependent Children with Special Needs

The bill requires the appointment of an attorney for any dependent child who has a specified special need.

It requires the court to appoint an attorney for dependent children who meet specific conditions. Such children reside in or are being considered for placement in a nursing facility, are prescribed but refuse a psychotropic medication, have a diagnosis of a developmental disability, are placed or considered for placement in a residential treatment center, or are victims of human trafficking. In

addition, the 2014-2015 General Appropriations Act provides \$4.2 million in general revenue to the Justice Administrative Commission in specific appropriation 794 to contract for attorneys for dependent children with special needs.

The bill requires the court to request a recommendation from the Statewide Guardian Ad Litem Office before appointing a pro bono attorney to represent a child. If the Statewide Guardian Ad Litem Office cannot recommend a pro bono attorney, the court may appoint an attorney to be compensated by the Justice Administrative Commission.

The bill directs that the attorney representing the dependent child provide the complete range of legal services from removal from the home through all appellate proceedings. It authorizes the attorney, with court permission, to arrange for separate counsel for appeals.

The bill requires that, except for attorneys working without compensation, attorneys representing dependent children with disabilities be compensated and provided funding for expert witnesses, depositions, and other costs of litigation. It provides that payment of attorneys under this bill is subject to appropriations. Fees are capped at \$1,000 per child per year.

The bill directs the Department of Children and Families to develop procedures to identify a dependent child who has a special need and will need a court to appoint an attorney.

The bill preserves the power of the court to appoint an attorney for any dependent child under ch. 39, F.S.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **HB 627**
Service of Process

The bill revises the law relating to service of process by:

- Authorizing a sheriff to charge a \$40 fee for each summons served instead of a \$40 fee for serving multiple summons at the same time.
- Providing that if a sheriff relies on an affidavit from a levying creditor, the sheriff is immune from

liability for the wrongful levy or distribution of the proceeds of an execution sale.

- Requiring that the party requesting service of process or the process server file the return-of-service form instead of the person issuing the process.
- Adding a noncriminal violation punishable by a fine of up to \$1,000 for an employer, employee, or a representative or agent of the employer who refuses to accommodate service on an employee.
- Permitting service of process on a corporation at any address where the registered agent, president, vice president, or other head of the corporation is located.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/HB 635**
Guardianship

The bill makes improvements to Florida's guardianship law as it relates to review and audit by clerks of court, requires credit history investigations and Level 2 background checks for all guardians other than corporate guardians, and adds guardians to the list of persons that would be precluded from denying or failing to acknowledge arrests covered by an expunged or sealed record.

The bill defines a guardian as a person who has been appointed by the court to act on behalf of a ward's person or property, or both. Guardians are appointed according to statutory criteria, and are deemed to be professional guardians if they manage the property of more than three wards. Professional guardians, among other requirements, must submit to a criminal background check and a credit history investigation. Every guardian of the property must file an annual guardianship report with the court, which includes the annual accounting. The accounting is subject to review by the clerk of the court and the court.

The bill requires all guardians other than a corporate guardian as described in s. 744.309(4), F.S., to submit to a credit history investigation and Level 2 background screening. An interested party or on the court's own motion, the court may waive the requirement of a credit history investigation or a Level 2 background screening, or both. A

nonprofessional guardian may petition the court for reimbursement for background screening costs.

The clerk of the court may request and review records and documents that reasonably impact guardianship assets. The bill makes additional procedures available to the clerk of the court to obtain documents through the use of a non-party subpoena.

Persons seeking appointment as a guardian are added to the list of persons that may not lawfully deny or fail to acknowledge arrests covered by an expunged or sealed record.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 755***
Courts Miscellaneous

Child Support

This bill allows a court to deviate from the minimum amount of child support required under child support guidelines based on a child's visitation with a parent or the time-sharing schedule exercised by the parents.

Judicial Notice

Florida law authorizes a court to take judicial notice or admit into evidence certain rules and records without requiring a proponent to prove their admissibility. These records include Acts of Congress, statutes, and court records. The use of judicial notice generally requires advance notice to the parties.

This bill authorizes courts to take judicial notice of any court record of other courts when imminent danger is alleged in family cases in which domestic violence is an issue. The exigency of the situation waives the requirement that the court provide advance notice to the parties and an opportunity for a hearing. Notice must instead be provided within 2 business days after the court takes judicial notice.

The Florida Supreme Court and Admission into The Florida Bar

Federal law precludes aliens who are not lawfully present in the United States from receiving certain public benefits including a professional license unless the benefit is authorized by a state statute.

This bill authorizes the Florida Supreme Court to admit an unauthorized immigrant into The Florida Bar, if the applicant:

- Was brought to the United States as a minor;
- Was present in the United States for more than 10 years;
- Has fulfilled all requirements for admission to practice law;
- Has written authorization for employment from the United States Citizenship and Immigration Services;
- Has a social security number; and
- Has registered with the Selective Service System, if the applicant is male.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-35, Laws of Florida and became effective upon becoming law.

▪ ***CS/CS/HB 757***
Estates

The bill amends provisions in the Probate Code and Trust Code. The changes were recommended by the Real Property, Probate, and Trust Law Section of The Florida Bar.

First, the bill clarifies the effective date of legislation passed during the 2013 Regular Session which renders void any part of a written instrument making gifts to a lawyer or lawyer's relatives. As such, the bill grandfathers gifts made in wills before October 1, 2013, the effective date of the 2013 legislation.

Second, the bill clarifies that the party who is contesting the validity of a trust or seeking to revoke a trust bears the burden of establishing the grounds of the invalidity on all issues.

Third, the bill specifies that death benefits, often in the form of life insurance, which are payable to a trust are not available to pay the expenses of administration of a settlor's estate or creditor's claims unless specific language and references are made.

Finally, the bill aligns the anti-lapse provisions of the Trust Code to mirror the same provisions of the Probate Code involving outright devises of gifts to certain relatives. Accordingly, an outright devise

made by a trust to a deceased beneficiary will lapse unless the beneficiary was a grandparent, a lineal descendent of a grandparent of the settlor of a revocable trust, or the testator of a testamentary trust.

Several of these provisions are designed to clarify existing law and are remedial in nature and apply retroactively while others have prospective application.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 781***
Legal Notices

This bill provides that the public cannot be charged a fee or be required to register in order to view legal notices posted on a newspaper's website. In addition, this bill also provides that legal notices published on the statewide website maintained by the Florida Press Association must be searchable and posted on-line for certain periods of time. Finally, this bill repeals a provision clarifying that the printed version of a legal notice controls if there is an error in the electronic version.

Currently, legal notices published in a newspaper must also be posted on the newspaper's website. This bill provides that a newspaper's legal notices webpage must be clearly titled and that legal notices must be the predominant feature of the webpage. In addition, newspapers will not be permitted to charge a fee or require registration by members of the public in order to view or search legal notices.

Current law also provides that legal notices posted on a newspaper's website must also be posted on a statewide website maintained by the Florida Press Association. This bill provides that the statewide website must make legal notices searchable by case name and number and each legal notice must be on-line for 90 days. Legal notices posted on the statewide website after October 1, 2014, must be searchable, free to the public, and on-line for 18 months.

This bill repeals a section of the law which provided that the printed version of a legal notice controlled if there were mistakes in the electronic versions. The law provided that the requirements of legal notice were deemed met if the printed version of a legal notice was correct. Any mistakes which

appeared in a legal notice posted on a newspaper's website or on the statewide website were considered harmless error.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/HB 797***
Clerks of Court

The bill makes various changes to processes administered by clerks of court.

Sale of Tax Certificates

When a property owner fails to pay property taxes, the county tax collector sells a tax certificate for the unpaid taxes. When a tax certificate on homestead property represents less than \$250 in delinquent taxes, the tax collector cannot sell the certificate, but instead must issue the certificate to the county. Certificates accrue interest at the rate of 18 percent per year.

The bill clarifies that counties may make available for public sale county-held tax certificates on a homestead property after the sum of all taxes and interest on the certificates on the property exceed \$250.

Tax Deeds

Two years after a tax certificate is issued, the holder of the tax certificate may apply for a tax deed. Once the certificate holder applies for a tax deed, the process begins for putting the property up for public auction.

Under the bill, the clerk of court must enter property on the list of "lands available for taxes" if after a tax deed sale the certificate holder fails to timely pay:

- Costs necessary to conduct a resale of the tax deed; or
- Additional amounts, such as one-half the value of homestead property, which are due if there are no bidders on a tax deed on a homestead property during the tax deed sale.

Compensation for Service

Jurors and witnesses may be compensated for their court service in certain instances. The clerk of court is responsible for disbursing payment to jurors and

witnesses and may do so by cash or warrant. The bill additionally authorizes clerks of court to pay jurors and witnesses by check.

Writs of Garnishment

Persons who have sued to recover a debt and received a judgment have the right to a writ of garnishment to enforce the judgment against the judgment debtor. The applicant for the writ must place a \$100 deposit in the court registry. The bill requires a person who applies for a writ of garnishment to pay the deposit directly to the garnishee, rather than to the court.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/SB 828*** ***Court System***

The bill repeals or modifies court-related statutes that are unnecessary or outdated. Statutes that are a duplication of provisions in Article V of the State Constitution are repealed as unnecessary. Statutes that unconstitutionally create additional requirements for a judicial office are repealed because they are likely in conflict with constitutional qualifications for office. Other statutes are amended or repealed to reflect current practices or eliminate outdated provisions.

One example of an unnecessary statute that is being repealed states that books for the Supreme Court's library may be acquired by purchase or exchange. It is unclear why that directive ever needed to be included in the statutes.

Similarly, provisions requiring the Supreme Court to appoint a clerk and marshal, directives that are already covered in the State Constitution, are repealed as unnecessary.

Three existing statutes require certain judges to live in specified counties in a judicial circuit. This restricts eligibility for the office beyond the requirements of the State Constitution. Accordingly, these provisions are being repealed because they are most likely unconstitutional.

An example of an outdated statute that is being repealed addresses an evidentiary issue involving receipts of a receiver of the United States Land Office. The land grant office appears to have closed

in 1933 and the last appellate case under the statute was decided 100 years ago in 1914.

If approved by the Governor, these provisions take effect on July 1, 2014.

▪ ***CS/SJR 1188*** ***Prospective Appointment of Judicial Vacancies***

This joint resolution proposes an amendment to the State Constitution to require the Governor to prospectively fill vacancies on the Florida Supreme Court or a district court of appeal that will occur under certain circumstances. The Governor must prospectively fill a vacancy that will occur due to a justice or judge reaching the mandatory retirement age or failing to qualify for a retention election. Additionally, the amendment allows the Governor to prospectively fill a vacancy that will occur because a justice or judge fails to be retained in office at a retention election.

Currently, the Governor's authority to appoint a Supreme Court Justice or district court of appeal judge does not manifest itself until the expiration of the sitting justice's or judge's term. Additionally, under the existing timeframes for filling a judicial vacancy, the potential exists for a judicial office to be vacant for 120 days after a vacancy occurs. Under the amendment, the existing timeframes for a judicial nominating commission to nominate individuals to fill a prospective vacancy begin at the conclusion of the qualifying period for retention or immediately following the general election in which the voters do not retain a judge or justice.

If approved by a vote of at least 60 percent of the voters voting on the measure at the 2014 General Election, these provisions will take effect on January 6, 2015.

▪ ***SB 1664*** ***Correction to 2013 Revised Florida Arbitration Code***

This bill corrects scrivener's error in the Revised Florida Arbitration Code, which was enacted by the Legislature during the 2013 Legislative Session.

The revised code lists a number of provisions or rights that the parties to an arbitration agreement may not waive. One of these is "The remedies provided under s. 682.12[, F.S]." The description, "remedies," is inconsistent with the cross-reference

to s. 682.12, F.S., which relates to the right of a party to have a court enter an order confirming the award. As corrected by the bill, a party to an arbitration agreement may waive a remedy, not the right to the confirmation of the award by a court.

The bill applies retroactively to July 1, 2013, which was the effective date of the legislation enacting the Revised Florida Arbitration Code.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-24, Laws of Florida and became effective upon becoming law.

▪ **SB 2510**
Court-appointed Counsel

The bill:

- Deletes the requirement that an attorney who wants to be included on a registry must certify that he or she will accept the flat fees in s. 27.5304, F.S., as full payment for any case except RICO and deletes authorization for the chief judge to establish limited registries of attorneys willing to waive compensation above the flat fees.
- Creates the Cross-Circuit Conflict Representation Pilot Program including Public Defender Offices in the 10th and 13th Judicial Circuits and the Offices of Criminal Conflict and Civil Regional Counsel (OCCCRC) in the 5th Region. The bill establishes a process by which cases are assigned pursuant to the pilot. The Public Defender and Regional Conflict Offices are directed to report on the pilot's performance and cost savings.
- Increases trial level fee caps: from \$2,500 to \$6,000 for a noncapital, nonlife felony; from \$3,000 to \$9,000 for a life felony; and from \$15,000 to \$25,000 for a capital case. The fee cap for appellate representation is increased from \$2,000 to \$9,000.
- Changes the funding source for due process costs that exceed the over-the-flat-fee appropriation from the state court system to the Justice Administrative Commission's due process categories.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **HB 5303**
Counsel in Proceedings for Executive Clemency

The bill:

- Shifts the responsibility for appointing counsel to represent indigent clients in capital clemency cases from the trial court to the Board of Executive Clemency and requires the board to appoint a private attorney, rather than a State-employed attorney, as counsel. The Timely Justice Act that was enacted in the 2013 session requires completion of the executive clemency process before the Governor issues a warrant for execution.
- Raises the maximum amount of compensation that can be paid to an appointed attorney from \$1,000 to \$10,000, with payment made from General Revenue funds budgeted to the Parole Commission.
- Provides that the statute permitting appointment of counsel does not create a right to counsel.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-59, Laws of Florida and becomes effective July 1, 2014.

Criminal Justice

▪ **CS/CS/HB 53**
Inmate Reentry

The bill requires the Department of Corrections (DOC) to provide every Florida-born inmate with a certified copy of their birth certificate and a state identification card before release from prison. To obtain a birth certificate, the DOC must submit a photo and specified personal information of all Florida-born inmates in its custody to the Department of Health (DOH). The DOC is also required to assist all inmates with obtaining a social security card before release, if needed.

Under the bill, the DOC would be required to assist inmates born outside of Florida with completing forms needed to apply for a social security card, driver license, or state identification card. The DOC must also provide the inmate with the address of the appropriate agency near his or her expected release address where an identification card can be obtained.

The bill amends s. 382.0255, F.S, to require the DOH to waive all fees for a Florida-born inmate to acquire a certified copy of his or her birth certification through the new process created in the bill. It also amends ss. 322.051 and 322.17, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to issue an original state identification card or a replacement state identification card or replacement driver license, if a valid card exists, for no charge to a Florida-born inmate who obtains the card through the new process created in the bill. A replacement state identification card or replacement driver license will only be issued when the DOC has determined the inmate has a valid state identification card or valid Florida driver license (not expired) which has been lost, stolen, or destroyed. The bill authorizes the DHSMV to issue a temporary permit, valid for up to 6 months, to those inmates whose replacement identification card or replacement driver license is within 6 months of expiration.

The DOC is not required to provide a birth certificate and state identification card to a Florida-born inmate who:

- Already has a valid driver license or state identification card;
- Has an active detainer, unless cancellation of the detainer is likely or if the incarceration for which the detainer was issued will be for less than twelve months;
- Is released due to emergency release or conditional medical release;
- Is not in the DOC's physical custody at or within 180 days before release; or
- Is subject to sex offender residency restrictions and does not have a qualifying address.

The bill requires the DOC to make an annual report providing the number of inmates who were released with or without identification cards during the previous year, identifying any impediments to implementation of the identification card program, and recommending any needed improvements in obtaining release documents and identification cards for all inmates.

The bill amends s. 944.803, F.S., to encourage the DOC to maintain faith and character-based institutions to serve both male and female inmates. Currently, three faith and character- based

institutions exist for males; one exists for females. The bill also requires faith and character-based institutions to offer peer-to-peer programs such as Alcoholics Anonymous and literacy instruction.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/HB 59** ***Offenses Against Unborn Children***

This bill creates the "Florida Unborn Victims of Violence Act." It creates new criminal offenses by:

- Creating a new, separate offense for criminal conduct causing injuries to or the death of an unborn child.
- Providing that a separate offense results from injuries to an unborn child, not just the death of the unborn child as provided under current law in some circumstances.
- Expanding the class of unborn children who may be crime victims to include unborn children at any stage of fetal development, not just those unborn children who have reached the point of viability.

In current statutes authorizing criminal penalties or civil damages for the death of an unborn child, the fetus in the womb is referred to as an "unborn quick child" or a "viable fetus." Both terms are defined the same, and refer to a fetus that "becomes capable of meaningful life outside the womb through standard medical measures."

The bill changes all references to an "unborn quick child" and a "viable fetus" to an "unborn child." The bill defines an unborn child as a member of the species homo sapiens at any stage of development. The change in terminology effectively eliminates the need to prove the viability of the fetus or the length of pregnancy.

By changing terms in current law to unborn child, the bill expands the class of unborn children who may be considered to be crime victims. Additionally, the concept of punishing criminal conduct resulting in injuries to or the death of an unborn child at any stage of development will be applied uniformly throughout the statutes.

The bill does not require that an assailant have the intent to injure or kill an unborn child or to know that

the woman injured is pregnant; therefore, this bill expands the number of strict liability offenses.

Under the bill, the punishment for criminal conduct causing injuries to or the death of an unborn child is the same punishment that would apply if the injury or death occurred to the mother of the unborn child. However, the bill provides that the death penalty may not be imposed for an offense against an unborn child. As such, an offender may be charged with a penalty up to a life felony, punishable by life imprisonment.

This bill does not permit the prosecution of:

- Any person for conduct relating to an abortion for which the woman or her legal representative gave permission, or for which there was lawfully implied consent;
- Any person giving medical treatment to a pregnant woman or her unborn child; or
- Any woman with respect to her unborn child.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/HB 89***
Threatened Use of Force

The bill amends Florida's self-defense laws in ch. 776, F.S., and the 10-20-Life sentencing law in s. 775.087, F.S.

The self-defense laws regulate a person's right to use force in self-defense and provide that a person is immune from civil actions and criminal prosecutions for the lawful use of force. The self-defense laws in ch. 776, F.S., do not expressly regulate the use of threats of force in self-defense. This bill expressly authorizes a person to threaten the use of force in all situations in which the person may lawfully use actual force in self-defense. Additionally, the bill extends the immunity protections in existing law for the lawful use of force to a person who lawfully uses threats of force in self-defense.

In recent years, defendants have been convicted of aggravated assault for threatening to use force (e.g., displaying a firearm, firing a "warning shot," etc.) and sentenced to mandatory minimum terms of imprisonment pursuant to the 10-20-Life law. In some cases the defendant unsuccessfully argued self-defense at an immunity hearing or trial, or

both. This bill provides an exception for sentencing aggravated assault cases outside the 10-20-Life minimum mandatory terms of imprisonment if the court makes specified written findings.

The bill provides a process for a person charged with a criminal offense but found to have acted in lawful self-defense to apply to the court to expunge the record.

The bill clarifies that immunity from criminal prosecution only applies when a person has used lawful self-defense. Immunity from civil suit only applies when a civil action is brought by the person against whom the lawful force was used or threatened to be used, a personal representative, or heirs of that person.

The bill further clarifies that the person using self-defense as set forth in ch. 776, F.S., should not be engaged in a criminal activity at the time. The bill also reorganizes the self-defense provisions in ch. 776, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***SB 102***
Drivers Leaving the Scene of a Crash

Creates the "Aaron Cohen Life Protection Act." The bill addresses a perceived or potential incentive in current law to leave the scene of a crash by:

- Punishing leaving the scene of a crash resulting in serious bodily injury to a person as a second degree felony, rather than a third degree felony;
- Imposing a mandatory minimum term of imprisonment of four years for a driver convicted of leaving the scene of a crash resulting in the death of a person;
- Increasing the mandatory minimum term of imprisonment from two to four years for a driver convicted of leaving the scene of a crash resulting in the death of a person while driving under the influence (DUI);
- Imposing a minimum driver license revocation period of at least three years, and driver education requirements for leaving the scene of a crash;
- Ranking offenses for leaving the scene of a crash one level higher than specified in the Criminal

Punishment Code if the victim of the offense was a “vulnerable road user”;

- Authorizing a defendant to move the court to depart from the mandatory minimum term of imprisonment for leaving the scene of a crash resulting in death, unless the violation was committed while the defendant was DUI; authorizing the state to object to the defendant’s motion; and authorizing a court to grant the motion upon a finding that imposition of the mandatory minimum term would constitute or result in an injustice.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 308***
Public Assistance Fraud

The bill gives new authority to the Department of Financial Services (DFS) to obtain information to investigate and prosecute public assistance fraud. The DFS combats fraud in the major public assistance programs, such as Medicaid, Supplemental Nutritional Assistance Program, and Temporary Assistance for Needy Families.

The bill grants public assistance investigators the authority to administer oaths and affirmations. Without this authority, investigators must pay to become a Notary Public to administer oaths, which increases the costs of the program.

The bill also gives public assistance fraud investigators the power to issue subpoenas. Currently investigators cannot issue subpoenas for business and education records needed for investigations. Investigators must ask the local state attorneys to issue the subpoena on their behalf and the state attorney only has authority to issue subpoenas for criminal, not civil matters.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***SB 320***
Commercial and Recreational Water Activities

The bill amends ch. 327, F.S., relating to Commercial and Recreational Water Activities. It defines commercial parasailing, kite boarding or kite surfing, and moored ballooning.

It prohibits moored ballooning within 100 feet of the marked channel of the Intracoastal Waterway and it prohibits parasailing operations and moored ballooning within two miles of the boundary of an airport unless otherwise permitted under federal law. It also prohibits kite boarding or kite surfing in areas within a mile from an airport runway. A violation of the law is a misdemeanor.

The bill provides that the operator of the vessel engaged in commercial parasailing must evaluate weather conditions and wind speeds as defined in the bill. It provides minimum insurance requirements.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/SB 360***
Sentencing for Controlled Substance Violations

The bill increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (painkillers) under s. 893.135, F.S., the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. The bill increases the threshold for oxycodone from 4 grams to 7 grams and the threshold for hydrocodone from 4 grams to 14 grams. Persons who have less than the trafficking threshold amount still may be punished for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

Specifically, the bill provides that trafficking in less than 30 kilograms of oxycodone or hydrocodone is a first degree felony and is subject to the following mandatory minimum terms and fines:

- Trafficking in 7 grams or more, but less than 14 grams, of oxycodone or 14 grams or more, but less than 28 grams, of hydrocodone: 3-year mandatory minimum term and \$50,000 fine.
- Trafficking in 14 grams or more, but less than 25 grams, of oxycodone, or 28 grams or more, but less than 50 grams, of hydrocodone: 7-year mandatory minimum term and \$100,000 fine.

- Trafficking in 25 grams or more, but less than 100 grams, of oxycodone, or 50 grams or more, but less than 200 grams, of hydrocodone: 15-year mandatory minimum term and \$500,000 fine.
- Trafficking in 100 grams or more, but less than 30 kilograms, of oxycodone, or 200 grams or more, but less than 30 kilograms, of hydrocodone: 25-year mandatory minimum term and \$750,000 fine.

▪ ***CS/CS/HB 409
Offenses Against Vulnerable Persons***

The bill expands the list of persons designated as vulnerable adults who can be victims of personal identification fraud to include an individual who is 60 years of age or older; a disabled adult as defined in s. 825.101, F.S.; a public servant as defined in s. 838.014, F.S.; a veteran as defined in s. 1.01, F.S.; a first responder as defined in s. 125.01045, F.S.; an individual who is employed by the State of Florida; or an individual who is employed by the Federal Government.

The bill deletes the requirement that a person use deception or intimidation to obtain or use a vulnerable adult's funds, assets, or property in committing identity theft. The bill specifies that "unauthorized appropriation" occurs when a vulnerable adult does not receive reasonably equivalent financial value in goods or services or when fiduciaries violate specified duties.

The bill amends s. 825.103(1), F.S., to create additional instances that constitute exploitation of a vulnerable adult including the misappropriation, misuse or transfer without authorization of monies belonging to a vulnerable adult by a caregiver or a person who stands in a position of trust and confidence with the vulnerable adult.

An Identity Theft and Fraud Grant Program is created within the Department of Law Enforcement to award grants to support local law enforcement agencies in the investigation and enforcement of personal identification information theft and fraud.

The bill requires courts to impose a surcharge of \$1,001 against a person that pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of fraudulent use of personal identification information of a vulnerable adult. The surcharge will be distributed to the

Florida Department of Law Enforcement (\$500) to provide grants to local law enforcement agencies to investigate offenses related to the criminal use of personal identification information; to the State Attorneys Revenue Trust Fund (\$250) for funding prosecution of offenses relating to the criminal use of personal identification information; to the Public Defenders Revenue Trust Fund (\$250) for purposes of indigent criminal defense related to the criminal use of personal identification information; and to the Clerk of the Court (\$1) as a service charge of the clerk's office. The surcharge cannot be waived by the court.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***HB 427
Traveling Across County Lines to
Commit Felony Offenses***

The bill creates s. 843.22, F.S., which provides that if a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.

The bill defines "county of residence" as the county within Florida in which a person resides. Evidence of a person's county of residence includes, but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

The bill amends s. 903.046(2)(l), F.S., to prohibit those charged with traveling across county lines with the intent to commit a burglary that is reclassified under s. 843.22, F.S., from being released on bail until first appearance to ensure

the full participation of the prosecutor and the protection of the public. The bill makes the crossing of a county line with the intent to commit a reclassified burglary a factor to be considered by the court when making a bail determination.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/HB 485***
Sexual Offenses Against Students by Authority Figures

The bill reclassifies to the next higher felony degree a specified sexual offense committed by an authority figure of a school against a student of the school.

An “authority figure” is a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

A “student” is a person younger than 18 years of age who is enrolled at a school.

“School” has the same meaning as provided in s. 1003.01, F.S., and includes:

- A private school as defined in s. 1002.01, F.S.;
- A voluntary prekindergarten education program as described in s. 1002.53(3), F.S.;
- Early learning programs;
- A public school as described in s. 402.3025(1), F.S.;
- The Florida School for the Deaf and the Blind;
- The Florida Virtual School established under s. 1002.37, F.S.; and
- A K-8 Virtual School established under s. 1002.415, F.S.

The term “school” does not include facilities dedicated exclusively to the education of adults.

The specified sexual offenses include those offenses listed in s. 943.0435(1)(a)1.a., F.S., (qualifying offenses for the purpose of sexual offender registration). Two offenses are excluded from reclassification: sexual battery on a victim 12 years of age or older by a law enforcement officer or other specified officer or official (s. 794.011(4)(g), F.S.) and video voyeurism committed against a

student of a school by an adult employed at the school (s. 810.145(8)(a)2., F.S.).

The reclassified offense is ranked one level above the ranking of the offense in the Criminal Punishment Code.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/HB 515***
Public Assistance Fraud

The bill makes it a third degree felony if the value of the public assistance fraud or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more but less than \$20,000 in any 12 consecutive months.

The bill creates s. 414.39(5)(c) and (d), F.S., which:

- Makes it a second degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.
- Makes it a first degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF) or the director of DCF’s Office of Public Benefits Integrity, to pay a reward to a person who furnishes and reports original information relating to a violation of the state’s public assistance fraud laws, unless the person declines the reward. The information and report must:

- Be made to the Department of Children and Families, the Department of Financial Services, or the Florida Department of Law Enforcement;
- Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person; and
- Lead to the recovery of a fine, penalty, or forfeiture of property.

The reward requirement is subject to availability of funds and may not exceed 10 percent of the

amount recovered or \$500,000, whichever is less, in a single case. The reward must be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to s. 414.41, F.S. The bill specifies that a person who receives a reward is not eligible to receive funds pursuant to the Florida False Claims Act for Medicaid fraud for which the reward was received. The bill amends s. 414.095(14), F.S., to add two additional prohibitions and restrictions. The first prohibition limits the out-of-state use of temporary cash assistance (TCA) benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. The bill directs DCF to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state.

The second prohibition requires a parent or caretaker relative who has been disqualified due to fraud to have a protective payee designated to receive the TCA benefits for an eligible child. The requirements for designation of a protective payee are the same as provided in s. 414.065(2)(b), F.S. The bill specifies that an individual disqualified for fraud cannot be designated as a protective payee and in a two-parent household, if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/HB 517***
Fraudulent Controlled Substance Prescriptions

The bill revises an offense relating to unauthorized possession of a prescription form to prohibit a person from possessing a prescription form unless the form has been signed by the practitioner whose name appears printed on the form and the form is completed. This prohibition does not apply if the person in possession of the form is the practitioner, an agent or employee of the practitioner, a pharmacist, or a supplier of prescription forms who is authorized by the practitioner to possess those forms.

The bill increases the degree of the offense from a first degree misdemeanor to a third degree felony.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ ***CS/CS/CS/SB 526***
Sexual Offenses

The bill (Chapter 2014-4, L.O.F.) significantly increases the punishment of sex offenders. Minimum sentences and maximum penalties are increased for several sexual battery and lewd offenses and incentive gain-time eligibility is eliminated. Some of the other features of the bill include: mandating community supervision of sex offenders who do not receive the maximum prison sentence; and ensuring that offenders who are in the custody of the Department of Children and Families (DCF) as part of the civil commitment process and who are subject to conditional release supervision or community supervision will serve that supervision upon release from DCF custody.

Specifically, the bill:

- Authorizes orders limiting testimony in open court and in depositions if the victim or witness is a "sexual offense victim or witness" (a person who was under the age of 16 when he or she was the victim of or witness to a specified sexual offense);
- Authorizes a court to set other conditions appropriate to taking the testimony of a sexual offense victim or witness, including testifying with the assistance of a registered service or therapy animal;
- Prospectively eliminates time limitations to the prosecution of lewd battery and lewd molestation if the victim was younger than 16 years of age at the time the offense was committed, unless the offender was less than 18 years of age and the offender was no more than 4 years older than the victim at the time of the offense;
- Increases the felony degree for certain sexual offenses involving sexual battery, lewd battery, and lewd molestation when any of the offenses are committed by an adult upon a minor or involve a repeat sexual offense, which has the effect of creating longer sentences;
- Increases the mandatory minimum sentence for dangerous sexual felony offenders from 25 years to life to 50 years to life;
- Revises the definition of "sexual activity" for the offense of unlawful sexual activity with a 16 or 17-year old to include penetration by an object (to make this definition consistent with the definition of "sexual battery");

- Provides that voyeurism includes secretly observing another person's intimate areas in which the person has a reasonable expectation of privacy, when the person is in a public or private dwelling, structure, or conveyance, and defines "intimate area";
- Increases the minimum sentence length of adult-on-minor sex offenders sentenced under the Criminal Punishment Code by creating a new sentence point multiplier;
- Prohibits incentive gain-time for offenders convicted of certain sexual offenses;
- Requires a court to order post-release community supervision by means of a split sentence for certain sex offenders;
- Suspends, or tolls, the post-release supervision of offenders while in DCF custody as part of the civil commitment process to ensure that the post-release supervision portion of the sentence is not eliminated;
- Prohibits offenders on community supervision who have committed any specified sexual offense from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material, regardless of whether it is related to their deviant behavior pattern; and
- Authorizes a court to require a sex offender who is on probation or community control to undergo an evaluation by a qualified practitioner, at the sex offender's expense, to determine whether the offender needs sexual offender treatment.

The bill was signed into law on April 1, 2014, as Ch. No. 2014-4, Laws of Florida and becomes effective October 1, 2014.

▪ **CS/CS/SB 528**
Sex Offenses Registration

The bill (Chapter 2014-5, L.O.F.) makes numerous changes to Florida laws relevant to persons required to register as a sexual predator or sexual offender ("registrant"). Registration of such individuals provides notice to the public and assists law enforcement personnel in monitoring the activities of sexual predators and sexual offenders. A significant change in the bill is an increase in the information a registrant must report to the Florida Department of Law Enforcement (FDLE). This additional information includes information on

vehicles a registrant owns and vehicles owned by a person residing with the registrant.

Specifically, the bill:

- Creates a process for relevant agencies to be notified of an order granting a registrant's name change petition and informing the FDLE and applicable law enforcement agencies when a registrant whose name was legally changed fails to meet requirements for obtaining a replacement driver license or identification card;
- Adds "sexual misconduct" offenses and lewd offenses committed against the elderly or disabled to criteria or definitions that qualify a person as a sexual predator or offender;
- Requires a registrant to report specified information on vehicles the registrant owns and vehicles owned by a person who resides at a registrant's permanent address, Internet identifiers (prior to their use), tattoos or other identifying marks, palm prints, passports, professional license information, immigration status information, and volunteer status at a Florida institution of higher education;
- Requires a registrant to report any change in vehicles owned to the sheriff within 48 hours of the change;
- Prohibits the FDLE from posting information regarding a non-registrant's vehicles on the Internet public registry of sexual predators and sexual offenders;
- Requires a registrant who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles to report any change of residence or change of name within 48 hours after the change;
- Requires a registrant to report information regarding his or her intention to establish a residence in another country (or intention to remain in Florida after previously reporting an intention to reside in another country);
- Requires a registrant to report transient residence information to the sheriff within 48 hours after establishing a transient residence and every 30 days thereafter if the registrant maintains a transient residence;

- Requires sheriffs to establish procedures for transient residence reporting and to notify transient registrants of reporting requirements;
- Authorizes sheriffs to enter into agreements with police departments and others to facilitate transient reporting sites;
- Punishes a registrant who fails to report Internet identifiers prior to use, knowingly provides false registration information, or fails to report transient information as required;
- Authorizes prosecution for registration violations in the county where the registrant is released and in the county of the intended address of the registrant as reported by the registrant prior to his or her release;
- Authorizes sheriffs to verify the addresses of registrants in Department of Corrections' care, custody, control, or supervision;
- Clarifies provisions relevant to the 25-year registration period that must be served under s. 943.0435, F.S., before a petition for removal of registration requirements may be filed; and
- Changes the victim age cap (from 14 years of age to 13 years of age) relevant to the criteria for petitioning for removal of registration requirements under s. 943.04354, F.S., (the "Romeo and Juliet" statute).

The bill was signed into law on April 1, 2014, as Ch. No. 2014-5, Laws of Florida and becomes effective October 1, 2014.

▪ **CS/CS/CS/HB 641**
Computer Crimes

The bill recognizes that advancements in technology have led to an increase in the number and reach of computer related crimes. CS/CS/CS/HB 641 addresses this increase in computer crimes by expanding the application of various existing statutes addressing computer-related crimes to include electronic devices and creating additional offenses. The bill expands the entities that can bring a civil action against persons convicted of computer-related offenses and provides for exceptions to computer-related offenses for persons who act pursuant to a search warrant, an exception to a search warrant, within the scope of lawful employment or who perform authorized security operations of a government or business.

Three crimes are added to "offenses against users of computer networks and electronic devices" including:

- Audio and video surveillance of an individual without that individual's knowledge by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device without authorization;
- Intentionally interrupting the transmittal of data to or from, or gaining unauthorized access to a computer, computer system, computer network, or electronic device belonging to a mode of public or private transit;
- Endangering human life; and
- Disrupting a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.

"Offenses against public utilities" are created in the bill and two additional crimes are created, including:

- Gaining access to a computer, computer system, computer network, or electronic device owned, operated, or used by a public utility while knowing that such access is unauthorized, a third degree felony; and
- Physically tampering with, inserting a computer contaminant into, or otherwise transmitting commands or electronic communications to a computer, computer system, computer network, or electronic device which causes a disruption in any service delivered by a public utility, a second degree felony.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ **CS/HB 697**
Controlled Substances

The bill adds four new synthetic cannabinoids and two new synthetic phenethylamines (hallucinogenic substances) to the list of Schedule I controlled substances.

The bill also adds three chemical substances to the provision of the trafficking statute that punishes trafficking in phenethylamines. These chemical substances are currently Schedule I controlled

substances that are most commonly found in the street drug “Molly.”

The bill also amends the trafficking in phenethylamines provision to specify it applies to analogs or isomers of any listed phenethylamine.

If approved by the Governor, these provisions take effect upon becoming law.

▪ ***CS/CS/CS/HB 989*** ***Human Trafficking***

The bill addresses human trafficking by:

- Protecting the identity of human trafficking victims in court records;
- Authorizing compensation and relocation assistance to human trafficking victims;
- Prohibiting minors from working in adult theaters;
- Facilitating prosecution and enhancing penalties for human trafficking offenses;
- Encouraging prosecution of adults who involve minors in prostitution-related behavior under laws other than ch. 796, F.S. (prostitution), such as those addressing human trafficking, sexual battery, and lewd acts;
- Enhancing penalties for deriving support from the proceeds of prostitution; and
- Authorizing human trafficking victims to seek expungement of criminal history records of arrests and charges arising out of the human trafficking.

Court Record Information

The bill provides protections for disclosure of court record information that identifies a victim of human trafficking of a minor for labor or services or human trafficking for commercial sexual activity, including the use of a pseudonym.

Compensation and Relocation Assistance

The bill provides that a victim engaged in prostitution as a result of being a victim of a human trafficking offense involving commercial sexual activity is eligible for an award under the Florida Crimes Compensation Act.

Relocation assistance currently available to sexual battery victims is also made available to victims

of human trafficking involving commercial sexual activity. The bill amends current grant criteria to make those criteria applicable to the human trafficking offenses. Applicable to a sexual battery or human trafficking victim, the victim’s need for assistance must be certified by a certified rape crisis center in this state or by the state attorney or statewide prosecutor having jurisdiction over the offense. However, a human trafficking victim’s need for assistance may also be certified by a certified domestic violence center in this state. The certification by the rape crisis center or domestic violence center of the human trafficking victim’s need for assistance must include, if applicable, approval of the state attorney or statewide prosecutor attesting that the victim is cooperating with law enforcement officials.

Minors Working in Adult Theaters

The bill prohibits a person under 18 years of age from working in an adult theater regardless of whether such person’s disabilities of nonage have been removed by marriage or otherwise. An adult theater must obtain proof of the identity and age of its employees or independent contractors prior to employment or the provision of services, and maintain certain records for a specified period. The Department of Business and Professional Regulation and its agents may enter during operating hours, unannounced and without prior notice, and inspect at any time a covered place or establishment and access age verification documents kept on file by the adult theater and other records as may aid in enforcement of the described requirements.

Prosecution and Punishment of Human Trafficking

The bill provides that there is no time limitation for the criminal prosecution of a violation of s. 787.06, F.S. (human trafficking), except for an offense the prosecution of which would have been time-barred on or before October 1, 2014 (the effective date of the bill).

The bill amends s. 787.06, F.S. (human trafficking), to clarify that the statute applies to persons who engage or attempt to engage in human trafficking whether or not the activity involves a venture. The bill revises human trafficking offenses that are first degree felonies to punish human trafficking:

- For labor or services of any child under 18 years of age;
- Using coercion for labor or services of an adult;
- Using coercion for commercial sexual activity of an adult;
- For labor or services of any child under 18 years of age who is an unauthorized alien;
- Using coercion for labor or services of an adult who is an unauthorized alien;
- Using coercion for commercial activity of an adult who is an unauthorized alien;
- For labor or services by transfer or transport of any child under 18 years of age from outside this state to within the state;
- Using coercion for labor or services by transfer or transport of an adult from outside this state to within the state;
- For commercial sexual activity by transfer or transport of any child under 18 years of age from outside this state to within the state (first degree felony punishable by life); and
- Using coercion for commercial sexual activity by transfer or transport of an adult from outside this state to within the state.

The bill consolidates and modifies the offenses of human trafficking for commercial sexual activity involving any child under 18 years of age and human trafficking for commercial sexual activity involving any child under 15 years of age. The consolidated offense is human trafficking for commercial sexual activity involving any child who is under 18 years of age or person who is mentally defective or mentally incapacitated. The consolidated offense is a life felony punishable by life imprisonment (an increase from current first degree felony penalties).

The bill increases from a first degree felony punishable by life imprisonment to a life felony the offense of sale or transfer of a minor by a parent, legal guardian, or other person who has custody or control of the minor with knowledge or reckless disregard that the minor will be subject to human trafficking.

The bill creates a new second degree felony offense for permanently branding or directing the branding of a person who is a victim of human

trafficking. “Permanently branded” means a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

Human trafficking offenses are ranked in the offense severity ranking chart of the Criminal Punishment Code. Offenses that involve a child victim are ranked one level higher than the corresponding offense in which the victim is an adult.

The bill creates a new provision that the defendant’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the defendant’s bona fide belief of the victim’s age cannot be raised as a defense in a prosecution for human trafficking.

The bill provides that, on or after October 1, 2014, commercial sex trafficking involving any child under 18 years of age or a person who is mentally defective or mentally incapacitated is punishable by life imprisonment.

Prosecution of Adults Who Involve Minors in Prostitution-Related Behavior

The bill provides legislative intent that adults who involve minors in behaviors prohibited under ch. 796, F.S. (prostitution), be prosecuted under other laws of the state because a minor is unable to consent to such behavior.

The bill repeals s. 796.03, F.S. (procuring a minor for prostitution), s. 796.035, F.S. (selling or buying of minors into prostitution), and s. 796.036, F.S. (reclassification of the degree of prostitution-related offenses involving a minor).

Penalties for Deriving Support from the Proceeds of Prostitution

The bill increases the felony degree of the offense of knowingly deriving support from the earnings of a prostitute, which is currently a third degree felony. The bill makes the first violation a second degree felony, elevates second or subsequent violations to first degree felonies, and provides a 10-year mandatory minimum term of imprisonment for a third or subsequent violation.

Expungement of Human Trafficking Criminal History Records by Victims

The bill allows a victim of human trafficking to petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed as a part of a human trafficking scheme of which the person was a victim or at the direction of the operator of the scheme, without regard to the disposition of the arrest or of any charges.

If a person is adjudicated not guilty by reason of insanity or found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determination of eligibility to purchase or possess a firearm or carry a concealed firearm. The expunction shall not prevent any governmental agency authorized by state or federal law to determine eligibility to purchase or possess a firearm or carry a concealed firearm from accessing or using the record of the judgment or finding in the course of the agency's official duties.

If approved by the Governor, these provisions take effect October 1, 2014.

▪ *CS/SB 1142* *Ticket Sales*

The bill increases the criminal penalties related to counterfeit tickets and sales of "multiuse tickets" to theme parks.

The bill amends s. 817.355, F.S., to expand the list of specifically prohibited activities and to create increased penalties when the offense involves ten or more items or is a repeat offense.

Under current law, it is a first degree misdemeanor to counterfeit, forge, alter, or possess any ticket, token, or paper with the intention to defraud a facility. The bill adds a prohibition against cloning and applies the restrictions to cards, wristbands, or other media that access or are associated with a ticket.

The bill enhances the penalty for a second or subsequent violation of s. 817.355(1), F.S., from a first degree misdemeanor to a third degree felony. It also provides that the offense is a third degree felony if it involves ten or more items, regardless of whether it is a first or subsequent offense.

The bill creates a third degree felony for the counterfeiting, forging, altering, cloning, or possession of ten or more tickets, cards, wristbands, or other media that access or are associated with a ticket with the intention to defraud a facility.

The bill amends s. 817.361, F.S., relating to the unauthorized sale or transfer of nontransferable tickets after the ticket that has been used at least once for admission.

Under current law it is a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable ticket or other nontransferable medium which has been used at least once for admission. The bill specifies that the offense applies to nontransferable "multiuse tickets" and to a "card, wristband, or other medium which accesses or is associated with a nontransferable multiuse ticket."

The bill increases the penalty for the offense to a first degree misdemeanor, and enhances the penalty for a second or subsequent offense to a third degree felony. Currently, the first offense is a second degree misdemeanor which is enhanced to a first degree misdemeanor for a second or subsequent offense.

Under current law, a ticket is transferable unless otherwise stated on the ticket itself. The bill repeals that provision, and instead states a multiuse ticket is nontransferable unless either:

- The phrase "may be used by more than one person" is printed clearly on the ticket; or
- The issuer of the ticket explicitly states on its website the ticket may be used by more than one person.

The current statute applies to the sale or transfer of nontransferable tickets or other media designed for admission to more than one amusement location or other facility offering entertainment to the general public. The bill applies only to admission to theme park complexes or amusement areas within a theme park complex. This change has the effect of repealing penalties for the resale of used nontransferable multiday or multievent tickets to entertainment venues other than theme parks.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 7035***
Juvenile Sentencing

The bill conforms Florida law to recent United States Supreme Court decisions involving the sentencing of juvenile offenders. The bill provides that any offender who is convicted of murder that was committed before he or she was 18 years old may be sentenced to life imprisonment only after a mandatory hearing at which the judge considers certain factors relative to the offender's age and attendant circumstances. For capital offenses, the judge must impose a minimum sentence of at least 40 years if the juvenile offender actually killed, intended to kill, or attempted to kill the victim.

The bill also provides for a judicial hearing to review the sentences of these juvenile offenders. A juvenile offender who is convicted of capital murder is entitled to a sentencing review after 25 years if he or she actually killed, intended to kill, or attempted to kill the victim, except when the offender has a prior conviction for an enumerated violent crime. A juvenile offender who is a capital murderer but who did not actually kill, intend to kill, or attempt to kill the victim is entitled to a sentencing review after 15 years.

A juvenile offender who is convicted of murder that is a life felony or a first degree felony punishable by life imprisonment is also entitled to a sentencing review after 25 years if he or she actually killed, intended to kill, or attempted to kill a victim. If the offender did not actually kill, intend to kill, or attempt to kill the victim, then he or she is entitled to a sentencing review after 15 years.

A juvenile offender who is sentenced to more than 20 years for a non-homicide offense is entitled to a sentence review hearing after 20 years and is entitled to another hearing after 30 years if not released sooner.

If the court that conducts any sentence review hearing determines that the offender has been rehabilitated and is fit to reenter society, the offender must be released with a modified sentence that requires serving a minimum term of 5 years of probation. Otherwise, the court must enter a written order stating the reasons for not modifying the sentence.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/CS/HB 7055***
Juvenile Justice

The bill amends ch. 985, F.S., which provides a framework for the juvenile justice system in Florida and delineates duties and responsibilities of the Department of Juvenile Justice (DJJ). Specifically, the bill enhances the state's focus on serious juvenile offenders, adopts measures to reduce recidivism, and increases care of juvenile offenders in the department's custody.

Serious Cases and Public Safety

- Requires the DJJ to notify a law enforcement agency and the victim of a juvenile offender who has escaped or absconded while in custody during commitment;
- Grants the court jurisdiction over a juvenile sex offender under the DJJ supervision until he or she is 21 years old;
- Encourages the DJJ to develop evening-reporting centers to better support children in nonsecure detention;
- Authorizes the court to order juvenile offenders who commit technical violations of probation into an alternative consequence program; and
- Waives fingerprinting requirements for children committing offenses that may only result in a civil citation.

Special Needs of Children and Transitional Services

- Authorizes intake personnel to incorporate mental health, substance abuse, and psychosexual evaluations as part of the intake process;
- Establishes trauma-informed care as part of the DJJ model;
- Encourages placement of children in their home communities to facilitate family and community support;
- Enhances the transition-to-adult services offered and lifts the age restriction of youth clients eligible for service; and
- Requires the DJJ to focus on prevention services through providing academic and community support for at-risk youth.

Care of Juveniles in Residential Custody

- Combines the commitment levels of low-risk and moderate-risk residential commitments into the newly-designated nonsecure residential commitment level and caps the number of beds authorized per facility at 90 beds, rather than the current cap of 165 beds;
- Creates a criminal offense of willful and malicious neglect, punishable as a third degree felony if the employee's lack of care does not result in harm to the juvenile offender in DJJ custody and as a second degree felony if great bodily harm results; and
- Allows for prosecution under the new criminal offense for any victim in commitment care, not just children under the age of 18.

To increase performance accountability, the bill requires the DJJ to adopt a system to measure performance based on recidivism rates of providers and programs, and to annually report findings to the Legislature.

The bill codifies a provision found in the 2013-2014 Implementing Bill for the General Appropriations Act which caps the allowable rate for hospital health services provided to juveniles at 110 percent of the Medicare allowable rate, with a cap of 125 percent in limited cases.

This bill allows a DJJ employee other than a juvenile probation officer to participate in intake, screenings, and assessments.

If approved by the Governor, these provisions take effect July 1, 2014, except that the newly created willful and malicious neglect offense takes effect October 1, 2014.

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Taxation & Economic Development

Taxation & Economic Development

▪ **HB 231** **Admissions Tax**

Creates an additional exemption from the tax on admissions for Major League Soccer all-star games.

The bill also changes the current exemption for events related to the National Basketball Association All-Star weekend. The bill repeals reference to specific event names, and instead exempts NBA all-star events produced by the NBA and “held at a facility such as an arena, convention center, or municipal facility.”

If approved by the Governor, these provisions take effect July 1, 2014.

▪ **CS/HB 803** **Communications Service Tax**

The communications services tax is levied on each taxable sale of communications services at retail in this state. The category of “information services” is expressly excluded from the definition of the term “communications services,” thereby exempting sales of information services from the tax.

The bill amends the definition of the term “information services” to include data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser whose primary purpose for the underlying transaction is the processed data or information.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-36, Laws of Florida and becomes effective July 1, 2014.

▪ **SB 1676** **Internal Revenue Code**

The bill adopts the 2014 version of the United States Internal Revenue Code for purposes of the Florida corporate income tax.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-25, Laws of Florida and became

effective upon becoming law and operate retroactively to January 1, 2014.

▪ **HB 5501** **Documentary Stamp Tax Distributions**

The bill amends s. 201.15, F.S., to extend the provision to pay debt service for bonds issued before January 1, 2013, to January 1, 2015.

The bill was signed into law on June 2, 2014, as Ch. No. 2014-61, Laws of Florida and becomes effective July 1, 2014.

▪ **HB 5601** **Economic Development and Tax Breaks**

The bill creates three temporary “tax holiday” periods during which sales of certain goods will be exempt from the sales tax:

- A three-day “back to school” holiday, beginning August 1, 2014, and ending August 3, 2014. During the holiday clothing, footwear, wallets, and bags that cost \$100 or less and school supplies that cost \$15 or less per item are exempt from the state sales tax and county discretionary sales surtaxes, along with the first \$750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use, including tablets, laptops, monitors, input devices, and nonrecreational software.
- A nine-day hurricane supplies holiday, for the period beginning on May 31, 2014, and ending on June 8, 2014.
- A three-day energy efficient products holiday for the period beginning on September 19, 2014, and ending on September 21, 2014, for the first \$1,500 of the sales price for a new ENERGY STAR product or WaterSense product.

The bill also:

- Reduces the sales tax rate on electricity purchases and creates an additional gross receipts tax on electricity purchases that are subject to sales tax. The effect of these changes is to provide a small tax reduction to purchasers of electricity and to create additional revenue for construction and maintenance of educational facilities.

- Creates a three-year sales tax exemption for cement mixing drums.
- Creates a permanent sales tax exemption for child restraint systems and booster seats for use in motor vehicles.
- Creates a permanent sales tax exemption for bicycle helmets marketed for use by youth.
- Creates a permanent sales tax exemption for therapeutic pet foods available through a licensed veterinarian.
- Creates a permanent sales tax exemption for college meal plans.
- Expands the amount of credits available under the New Markets Tax Credit program.
- Delays the repeal of the Community Contributions Tax Credit program for one year and increases the credits available for affordable housing.
- Amends the statutory definition of “prepaid calling arrangement” to provide that certain prepaid mobile communications services are subject to state and local sales taxes instead of state and local communications services taxes.
- Allows sales tax dealers to receive credits or refunds of sales taxes paid on purchases made with uncollectable private-label credit card accounts.
- Revises the calculation of the premium tax imposed on bail bond premiums so that the tax rate is applied only to the amount of the premium received by the insurance company, excluding amounts retained by the bail bondsman.
- Increases cigarette tax revenue distributed to the Moffitt Cancer Center.
- Allows a local government to repeal or reduce local business taxes without establishing an equity study commission.
- Clarifies tourist development tax information sharing requirements to protect the identity of individual taxpayers.

The bill was signed into law on May 13, 2014, as Ch. No. 2014-38, Laws of Florida and becomes effective July 1, 2014.

▪ ***CS/HB 7023*** ***Economic Development***

The bill addresses a number of activities related to economic development as well as activities under the jurisdiction of the Department of Economic Opportunity (DEO). Specifically, the bill addresses the following:

Rural Job Tax Credit Program

Provides a tax refund of up to 50 percent of the sales tax paid for electricity by an eligible business receiving a tax credit under the Rural Job Tax Credit Program during the 1-year period after the tax credit is received. The total amount of tax refunds that may be approved is capped at \$600,000 for each calendar year.

Economic Development Reporting

Requires Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to include the New Markets Development Program in the rotating, 3-year review schedule of economic development programs.

Loan Programs Administered by the DEO

Establishes requirements for the operation of all loan programs administered by the DEO to increase accountability and performance.

Triumph Gulf Coast, Inc.

Clarifies that the Auditor General's annual audit of Triumph Gulf Coast, Inc., and the Recovery Fund is a performance audit, and that the audit by the retained independent certified public account is to be performed annually. Provides that the initial appointments to the board of directors of Triumph Gulf Coast, Inc., begin after the Legislature appropriates funds to the Recovery Fund, and provides for term limits for the initial appointments.

Florida Defense Support Task Force

Increases the amount of funds the Florida Defense Support Task Force may annually spend on staffing and administrative expenses from \$200,000 to \$250,000.

Florida Small Cities Community Development Block Grant Program

Provides the DEO rulemaking authority to establish guidelines to distribute the Small Cities Community Development Block Grant Program funds through a competitive selection process. Revises application procedures, including the citizen participation requirements. Revises the amount of block grant funds that may be spent on administrative costs under the economic development program category and provides that the maximum amount of block grant funds that may be spent on engineering and architectural costs will be determined by a method adopted by the DEO by rule.

Space Florida

Directs Space Florida to consult with VISIT Florida, rather than Enterprise Florida, Inc., to develop a space tourism marketing plan. Repeals the requirement that Space Florida develop a proposal to establish a Center for Excellence for Aerospace and instead, makes it permissive. Requires Space Florida to provide support to universities in Florida that are members of the Federal Aviation Administration's Center of Excellence for Commercial Space Transportation. Permits the Department of Transportation, in consultation with Space Florida, to fund certain strategic spaceport launch support facilities investment projects.

Reemployment Assistance

Repeals the requirement that applicants for reemployment assistance complete the mandatory initial skills review and replaces it with a voluntary online assessment of the individual's skills, abilities, and career aptitude. The online assessment must work seamlessly with CONNECT, the electronic claims filing system, and must be competitively procured by the DEO. Amends the Short-Term Compensation program to comply with federal requirements.

Extends the ability of employers to make quarterly contributions to the Unemployment Compensation Trust Fund, rather than a single, annual payment. This provision was scheduled to sunset in 2014.

Requires the DEO to provide an alternate method for filing a claim, such as by telephone, when it determines that the electronic claims filing system is unavailable for individuals to use to file claims.

Rural Areas of Opportunity - Formerly known as RACECs

Rebrands "rural areas of critical economic concern" as "rural areas of opportunity."

Regional Rural Development Grants Program

Increases the maximum grant amount that may be awarded by the DEO under the Regional Rural Development Grants Program from \$35,000 to \$50,000; and for rural areas of opportunity, the maximum grant amount is increased from \$100,000 to \$150,000.

Developments of Regional Impact

Exempts certain developments that qualify for an exemption as a Dense Urban Land Use pursuant to s. 380.06(29), F.S., from aggregation requirements set forth in s. 380.0651(4), F.S.

Extensions of Permits

Extends and renews certain building permits issued by the Department of Environmental Protection, by a water management district, or a local government for a period of 2 years. Requires permit holders to apply for a permit extension, in writing, by December 31, 2014. Provides that the permit extensions do not apply to permits issued by the Army Corp of Engineers, permits in significant noncompliance, or permits that, if extended, would prevent compliance with a court order. Allows a local government to require an applicant for a permit extension to maintain and secure the property in compliance with applicable laws and ordinances.

The Florida Microfinance Act

Creates the "Florida Microfinance Act" consisting of two programs: a loan program and a guarantee program. Appropriates \$10 million in nonrecurring funds to the DEO to implement the act, of which \$100,000 may be spent by the DEO and EFI to market and promote the act. The bill also authorizes 1 full-time equivalent position to the DEO to implement the act.

If approved by the Governor, these provisions take effect July 1, 2014.

▪ ***CS/HB 7081***
Tax Administration

This bill contains the Department of Revenue's recommendations for changes to the tax administration statutes and some additional tax administration issues.

- Revises the process used by counties to grant local government economic development property tax exemptions.
- Clarifies that storage charges for towed vehicles are taxable unless the storage is a "lawful impoundment" by a law enforcement agency.
- Amends statutes concerning criminal penalties to remove redundant and potentially confusing language. No new penalties are created.
- Allows the department to require security deposits from certain sales tax dealers.
- Clarifies that local governments can provide summary tourist development tax statistics as long as the information does not allow identification of individual taxpayers.
- Changes the remittance date for state funds collected by the Clerks of the Court.
- Makes an automated sales suppression device an unlawful contraband article. These are devices or software programs used to falsify cash register records.
- Requires an employer to produce records requested by the department or the Department of Economic Opportunity for audit purposes in order to continue to receive a reemployment tax rate below the standard rate.
- Reduces the interest rate imposed on reemployment compensation tax deficiencies from 12 percent to the prime interest rate plus 4 percent.
- Increases the number of days for an employer to protest a reemployment tax assessment.

The bill was signed into law on May 12, 2014, as Ch. No. 2014-40, Laws of Florida and became effective upon becoming law.

▪ ***See Also CS/HB 7091, p. 47***
Department of Agriculture and Consumer Services

As it relates to taxation, the bill:

- Under certain conditions, allows property owners to file late for an agricultural classification for assessment purposes;
- States that lands classified as agricultural and participating in a dispersed water storage program shall continue to be classified as agricultural.

▪ ***CS/HB 7095***
Professional Sports Facilities Incentive Application Process

The bill makes several changes to state-administered sports-related programs.

Sports Development Program

The bill creates a process for a local government or team or other entity that operates or manages a sports facility to apply for an annual distribution of state sales and use tax revenue to fund professional sports franchise facilities. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility.

The application period is June 1 through November 1, and by February 1 of each year, the DEO will rank the recommended applications and present them to the Legislature for approval. However, applicants who have started a project or a new facility between March 1, 2013, and July 1, 2014, may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$7 million. The total annual cap on distributions is \$13 million for all certified applicants.

The DEO determines the annual distribution amount an applicant may receive based on an amount equal to 75 percent of the average annual new incremental state sales tax generated by sales

at the facility, up to a maximum amount based on the total project cost. Applicants with a project cost of:

- \$200 million or greater may receive up to \$3 million annually;
- Over \$100 million but under \$200 million may receive up to \$2 million annually;
- Over \$30 million but under \$100 million may receive up to \$1 million annually; and
- Over \$100 million and who are currently receiving distributions under the Professional Sports Franchise program (s. 288.1162, F.S.) may receive up to \$1 million annually.

Distributions may be made for up to 30 years, and may be pledged for repayment of bonds.

The distributions are determined by the amount of new incremental state sales tax generated by sales at the facility over a baseline. The baseline is determined by a 36-month average annual state sales tax generated by sales at the facility. The following applicants have a “zero baseline”:

- An applicant applying for a “new facility,” which includes a first-time applicant whose project exceeds \$300 million and commenced on the facility’s existing site before January 1, 2014, or a beneficiary that has completed the terms of a previous agreement for distributions under ch. 212, F.S., for an existing facility; and
- An applicant whose project cost over \$300 million and is funded by at least 90 percent private sources.

Additionally, an applicant currently receiving distributions under the Professional Sports Franchise program have a baseline of \$2 million. To be eligible for distributions the expected average annual new incremental state sales tax generated by sales at the facility must be at least \$500,000 above the baseline.

In general, applicants cannot receive multiple state revenue distributions under s. 212.20, F.S., except for applicants currently receiving distributions under the Professional Sports Franchise program that have project costs of over \$100 million, as discussed above.

The applicant must enter into a contract with the DEO to receive the funds, and must agree to repay the state any funds if:

- Distributions exceed the actual amount of new incremental state sales taxes generated by sales at the facility; the applicant may repay the state the total amount at the end of the contract term, plus a 5 percent penalty, or on an annual basis without penalty;
- The beneficiary breaks the terms of the agreement with the applicant and relocates or no longer uses the facility as the primary tenant; the beneficiary must reimburse the state an amount equal to any funds remaining to be distributed, plus a 5 percent penalty; or
- The DEO determines that the applicant submitted false or fraudulent information; the applicant must reimburse the state for all funds that have been and will be distributed, plus a 5 percent penalty.

The bill allows a municipality or county to use its half-cent sales tax revenue to reimburse the state as required in the Sports Development Program. The bill also increases the amount of a municipality’s or county’s half-cent sales tax revenue that can be used to fund a professional sports facility or motorsport entertainment complex from \$2 million to \$3 million.

The applicant must report to the DEO at least annually, and must be verified to be meeting the program requirements every 5 years. The Auditor General may conduct audits on the applicant’s reports of state sales taxes generated and to verify that the distributions are being expended according to program requirements. Additionally, the bill adds the program to the list of economic development programs subject to review by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) beginning January 1, 2018.

Retention of Spring Training Baseball Franchises Program

The bill revises the schedule of distribution of state sales and use tax for the Retention of Spring Training Baseball Franchises Program. However, no distributions may be made before July 1, 2016, as under current law. The revised distribution schedule is as follows:

- For a facility used by one spring training franchise, monthly distributions are increased to up to \$83,333 from \$55,555, for a period of 20 years instead of 30 years. The maximum amount that may be distributed remains at \$20 million; and
- For a facility used by more than one spring training franchise, monthly distributions are increased to up to \$166,667 from \$111,110, for a period of 25 years instead of 37.5 years. The maximum amount that may be distributed remains at \$50 million.

The bill also revises the following requirements of the program:

- Permits a local government that was certified for use of its facility by one spring training facility to amend its certification if it adds any additional franchises.
- Provides that an agreement for the use of the facility by a franchise can be signed at any time before the expiration of an existing agreement, as long as the applicant has never received state funding for the facility as a spring training facility under ss. 288.11621 and 288.11631, F.S., and the facility was constructed before January 1, 2000. Otherwise such a contract cannot be signed more than 4 years before the expiration of any existing agreement with the spring training franchise for the use of the facility.
- Provides an exception to reimbursement requirements when bonds are issued for the construction of the facility.

Sports Facilities as Homeless Shelters

The bill limits the use of a professional sports facility as a homeless shelter to the period of a declared federal, state, or local emergency.

If approved by the Governor, these provisions take effect upon becoming law.

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