

FLORIDA HOUSE OF REPRESENTATIVES

2008-2009
**INTERIM
PROJECTS**

SPEAKER
**MARCO
RUBIO**





Economic Expansion & Infrastructure Council

Interim Projects

**Representative Dean Cannon, Chair
Representative Dorothy Hukill, Vice Chair**

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Infrastructure

Project Title: An Assessment of the Development and Financing of the Department of Transportation's Five-Year Work Program

Staff Responsible: Phillip Miller, Teddi Creamer

Problem Statement: Transportation projects are often costly, big ticket items. Whether it is a bridge, road, port improvement, or another transportation project, the cost can be truly staggering. With so much money on the line, who decides how to spend it? The answer is complex. No one agency or group single-handedly directs funding to an individual project. The first step in the process of developing the Work Program is the allocation of funds to various programs and geographic districts.

This process is governed by state laws along with the policies and goals contained in the Florida Transportation Plan for the use of transportation funds. This results in fund allocations within broad program areas such as first funding the ongoing operations, maintenance, and preservation of the existing State Highway System and then capacity improvements for the Strategic Intermodal System (which includes major highways, seaports, airports, rail corridors, intermodal connectors and hubs), arterial highways, smaller airports, public transit and related activities that form Florida's Transportation System.

Purpose of the Project: This project is essentially phase II of an interim project begun in 2007-2008 which described how the work program is currently developed and financed based on current law and policy. This year's work will actually assess the adequacy and appropriateness of today's laws and policies relating to transportation needs now and into the future.

Research

This project will examine state revenues used to fund transportation needs, and the allocation of those resources to the various program areas and specific transportation projects, and how the decisions are made. Consideration will be given to the appropriate role of the Department of Transportation, local governments and metropolitan planning organizations, as well as the Legislature's involvement in and oversight of the work program. Other state and country processes will be reviewed.

Methodology

This project will evaluate how projects are selected to be included in the work program, timing of the projects, and equitable distribution of STTF revenues. Data collected for the evaluation will include:

- Statutory requirements for use of STTF revenues;
- DOT policies for use of state flexible funding;
- Florida's Population, from the Economic Demographic Research Center;
- Road Usage, from DOT's most recent Annual Average Daily Traffic Report;
- Centerline and Lane Miles, from DOT's 2005 Highway Mileage Report; and
- Transportation demands related to travel, trade and freight, from DOT's most recent Transportation Trends and Conditions Report, specifically for:
 - Seaports
 - Aviation Facilities
 - Rail Facilities
 - Public Transportation (Transit)
 - SIS Roadways
 - Arterial Roadways
 - Bridges
 - Tourists and Visitors

In addition, the use of toll revenues will be analyzed. Legislation passed in 2007, HB 985, authorized the increase of toll rates in accordance with the Consumer Price Index, or similar inflation factor. As a result, DOT owned toll facilities should become less reliant on STTF subsidies for operating and maintenance costs, therefore freeing up additional funds for other transportation needs.

Finally, interim project will assess the use of Public Private Partnerships (P3's) to deliver transportation projects. The information provided by the report will include the existing P3 projects underway, as well as other projects anticipated by the Department of Transportation or identified by other entities as potential candidates, including the lease of existing toll facilities and the benefits and consequences to the State of Florida.

Expected Format for Outcome: The final work product will be a formal report. Both legislation and recommendations are potential outcomes for the project.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Infrastructure

Project Title: DUI Penalties Review

Staff Responsible: Phillip Miller, Richard Brown, Tony Cortese

Problem Statement: Laws and rules regarding driving under the influence grow in complexity, and additional DUI-prevention tactics are proposed by various parties.

Purpose of the Project: Review certain aspects of Florida DUI prevention and punishment programs, *e.g.* ignition interlock devices and vendor contracts associated therewith; review the effectiveness of, and offender compliance with, penalties such as permanent revocation of driving privileges; review the viability and effectiveness of proposed programs such as ‘continuous alcohol monitoring;’ or license reinstatement programs upon proven abstinence.

Expected Format for Outcome: White paper or informal report

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Economic Development

Project Title: A Review of the Commercial Space Industry and Workforce in Florida

Staff Responsible: Sherri Croom, Ryan West, Scott Fennell

Problem Statement: In early 2004, President Bush and the National Aeronautics and Space Administration (NASA) announced a new “Vision for Space Exploration” that will send humans beyond Earth’s orbit for the first time since 1972. Consequently, the space shuttle program is scheduled to end in 2010 and the next phase of human space flight, called Constellation, will likely launch after 2015. While technology is improving and the aerospace industry is expanding in many ways, NASA is estimating more than 6,000 Florida jobs in the space shuttle program could be eliminated due to the transition to the Constellation program.

In response to these issues, the 2008 Legislature took strong action and:

- Provided \$14.5 million in infrastructure funding to be used to make improvements to Launch Complex 36 on the 45th Space Wing property in order to attract new space vehicle testing and launch business to the state. Already, the state has identified Orbital as a company that would reconsider operating a NASA project out of New Mexico if we were able to make these improvements.
- Provided \$1.25 million for workforce skills analysis and focused training to existing workers. The state will work with newly recruited and Florida based high-technology, biotechnology and science-based industries to ensure this segment of our workforce remains employed in Florida.
- Provided \$4 million for operations and business development activities of Space Florida, Inc., the state created organization charged with maintaining and growing Florida’s space industry.
- Provided the Florida Sub-Orbital Commercial Research & Training Center at the Florida Institute of Technology \$500,000 in operational costs for a program that will utilize a small fleet of F140 aircraft that can achieve a sub-orbital altitude in order to compete with a similar training complex in New Mexico.
- Passed HB 1373 to expand the Qualified Defense Contractor tax refund program to allow for space flight businesses or entities with space flight contracts to qualify for the tax refund program for each job created or retained in the state.
- Passed SB 2438 to provide that a spaceflight entity is not liable for injury or death of a spaceflight participant resulting from the inherent risks of spaceflight launch activities, so long as a required warning is given to and signed by the participant.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Economic Development, Committee on Infrastructure

Project Title: Legislative Sunset Review of the Department of Community Affairs

Staff Responsible: Barbara Hoagland, Phillip Miller, Sherri Croom, Jason Rojas, Tony Cortese, Teddi Creamer, Teri Madsen

Problem Statement: Chapter 11, F.S., creates the Florida Government Accountability Act, which provides a rationale for and an analytical review of Florida government on a periodic cycle that will result in the continuation, modification, or abolition of named state agencies and advisory bodies. The Senate and House of Representatives may appoint select committees to conduct independent reviews for each house regarding each agency's sunset. The Senate and House must appoint a ten member Joint Legislative Sunset Committee to oversee the agency review process. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General may provide primary research services and assistance upon request of the committees.

The Department of Community Affairs (DCA) is scheduled for a sunset review by July 1, 2010. The department must submit specified information to the Legislature no later than July 1, 2008.

Purpose of the Project: The 2009 session will be the appropriate time to consider the options for sunsetting the DCA. Throughout the summer and fall, the Joint Legislative Sunset Review Committee will be consulting with various entities to draft a report of their findings and recommendations to the President and Speaker by March 1, 2009. Additionally, the House may choose to appoint its own independent select committee. The House Economic Expansion and Infrastructure Council serves as the substantive and budget oversight council for the DCA and will actively participate in the discussion and development of options regarding the potential sunset of DCA.

Expected Format for Outcome: The final work product will most likely be a formal report by the Joint Legislative Sunset Review Committee. The House Economic Expansion and Infrastructure Council and its committees as appropriate will serve as a resource to the Sunset Review Committee during the review process. Additionally, the council and committee staff may initiate independent analysis and recommendations.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Ethics and Elections

Project Title: Monitor New Voting Equipment/Audit Requirements Enacted in 2007

Staff Responsible: Bucky Mitchell, Bob West

Problem Statement: Chapter 2007-30, Laws of Florida (CS/HB 537), requires that all voting in Florida be conducted on paper ballots by July 1, 2008, except that persons with disabilities may continue to vote on touch screen machines. As the Department of State oversees the implementation of this process, committee staff will monitor the state's conversion of its voting equipment to optical scan/paper ballot machines and any problems that may arise during the 2008 election cycle.

Chapter 2007-30, Laws of Florida, also requires the county canvassing board or the local board responsible for certifying an election to conduct a manual audit of the voting systems used in randomly selected precincts immediately following the certification of each election. This new audit requirement is effective July 1, 2008, and will be in place for the 2008 election cycle. Committee staff will monitor the new audit requirements and their effect following the 2008 primary and general elections.

Purpose of the Project: Collection of information from counties relative to implementation of the above requirements during the 2008 election cycle. Surveys of each supervisor of elections may be conducted following the general election in November 2008.

Expected Format for Outcome: White paper or informal report

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Infrastructure

Project Title: Specialty License Plate Review

Staff Responsible: Phillip Miller, Richard Brown, Tony Cortese

Problem Statement: As specialty motor vehicle license tags continue to proliferate, concerns are raised related to the eventual use of the funds collected from Florida citizens. The 2008 Legislature placed a moratorium in the creation of new specialty license plates, thereby providing an opportunity to review the criteria, use and appropriateness of these plates.

Purpose of the Project: Review the funding flows of specialty license plate revenues collected by the Department of Highway Safety and Motor Vehicles; identify the administrative costs retained by the receiving agency or agencies and review for statutory compliance; determine the “substantive” amount ultimately used to support the intended charity or cause; determine where the substantive amount is spent (*i.e.*, is the charitable purpose achieved in Florida? Elsewhere?); review carry forward balance limits; review the discontinuance policy for “underperforming” specialty license plates, with special consideration for colleges. Additionally, the project will review the existing statutory criteria and process for creating specialty license plates.

Expected Format for Outcome: Formal Report

Florida House of Representatives

2008-2009 Interim Project Format

Council/Committee: Economic Expansion and Infrastructure Council, Committee on Tourism and Trade, Committee on Ethics and Elections

Project Title: Legislative Sunset Review of the Department of State

Staff Responsible: Barbara Hoagland, Bucky Mitchell, Jason Rojas, Tony Cortese, Scott Fennell, Teri Madsen

Problem Statement: Chapter 11, F.S., creates the Florida Government Accountability Act, which provides a rationale for and an analytical review of Florida government on a periodic cycle that will result in the continuation, modification, or abolition of named state agencies and advisory bodies. The Senate and House of Representatives may appoint select committees to conduct independent reviews for each house regarding each agency's sunset. The Senate and House must appoint a ten member Joint Legislative Sunset Committee to oversee the agency review process. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General may provide primary research services and assistance upon request of the committees.

The Department of State (DOS) is scheduled for a sunset review by July 1, 2010. The department must submit specified information to the Legislature no later than July 1, 2008.

Purpose of the Project: The 2009 session will be the appropriate time to consider the options for sunsetting the DOS. Throughout the summer and fall, the Joint Legislative Sunset Review Committee will be consulting with various entities to draft a report of their findings and recommendations to the President and Speaker by March 1, 2009. Additionally, the House may choose to appoint its own independent select committee. The House Economic Expansion and Infrastructure Council serves as the substantive and budget oversight council for the DOS and will actively participate in the discussion and development of options regarding the potential sunset of DOS.

Expected Format for Outcome: The final work product will most likely be a formal report by the Joint Legislative Sunset Review Committee. The House Economic Expansion and Infrastructure Council and its committees as appropriate will serve as a resource to the Sunset Review Committee during the review process. Additionally, the council and committee staff may initiate independent analysis and recommendations.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Economic Expansion and Infrastructure Council

Project Title: Growth Management Survey of Local Governments

Staff Responsible: Barbara Hoagland, Jason Rojas

Problem Statement: Florida's local government comprehensive planning act (Part II of Chapter 163, Florida Statutes) contains a myriad of optional programs available to local governments. In 2008, legislation was considered that proposed different treatment of some optional areas (such as urban infill and redevelopment areas) and deletion of other optional programs (such as visioning and urban service boundary areas). The proposals of 2008 did not pass. When trying to determine the potential affect of the proposed changes, it was recognized that there has been no formal tracking of many of these options and as a result, impacts of changes to these programs are very difficult to determine. As a result, we do not have a good system to monitor the interest or success of these options. Further, the Department of Community Affairs is subject to sunset in 2010, with the legislative review process taking place in the 2009 session. Surveying local governments regarding the department's growth management programs may assist in this review.

Purpose of the Project: Local governments will be surveyed to determine what optional growth management programs are being used, or have been considered and rejected at the local level. Local governments will also be asked what changes they recommend to achieve the desired state, regional and local growth management outcomes. The end product should assist in identifying statutory options regarding Florida's growth management program. It is anticipated that staff will request assistance from the LCIR to develop and administer the survey.

Expected Format for Outcome: Summary of local government survey of optional growth management tools, including actual survey responses from local governments.



Environment & Natural Resources Council

Interim Projects

Representative Stan Mayfield, Chair
Representative Baxter G. Troutman, Vice Chair

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Environment & Natural Resources Council, Committee on Agribusiness

Project Title: Climate Change and Alternative Energy Sources: Challenges and Opportunities for Florida Agriculture

Staff Responsible: Debbi Kaiser, Reid Cunningham, Susan Reese

Problem Statement: Florida's agricultural industry is an important part of the state's economy, contributing over \$87 billion annually. Today more than 43,000 farmers and ranchers produce 280 different crops on more than 14 million acres; however, there is a growing awareness of the increasing challenges to the continued successful operation of Florida's agricultural sector. These challenges, which include environmental regulations, the encroachment and pressures of development, limitations on water supply, and competition from other countries, threaten not only the industry, but also Florida's economy and security.

Recent developments in energy and related environmental policy present both additional threats as well as opportunities for Florida's agricultural economy. Federal and state policies as well as activities in the private sector to promote the production of bioenergy as an alternative to fossil fuels is one such area. While these policies and activities create new markets and opportunities for Florida's agribusiness, they also have been criticized as being detrimental to the adequacy and cost of our food supply. Much of this criticism has been directed at the use of corn to produce ethanol and the federal government's subsidization of this industry.

Some scientific models indicate that global climate change will create increasing threats to Florida's agribusiness. Although current climate change models do not provide a clear indication of the anticipated impacts to Florida's specific weather patterns, they do suggest an increase in extremes. Potential threats resulting from such extremes include declining rainfall, long-term drought conditions, and other extremes in weather associated with climate change. Warmer, wetter conditions increase the incidence of agricultural pests and diseases, and drier conditions create the need for more irrigation, as well as causing an increase in frequency and intensity of wildfires. Such extremes have the potential to endanger Florida's agriculture as well as other contributors to the state's economy.

Proposals to mitigate climate change also present potential challenges for agribusiness. Proposals to internalize the costs of greenhouse gas emissions into the costs of products -- either through a cap and trade program or a more direct greenhouse gas or carbon tax -- could increase production costs for agricultural products and thereby reduce demand for Florida's agricultural products or make them uncompetitive with products from other areas.

Cap and trade proposals, however, also have the potential to create financial opportunities for Florida's agribusiness. Under many proposals at the national, regional, and state level, provisions are included to allow entities covered by the program's cap on greenhouse gas emissions to meet their emission limits by reducing their own emissions, purchasing excess reductions achieved by other entities covered by the program, or purchasing offsets from entities not covered under the program. Such proposals allow covered emitters to purchase emissions offsets from other entities that produce reductions in unregulated greenhouse gas emissions or that produce reductions in greenhouse gas emissions through voluntary practices that capture and store greenhouse gases that otherwise would be released into the atmosphere. Various aspects of agriculture, such as forestry practices and other agricultural practices that result in increased retention of carbon, could qualify as offsets and create new sources of revenue for Florida's Agribusiness.

Background: Florida agricultural producers are assisting in research to increase Florida's production of alternative energy and to tackle the problem of greenhouse gases. Creating viable and renewable alternative energy supplies and producing the resources to keep them going appears to be a natural "fit" for Florida agriculture. Already a leader in biomass production, (residues of the timber, sugarcane, and citrus industries) finding other efficient, marketable biomass crops is important, as well as developing uses for other byproducts of agriculture.

As indicated above, in recent years the State of Florida has initiated several energy and climate change policies that have or may have an impact on agribusiness in the state. The 2006 Legislature created the Farm to Fuel™ Initiative within the Department of Agriculture and Consumer Services to enhance the market for and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agriculture products or expand agribusiness in the State. In the process, it is designed to give Florida agricultural producers alternative crops to grow to keep their farms and ranches viable. Florida can be a leader in the effort to produce energy from crops and timber because of the state's vast amount of farm acreage and mild climate, which permits crops to be grown virtually year round.

The 2006 Legislature also created a Renewable Energy Technologies Grants Program, which included a component devoted to bioenergy. The Legislature appropriated \$15 million to the Department of Environmental Protection (DEP) for the renewable energy grants programs, including \$5 million for the biomass grant piece, which was contingent upon coordination between DEP and the Department of Agriculture & Consumer Services.

In 2007, the Legislature passed a comprehensive energy package that was subsequently vetoed by the Governor. Although the legislation was vetoed, \$62 million was appropriated through the General Appropriations Act to address a variety of energy goals. The following appropriations directly affect agribusiness:

- \$20 million to the Institute of Food and Agricultural Sciences at the University of Florida to establish a research and demonstration cellulosic ethanol plant.
- \$25 million to the Department of Agriculture & Consumer Services (DACS) for the Farm-to-Fuel Grants Program.

Energy legislation (HB 7135) adopted by the 2008 Legislature continued these policies by moving the Renewable Energy Technologies Grants Program to the Energy and Climate Commission within the Executive Office of the Governor and appropriating \$8 million for bioenergy projects. The legislation also establishes the Florida Renewable Fuel Standard Act, which provides that beginning on December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler shall be blended gasoline. (Certain specified fuels are exempt from the blending requirement.) The ethanol may be derived from any agricultural source.

The legislation also directs the Public Service Commission to develop a rule requiring the state's public electric utilities to produce a certain percentage of their power from renewable energy sources. The rule will be submitted to the 2009 Legislature for consideration and may not be implemented without legislative ratification.

Finally, the bill authorizes the Department of Environmental Protection (DEP) to adopt rules for a Cap-and-Trade regulatory program for greenhouse gas (GHG) emissions from electric utilities, subject to legislative ratification and not prior to 2010. The legislation specifically directs the department to consider allowing major emitters to purchase emissions offsets from other entities that produce verifiable reductions in unregulated greenhouse gas emissions or that produce verifiable reductions in greenhouse gas emissions through voluntary practices that capture and store greenhouse gases that otherwise would be released into the atmosphere.

Purpose of the Project: The purpose of this project to provide Members of the House of Representatives an understanding of the potential challenges and opportunities for Florida's agribusiness presented by climate change and national and state climate change and alternative energy policies.

Through a literature review, analysis of federal and state laws and proposed legislation, and meetings, surveys, and interviews with key informants and interested parties the project will present the following information:

- Identification of potential threats to Florida agriculture from climate change.
- Identification of potential costs to Florida's agribusiness that may result from a federal cap and trade program or other policies to limit greenhouse gas emissions.
- Identification of potential revenue sources for Florida's agribusiness from a federal cap and trade program as well as from Florida's recently authorized cap and trade program.
- A review of soil carbon monitoring methods and potential sequestering capacity of Florida agricultural lands.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Environment & Natural Resources Council, Committee on Conservation & State Lands

Project Title: Saltwater Fishing Shoreline Exemption

Staff Responsible: Steve Palmer, Leonard Zeiler

Problem Statement: Florida resident shoreline anglers have been exempt from purchasing a saltwater fishing license since the inception of the licensure requirement in 1989.¹ According to the Florida Fish and Wildlife Conservation Commission (FWC), approximately 295,000 saltwater anglers fish from shore in Florida. Of these anglers, FWC estimates 208,000 do not currently possess a saltwater fishing license.

The 2006 Congressional reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act created a registry program for recreational fishermen fishing in federal waters and also those fishing for anadromous species (spawn in freshwater, live in saltwater). This program is mandated to assist in data collection with statistical surveys and evaluating the effects of proposed conservation and management measures. Congress directed the Department of Commerce to complete the registry program and implement an improved statistical survey not later than January 1, 2009, and authorized a fee to be charged not before January 1, 2011. The legislation allows for an exemption to federal licensing in a state with an approved licensing system. Although implementation of the federal registration is still under development, officials of the National Marine Fisheries Service indicate that Florida's shoreline exemption may prohibit its license system from being approved, thus requiring the federal registration for Florida anglers.

Repeal of Florida's saltwater fishing license shoreline exemption was included in the FWC's 2007 Legislative Proposal as one of several proposed strategies to overcome projected budget deficits. However, the 2007 Legislature did not repeal the exemption.

The FWC's 2008 Legislative Proposal requested repeal of the shoreline exemption as a method to ensure Florida will be exempted from the federal licensure requirements provided for in the 2006 Congressional reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act and as a means to create parity among saltwater anglers and to distribute the cost of marine fishing conservation to all anglers. This proposed repeal of the shoreline exemption was presented to the House Committee on Conservation & State Lands by FWC staff

¹ Section 372.562, F.S., provides exemptions from fees and requirements for recreational licenses and permits and paragraph (2)(h) specifically provides an exemption from the requirement to obtain a saltwater fishing license or permit for any resident saltwater fishing from land or from a structure fixed to the land.

at a workshop on the commission's proposed legislative package, but was not included in the proposed council bill recommended by the committee to the Environment & Natural Resources Council and was not included in legislation subsequently filed by the council.

During the committee's workshop, several Members expressed concern with repealing the exemption for a number of reasons, including: the tradition of being able fish from an individual's own property and public property; fishing for subsistence; and lack of clarity regarding the final form of the federal government's registry requirement.

After hearing from the FWC and federal personnel, the committee chose to delay acting on the proposal until the federal government completes its work and other methods of complying with the data requirements of the federal law were explored and evaluated.

Purpose of the Project: The purpose of this interim project is to provide a status report on and summary of the requirements of the federal registry and to present options for Florida to meet these requirements. To accomplish this purpose, staff will analyze the federal law and regulation, engage in discussions with staff from appropriate federal and state agencies, solicit the input of interested parties, and contact other states to identify possible options.

Expected Format for Outcome: The project will result in a formal interim project with policy options and estimated fiscal impacts for each option.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Environment & Natural Resources Council, Committee on Energy

Project Title: Cap and Trade Regulatory Process

Staff Responsible: Adam Blalock, Lucretia Shaw Collins, Tom Hamby

Problem Statement: Current state and federal law establish emissions standards for nitrous oxide and some other greenhouse gases (GHG), but does not regulate the amount of carbon dioxide emissions from electric utilities. Furthermore, current federal law does not authorize a national cap-and-trade program for electric utilities to achieve greenhouse gas emissions reductions.

On July 13, 2007, Governor Charlie Crist signed Executive Order 07-127, which directed the Secretary of the Department of Environmental Protection (DEP) to adopt rules establishing maximum allowable emissions of GHG for electric utilities. The Executive Order provided that the rule must require electric utilities to reduce GHG emissions to Year 2000 levels by 2017, Year 1990 levels by 2025, and emissions not greater than 20% of Year 1990 levels by 2050. At the time, the DEP maintained it had the authority to impose emission limits, but not a cap-and-trade program.

Several other states and regions of the country have or are considering implementing a cap-and-trade program for sectors of their economy, specifically electric utilities, to achieve GHG emissions reductions. There is growing support for establishing national GHG emissions standards for electric utilities as well as a comprehensive national cap-and-trade program to cover emissions from other sectors. There are several bills that filed in Congress to establish a GHG emissions standard and to implement a national cap-and-trade program for achieving these emissions reductions.

During the 2008 Legislative Session, HB 7135 was passed to authorize the DEP to adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities. The legislation prohibits the DEP from adopting the rules until after January 1, 2010, and the rules cannot become effective until they are ratified by the Legislature. The bill is very specific regarding what must be included in the rules, the methods for considering cost containment mechanisms, and the factors to be considered in recommending and evaluating the proposed features of the cap-and-trade system.

Dr. John Reilly, a noted Massachusetts Institute of Technology climate change consultant who was on contract with the House of Representatives, estimates that it will take up to 18 months for a cap-and-trade rule to be developed. Over the next year, the DEP will be working with the Florida Energy and Climate Commission, the Public Service Commission, the Governor's

Action Team on Energy and Climate Change, the utility industry, ratepayers and other consumers, and interest groups to develop rules establishing a cap-and-trade regulatory program to reduce greenhouse gas emissions as provided in HB 7135.

Purpose of the Project: Although the rules cannot be presented to the Legislature prior to 2010, there are several issues that can be researched by committee staff as the cap-and-trade rules are being developed. The purpose of this interim project is to assist Members of the House of Representatives in preparing for consideration of the cap-and-trade rules during the 2010 Legislative session. The project will provide:

- An overview of climate change and potential impacts to Florida.
- A general discussion of a cap-and-trade regulatory program and how it can lead to a decrease in GHG emissions.
- An overview of the Governor's Executive Orders and other events that resulted in the Florida Legislature developing a cap-and-trade regulatory program.
- An overview of the provisions in HB 7135 authorizing DEP to adopt rules to develop a cap-and-trade regulatory program.
- A comparison of a cap-and-trade program with other options, such as a carbon tax. This discussion will include the role of coal and carbon sequestration in meeting the energy needs of the state.
- An analysis of the possible benefits and advantages resulting from Florida adopting a cap-and-trade program, including a review of proposed federal climate change legislation.

Expected Format for Outcome: Whitepaper

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Environmental & Natural Resources Council, Committee on Energy

Project Title: Strategies for Renewable Energy

Staff Responsible: Shari Whittier, Lisa Larson, Lucretia Shaw Collins

Problem Statement: In 2006, in an effort to promote renewable energy, the Legislature adopted SB 888 to create the following:

- A nine-member Florida Energy Commission (FEC) appointed by the President of the Senate and Speaker of the House of Representatives to develop recommendations for legislation to establish a state energy policy based on specified principles.
- A renewable energy technology sales tax exemption to further stimulate development of hydrogen technology and biofuels in the state.
- A Renewable Energy Technologies Grants Program.
- An Energy-Efficient Products Sales Tax Holiday.
- A Solar Energy System Incentives Program (rebates).
- Corporate Income Tax Credit Programs for renewable energy technologies investment and production.
- Requirements for the Public Service Commission to adopt appropriate goals for the use of renewable energy resources in Florida.
- Numerous substantive and technical changes to power plant and transmission line siting statutes.
- Early cost recovery provisions for nuclear power plants.

The Legislature provided the following appropriations:

- \$61,379 to the Department of Revenue for administering the sales tax holiday.
- \$15 million to the Department of Environmental Protection (DEP) for the renewable energy grants programs (\$5 million of which were contingent upon coordination between DEP and the Department of Agriculture & Consumer Services).
- \$2.5 million for the solar rebate program.

In 2007, the Legislature passed a comprehensive energy package that was subsequently vetoed by the Governor. Although the legislation was vetoed, \$62 million were appropriated through the General Appropriations Act to address the following energy goals:

- \$20 million to the Institute of Food and Agricultural Sciences at the University of Florida to establish a research and demonstration cellulosic ethanol plant.
- \$12.5 million to the DEP for the Renewable Energy Technologies Grants Program
- \$3.5 million to the DEP for the Solar Energy Incentives Program.

- \$25 million to the Department of Agriculture & Consumer Services (DACS) for the Farm-to-Fuel Grants Program.
- \$100,000 to the Department of Community Affairs (DCA) for a workgroup to develop a model energy efficiency ordinance.
- \$250,000 to the DCA for an energy efficiency public awareness campaign.
- \$250,000 to the DEP for a public awareness campaign.

In 2008, the Legislature passed another comprehensive energy package (HB 7135) that included a variety of energy-related policies, including the following policies related to renewable energy:

- Creates a 9-member Florida Energy and Climate Commission (FECC) within the Executive Office of the Governor.
- Creates the Florida Energy Systems Consortium, with participation from all state universities.
- Authorizes the DEP to adopt rules for a Cap-and-Trade regulatory program for greenhouse gas (GHG) emissions from electric utilities, subject to legislative ratification and not prior to 2010.
- Authorizes the PSC to adopt a Renewable Portfolio Standard for public utilities, subject to legislative ratification.
- Directs the PSC to allow full cost recovery for costs claimed by July 1, 2009, for all reasonable and prudent costs incurred by a provider for renewable energy projects that are zero GHG emitting, up to a total of 110 MW statewide.
- Requires the PSC to adopt goals to increase and promote cost-effective demand-side and supply-side efficiency and conservation programs and demand-side renewable energy systems, and provides incentives and penalties.
- Authorizes environmental cost recovery for expenses incurred by public utilities to meet GHG registry requirements and costs incurred for scientific research relating to carbon capture and storage that meet specified criteria.
- Provides for standardized interconnection agreements and net metering for all electric utilities.
- Reauthorizes an ad valorem tax exemption for renewable energy source devices.
- Revises existing sales and use tax exemptions, corporate income tax credit programs, the capital investment tax credit program, and the Innovation Incentive Program within the Office of Tourism, Trade, and Economic Development to facilitate their use by alternative energy enterprises.
- Creates a Renewable Fuel Standard requiring that beginning on December 31, 2010, all gasoline sold in Florida contain a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol, by volume; provides exceptions, waivers, and extensions.
- Adopts Climate-Friendly Public Business requirements for the use of “green” products, lodging, vehicles, and fuel.

Through the General Appropriations Act, the 2008 Legislature appropriated the following:

- \$50 million for the Florida Energy Systems Consortium.

- \$8.5 million for the Florida Gulf Coast University Solar Field Installation project.
- \$8 million for the Bioenergy Projects for Renewable Technology.
- \$7 million for the Renewable Energy and Energy Efficient Technologies Grants Program.
- \$5 million for the Solar Energy System Incentives Program (solar rebates).

One rationale for requiring the PSC to submit a renewable portfolio standard draft rule to the Legislature for ratification was the lack of data on renewable energy resources available in the state. The last formal analysis of such resources was in 2003 by the Public Service Commission and DEP entitled, *An Assessment of Renewable Electric Generating Technologies for Florida*.

Additionally, no formal evaluation has been conducted to determine the success or lack thereof of the renewable energy grants funding programs (\$15 million in 2006 and \$37.5 million in 2007). The Legislature did receive a status report on the programs from DEP and DACS during the 2008 legislative session; however, a comprehensive assessment has not been done.

Purpose of the Project/Methodology: The purpose of the interim project is to assist Members of the House of Representatives in considering legislative policy and fiscal proposals relating to renewable energy during the 2009 Session. As noted, the PSC will be presenting a draft Renewable Portfolio Standard rule that will be considered by the 2009 Legislature. In addition, it is anticipated that the Governor will request funding for existing grant and rebate programs, as well as increases in caps for renewable energy tax incentives.

The interim project will provide the following:

- A discussion of renewable energy resources available in Florida and an assessment of current knowledge regarding the application and costs of these resources.
- A comprehensive assessment of renewable energy grant awards, including a status report of the solar rebate program.
- A status report on the cellulosic ethanol plant at the Institute of Food and Agricultural Sciences at the University of Florida.
- A description of existing state policies designed to promote renewable energy.
- A discussion of additional policy options available to the Legislature to promote renewable energy in Florida, including the establishment of a Public Benefits Fund and alternative compliance mechanisms which utilities may use to meet requirements under the Renewable Portfolio Standard.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Environment & Natural Resources Council, Committee on Environmental Protection

Project Title: Environmental Permitting Streamlining

Staff Responsible: Michael Kliner, Jennifer Deslatte, Caleb Helping

Problem Statement: In December, 2007, the House Environmental Protection Committee submitted an interim project to the Speaker of the House addressing permitted activities that affect Florida wetlands. This report, titled Wetlands Permitting 2007, describes the multi-tiered, regulatory process governing environmental permitting of wetlands in Florida and the goals the process is designed to achieve. The report also discusses duplication of regulation and past attempts to reduce or eliminate such duplication. A summary of the report is provided, beginning on page 2 of this proposal.

One area noted in the 2007 interim report is interagency cooperation in the permitting process. In some cases interagency cooperation itself causes unnecessary delays and expenses for the applicant. For instance, under Section 6 of the federal Endangered Species Act (ESA), the ESA encourages each state to develop and maintain conservation programs for resident federally listed threatened and endangered species. Section 9 of the ESA makes it unlawful to “take” a listed species. The Secretary of the Interior, through regulations, defined the term “harm” in the passage as “an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.” Under an agreement with the federal Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission (FWC) provides comments to the Department of Environmental Protection (DEP) if a proposed project may result in a “take” of a protected species. Under current practice, a finding of a “taking” may be mitigated by an approved Habitat Conservation Plan (HCP). The Commission’s comments typically are provided near the end of the permitting process, however, and such comments may require certain mitigating steps, such as a HCP, which results in increased costs and delays to the applicant.

To address these costs and delays associated with activities close to the coast, the FWC has begun formulating a state-wide HCP for Florida’s beaches. This HCP will address activities permitted under the State of Florida’s Coastal Construction Control Line (CCCL) permit program (Chapter 62B-33 F.S.), administered by DEP, that are located landward of the mean high water line. Permitted activities include, but are not limited to: coastal development; coastal armoring; beach scraping; beach cleaning; beach raking; beach front lighting; and beach berm and dune restoration. The HCP will address construction and other activities authorized under

Florida's CCCL program, such as, single-family and multifamily developments, public infrastructure, coastal armoring, beach berm and dune restoration, beach cleaning, and post storm emergency activities for the protection of private structures and public infrastructure.

In addition to past attempts to eliminate or reduce duplication in wetland permitting and delays caused by required governmental coordination relating to the ESA, in recent years the Legislature has considered performance-based permitting in order to streamline permitting for applicants that demonstrate a history of compliance with environmental regulations. Under prior proposals, such permittees would be considered by DEP to be eligible for short form permits and permits of a longer duration. Past legislation also has placed heightened regulations on applicants with a history of non-compliance with environmental regulations.

Purpose of the Project: The project will examine inter-agency involvement in the environmental permitting process to determine how relevant information may be disseminated between agencies in order to reduce unnecessary delays and/or costs. In addition, the report will address progress on the state-wide HCP and identify areas, if any, where inter-agency cooperation may be enhanced or streamlined further. In addition, the report will consider options to streamline permitting for entities that demonstrate compliance with environmental regulations.

Expected Format for Outcome: Whitepaper

Summary: Wetlands Permitting 2007

This report describes the multi-tiered, regulatory process governing wetlands in Florida and the goals the process is designed to achieve. As the report states, once a wetland habitat is identified, activities affecting the area fall under the regulatory authority of federal, state, and often, local laws. Federal, state, and local government regulatory programs use several approaches to achieve their intended policy goal, however, as federal, state, and local governments' goals are often disparate, these approaches range from prohibiting adverse impacts to wetlands to attempting to mitigate permitted impacts. The multi-tiered framework is viewed as unnecessarily duplicative by some, and by others, as necessary given the limitations of each tier. As the report outlines, the system certainly is duplicative in some respects. It is also true that the three tiers often address different goals and therefore impose different regulatory requirements.

The U.S. Army Corps of Engineers (ACOE), the Florida Department of Environmental Protection (DEP), the five water management districts, and many local governments regulate activities affecting wetlands in Florida. The federal Fish and Wildlife Service (FWS), and the Florida Fish and Wildlife Conservation Commission (FWC) consider adverse impacts to aquatic or wetland dependent listed species that use wetlands and other surface waters or that use upland habitats for nesting and denning.

State/Federal Regulation

The comprehensive nature of the state program is broader than the federal program in that it also regulates alterations of uplands that may affect surface water flows, addresses issues of flooding and stormwater treatment, and protects isolated wetlands. The federal Clean Water Act (CWA) does not give the federal government regulatory jurisdiction over isolated wetlands, except when such wetlands are adjacent to navigable waters of the United States. The state program is in addition to, not in place of or superseded by, the federal permit programs. Applicants must get all applicable permits and authorizations from both the state and the federal government before beginning work.

On March 31, 2008, the EPA and the ACOE released a new rule to clarify how to provide compensatory mitigation for unavoidable impacts to the nation's wetlands and streams. The rule will enable the agencies to promote greater consistency, predictability and ecological success of mitigation projects under the Clean Water Act. Effective June 9, 2008, the new rule changes where and how mitigation is to be completed, but maintains existing requirements on when mitigation is required. The rule also preserves the requirement for applicants to avoid or minimize impacts to aquatic resources before proposing compensatory mitigation projects to offset permitted impacts. DEP staff believes it will take several years to determine in what way the new regulation will augment, or restrict, state rules regarding mitigation.

Local Regulation

In the past, the Legislature has attempted to address unnecessary duplication. Under current law, the DEP works with the ACOE to streamline the issuance of both the State and Federal permits for work in wetlands and other surface waters in Florida. The State Programmatic General Permit (SPGP) process allows the DEP or water management district to grant both the Environmental Resource Permit (ERP) and the federal permit, instead of requiring both agencies to process the application.

Many environmental regulations may find their origin at the local level through county and city governments' compliance with Chapter 163, Part II, F.S. (The Local Government Comprehensive Planning and Land Development Regulation Act (or the Growth Management Act)). The Growth Management Act requires cities and counties to adopt comprehensive plans and authorizes the Department of Community Affairs (DCA), Division of Community Planning, to review comprehensive plans and plan amendments for compliance with the Act and related administrative rules. Local governments may direct incompatible land uses away from wetlands by imposing buffers or setbacks either through a component of their land use plan or through land development regulations.

Apart from the policy of redirecting incompatible land uses away from wetlands through the conservation element of comprehensive plans, local governments do not have a uniform wetland goal. Wetland protections are typically augmented through local land use regulations. Some local governments have a goal of no net loss of acreage. Mitigation ratios imposed by those local governments that allow wetland impacts are disparate. Some local governments do not allow impacts to wetlands at all (arguably, if no impacts are permissible, then mitigation does not figure into the equation). Some local governments' wetlands regulations duplicate state permitting procedures and standards and others are more restrictive than state standards.

Some local governments believe that the local government is the better authority for land use primarily because the local government is closest to issues sensitive to their constituency. They perceive state regulations to be a regulatory "floor" providing the minimum level of coverage state-wide and, in some local government's opinion, falling short because small, isolated wetlands are not adequately protected. Different communities have different concerns in protecting environmental resources. Many local programs differ in the initial assessment of whether a wetland impact can be allowed. It is the local governments' position that this process usually results in a greater degree of protection. To streamline the state permitting program with local programs, the Legislature has authorized the DEP and the Districts to delegate ERP authority to local governments. This would allow the local government to review and approve or deny the state permits at the same time the local authorizations are granted or denied. Since its implementation in 1993, no local government has accepted delegation of the entire ERP program.

Past Legislative Efforts to Streamline Permitting

The Legislature has, thus far, unsuccessfully attempted to further streamline wetlands permitting by seeking authority to administer some or all of Federal wetland regulatory programs. During the 2005 Legislative Session, section 373.4143, F.S., was created directing the DEP to develop a strategy for consolidating or streamlining the state and federal programs to the greatest extent possible. DEP developed the strategy, identified problems, and made a number of recommendations which were submitted in a formal report to the Legislature and the Governor's Office.

Under the assumption option, one of the challenges noted by DEP was a need to change federal law; specifically, section 10 of the Rivers and Harbors Act, which maintains jurisdiction of all navigable waters, and section 404 of the Clean Water Act (CWA), which governs the discharge of potential pollutants in to the nation's waters. The ACOE administers the permitting for both laws, with the Environmental Protection Agency (EPA) providing oversight (only for section 404). The CWA provides mechanisms for a State to obtain authority under the Act. However, the Rivers and Harbor Act provides no opportunity for assumption. In addition, the report noted that the Federal Endangered Species Act might need to be amended to avoid requiring applicants to apply separately for authorization under the Federal Endangered Species Act rather than through the existing consultation process. Florida law also would need to be amended to make it consistent with Federal law. For example, Florida law would have to be revised to provide a clear "recapture" provision that addresses agriculture activities that convert wetlands to uplands. Another change would be for Florida to eliminate the automatic "default" issuance of permits that are not processed within the State's 90-day permitting clock.

The DEP 2005 report recommended pursuing a greatly expanded SPGP in the short-term, which would not require legislative action, while also pursuing Federal and State legislative actions to obtain assumption for the long-term. The report suggested the following next steps:

- Continue to reduce differences between State and Federal wetland delineations without altering the statutory definition of wetlands. Subsequent to the report, on February 23, 2006, Florida's Environmental Regulation Commission approved an amendment to the DEP's wetland delineation rule. The rule amendment changes the status of gallberry and slash pine from being indicators of upland areas to being neutral. Under chapter 373, F.S., the rule amendment does not become effective until formally ratified by the Florida Legislature. The Legislature has not ratified the rule amendment.
- Request the ACOE to expand the SPGP to a comprehensive list of activities with impacts to no more than a specific acreage of non-tidal wetlands based on Florida's wetland delineation methodology.

- Review existing State statutory and rule exemptions and noticed State general permits for modifications necessary to ensure that qualification for these authorizations would meet the requirements for authorization under the SPGP with no Federal agency coordination requirements.
- Extend SPGP in Northwest Florida by expanding the State wetlands program to the Northwest Florida Water Management District. The Legislature has taken this action and DEP's rules will take effect in 2008.
- Seek the support of the Florida Congressional Delegation for streamlining the Federal program and encouraging Federal agencies to work productively with the States to make the SPGP effective.
- Consult with the Florida Congressional Delegation on opportunities to amend the Federal Clean Water Act and the Rivers and Harbors Act to make assumption of the Federal wetlands program viable.
- Consult with the Florida Legislature on the potential for appropriating to DEP the additional resources that would be necessary to assume the Federal wetlands permitting program, and the transferred Federal permitting and compliance workload, should assumption become a viable option. Additional resources also would be necessary for the water management districts under this option.

During the 2006 Legislative Session, Representative Williams filed HB 1343, partly in response to the report by the DEP. CS/HB 1343 authorized DEP to implement a SPGP for activities affecting up to 10 acres, if the ACOE agreed. The bill, which died in the House Agriculture and Environmental Appropriations Committee, provided that if DEP received the 10-acre SPGP then the DEP would use the "higher" of the State/Federal wetland delineation line and use United States Department of Agriculture, Natural Resource Conservation Service's National Cooperative Soil Survey data.

During the 2007 Legislative Session, Representative Williams filed HB 957, which passed the House of Representatives, but died in the Senate. Among other provisions, CS/CS/HB 957 authorized DEP to seek authorization from the ACOE to develop an expanded SPGP, or regional permits, for activities that will cause only minimal adverse environmental effects. In exchange for that authorization, the bill provided for the State to add slash pine and gallberry to the State list of facultative species, contingent upon the alignment of Federal and State wetland jurisdictional delineation so that the alignment eliminates impediments to authorization by the ACOE. The bill required DEP to annually report to the Legislature on its efforts to achieve efficiencies in permitting through the above referenced actions. The version of the bill passed by the House of Representatives authorized DEP and the water management districts to implement a SPGP for activities affecting up to 3 acres if the ACOE agreed. The bill provided that if DEP

obtained the 3-acre SPGP then the DEP would use the landward most delineation of the State/Federal wetland delineation.

As indicated, both the 2006 and 2007 legislation failed. Rather than an expanded SPGP, Florida actually now has a reduced SPGP. Subsequent to the issuance of the DEP report, in 2006 the ACOE replaced SPGP III with a revised SPGP IV that substantially reduced the scope of projects. Due to numerous lawsuits on threatened and endangered species, DEP had to provide consultation with the ACOE, which was not allowed under the SPGP process. SPGP IV is still applicable in all counties within the State of Florida except Monroe County and all counties in the Northwest Water Management District. However, like the pilot SPGP, the SPGP IV includes only the following categories of work: docks, piers, and marinas; shoreline stabilization; boat ramps; and maintenance dredging.

The Legislature also has considered proposals to further streamline the State wetlands permitting program with local programs, or in some instances, eliminate duplication between State and local programs. During the 2006 Legislative Session, as part of the bill (HB 7163) that applied ERP to the Northwest Florida Water Management District (NFWFMD), two House committees approved language that prohibited a local government from adopting or enforcing an ordinance or policy that prohibits or restricts mitigation that offsets construction impacts pursuant to Part IV of Chapter 373, F.S. The two committees also approved a provision that prohibited a local government in the NFWFMD from adopting or enforcing a wetland regulatory program or criteria that is more stringent or duplicative of the ERP program once it is enacted. Both provisions were removed from the bill prior to passage by the House and Senate.

The 2007 legislation discussed above (HB 957) was amended by the House Environment & Natural Resources Council to require that a local government enact or enforce a wetland regulatory program only through delegation of the State ERP program. This provision, however, was removed from the bill by the House Policy & Budget Council.

During the 2008 Legislative Session, as part of HB 7155, the bill provided that no county or municipality shall enact or enforce any ordinance, resolution, regulation, rule, policy, or other action which prohibits or prevents the construction or operation of a limestone mine based on issues or subject matters regulated by the Department of Environmental Protection (DEP) pursuant to Chapter 378 or Chapter 373, part IV, F.S., which regulate the management and storage of surface waters. The bill, which was originally a Proposed Council Recommendation from the Environmental Protection Committee, did not advance beyond passage by the Environment and Natural Resources Council.



Government Efficiency & Accountability Council

Interim Projects

**Representative Frank Attkisson, Chair
Representative Michael Grant, Vice Chair**

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Government Efficiency & Accountability Council, Committee on Urban & Local Affairs

Project Title: Local Government Permitting Impediments to Hurricane Mitigation

Staff Responsible: All staff will be involved in the project.

Problem Statement: To help Floridians identify how they can strengthen their homes against hurricanes and to reduce hurricane damage exposure in the state, the My Safe Florida Home (MSFH) program has recommended retrofit improvements to existing site-built, single family residential structures. Contractors participating with the MSFH program are required to use products and materials that comply with the 2004 Florida Building Code (or the Miami-Dade Building Code in any situation where the Miami-Dade Building Code is applicable). Depending upon the jurisdiction, some improvements require building permits, while others do not. The permitting process may cause delays in performing retrofit improvements.

Purpose of the Project: The purpose of this project is to review and analyze local ordinances that delay mitigation efforts by homeowners and to present options to address the need for regulation while minimizing the delays in the approval of retrofit improvements.

Expected Format for Outcome: White paper and draft legislation

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Government Efficiency & Accountability Council, Committee on Military & Veterans' Affairs

Project Title: Post-Secondary Educational Benefits for Members of the Florida National Guard: A White Paper

Staff Responsible: Karen Camechis, Chris Shaffer

Problem Statement: Recently, private veterans organizations and Congress have questioned the adequacy of post-secondary educational benefits for service members returning from duty overseas. For members of the regular military, current educational benefits provided under the "GI Bill" cover only a portion of college expenses. Certain members of the Florida National Guard receive combined federal and state benefits that cover almost all educational costs associated with attending a Florida community college or university, but other members are not eligible for the same level of benefits.

Purpose of the Project: This white paper will describe federal and state post-secondary educational benefits available to members of the Florida National Guard who have been deployed into combat as well as those members who have not been deployed. The white paper will also describe post-secondary educational benefits available to families of National Guard members.

Staff will review Florida law, federal law, and the laws of several other states that offer educational benefits to determine the current levels of available benefits. Staff will also meet with staff of the Florida Department of Veterans' Affairs and the Florida Department of Military Affairs to discuss current programs and issues. The white paper will not include recommendations or options for future legislation.

Expected Format for Outcome: White Paper

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Government Efficiency & Accountability Council, Committee on Audit & Performance

Project Title: Cost Assessment and Review of the Provision of Administrative Hearing Officer Services by the Division of Administrative Hearings (DOAH).

Staff Responsible: David De La Paz, Anita Hicks

Problem Statement: Section 120.57(1)(a) F.S., provides: “Except as provided in ss. 120.80 and 120.81, an administrative law judge assigned by the division shall conduct all hearings under this subsection, except for hearings before agency heads or a member thereof.” Recent estimates compiled by the Commission on Human Relations (CHR) of the cost of utilizing administrative hearing officer services from DOAH indicate a cost per hearing hour of \$2001.66.² According to DOAH, the cost calculated in the estimate provided by CHR included ordinary and necessary costs incurred by DOAH that are associated with case progress and procedure that occurs outside of the actual time spent conducting a hearing (e.g. – when negotiations result in a settlement of a dispute prior to the hearing but for which DOAH has already expended time, energy, space and preparation for a hearing that is no longer required).

In contrast to the estimate discussed above, DOAH’s website contains a link to a document with the heading “When your agency needs dispute resolution...Call on DOAH!!” This document includes the following statement regarding hearing cost “Pursuant to a legislative mandate, DOAH must recoup its *actual costs*. Currently the charge is \$145 per hour plus travel expenses ...” (emphasis added).

Purpose of the Project:

1. To ascertain an estimate, as accurate and reliable as possible, of the overall cost to state agencies, school boards, water management districts, and other contracted government entities, of the provision of administrative hearing officer services by DOAH.
2. To identify, to the extent possible, an accurate estimate of the cost per hour of providing hearing officer services through DOAH.
3. To examine the function of the administrative law judge as contemplated by the Administrative Procedures Act.

² CHR estimate presented to the Government Efficiency & Accountability Council at its meeting held on February 13, 2008.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Government Efficiency & Accountability Council, Committee on State Affairs

Project Title: Open Government Sunset Reviews

Staff Responsible: Heather Williamson

Problem Statement: The Division of Statutory Revision, pursuant to the Open Government Sunset Review Act, certified for repeal 15 public record and public meeting exemptions. Following are the 15 exemptions requiring review:

1. Section 73.0155, F.S. – Business information provided to a governmental condemning authority.
2. Section 106.0706, F.S. – Campaign finance reports.
3. Section 119.071(3)(c), F.S. – Building plans and blueprints.
4. Section 119.071(4)(a), F.S. – Social security numbers of agency employees.
5. Section 119.071(4)(d)3., F.S. – Location and identification information regarding U.S. attorneys.
6. Section 119.071(4)(d)4., F.S. – Location and identification information regarding federal judges.
7. Section 119.071(5)(c), F.S. – Information identifying a child participating in a government program.
8. Section 119.0712(2), F.S. – Motor vehicle records.
9. Section 125.901(11), F.S. – Children’s services; independent special district; council; powers, duties, and functions.
10. Section 235.034(g)1., F.S. – Written valuation of state-owned land.
11. Section 257.38, F.S. – Local government archival material.
12. Section 288.9551, F.S. – Scripps Florida.
13. Section 381.0273, F.S. – Patient safety data.
14. Section 409.25661, F.S. – Insurance claim data.
15. Section 1004.4472, F.S. – Florida Institute for Human and Machine Cognition, Inc.

Purpose of the Project: Staff will review the public record and public meeting exemptions by surveying all affected agencies, interviewing affected parties, collecting position statements from associations interested in the exemptions, reviewing case law, researching the history relating to the creation of the exemptions, and working jointly with Senate staff.

Expected Format for Outcome: Staff will submit a letter to the Speaker’s Office and, if applicable, proposed council bills with accompanying staff analyses.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Government Efficiency & Accountability Council

Project Title: Review of Select Department of Revenue Forms and Returns

Staff Responsible: Jeff Dykes, Richard Fox

Problem Statement: The Department of Revenue (department) utilizes a number of different forms and returns to supervise the assessment of property values, and to administer local property taxation, as well as the collection of state and local taxes, including sales, corporate income, and documentary stamp taxes.

Through analysis of potential budget reductions developed for consideration by the 2008 Legislature, it was determined that the state's cost to process a specific property tax form (Form DR-219 revised in 1998) far outweighed the limited benefit gained from completion of the form by the county property appraisers. As a result, legislative action eliminated Form DR-219, saving taxpayers approximately \$9 million in the first year.³ In addition, elimination of the form benefits businesses and citizens because they are no longer required to satisfy an unnecessary government reporting requirement.

There may exist other opportunities to limit government, lower taxes, and/or reduce data reporting burdens on businesses, local governments and/or citizens.

Purpose of the Project: The purpose of the project is to review select department forms and returns to determine whether the most suitable and optimal reporting methods are used by the department in the collection of data necessary to carry out its statutory responsibilities.

Methodology: Council staff will 1) research, inspect and analyze hard copy and available web site forms and returns, 2) interview key department staff, 3) survey businesses, associations, local governments, etc., and 4) review prior studies, analyses, audits, and records of previous work groups that have examined issues consistent with the purpose of this project.

Staff will further research and review governing laws, rules and policies to obtain a sufficient understanding of the requirements pertaining to the selected forms and returns. The following questions pertaining to form management are important and will be used to assist in the determination.

³ HB 7019 – Real Property Transfer Returns



Healthcare Council

Interim Projects

Representative Aaron Bean, Chair
Representative Juan Zapata, Vice Chair

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Health Innovation

Project Title: Medicaid Managed Care: A Multi-State Comparison

Staff Responsible: Christa Calamas, Nicole Quinn

Problem Statement: Many states, including Florida, have increased the use of managed care in Medicaid programs to control costs and improve quality in recent years. The characteristics of Medicaid managed care vary substantially from state to state.

Purpose of the Project: The project will identify and compare the characteristics of Medicaid managed care in several states. Staff will research the use of managed care in state Medicaid programs and define the characteristics of each, including procurement processes, market penetration, number of plans, plan organizational characteristics, payment methodologies, funding trends, significant statutory or contractual requirements, performance monitoring by states, and prevalence and impact of litigation.

Expected Format for Outcome: The outcome format will be a data matrix that aggregates information and compares the characteristics of each state's use of managed care in Medicaid. Supportive memoranda will be appended where necessary.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Healthy Families

Project Title: Report on 2007 and 2008 Legislative Actions affecting the Agency for Persons with Disabilities (APD)

Staff Responsible: Kerry Schoolfield, Staff Director, Carol Preston, Chief Legislative Analyst.

Problem Statement: During 2007, APD reported projected budget deficits of over \$150 million in the Medicaid waiver program. The Legislature directed APD and AHCA to set limits on spending by creating a four tiered Medicaid waiver system and to eliminate and cap certain services to address the deficit. The Legislature also provided additional appropriations to help address the deficit.

Purpose of the Project: The project will track the progress made by APD to date to implement the new legislation and the effect or projected effect on agency spending.

Expected Format for Outcome: Charts, graphs and fact sheets

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Healthy Seniors

Project Title: Background Screening of Health Care Professionals and Contracted Personnel Serving the Aging and Adult Population

Staff Responsible: Lucy Ciccone, Tony DePalma

Problem Statement: Florida law requires the criminal background screening of certain health care professionals, employees and contractors providing services to long term care facility residents. An assessment of the state's screening requirements to individuals serving this population has not been compiled, thus resulting in an incomplete understanding of all screening requirements.

Purpose of the Project: Chapter 435, F. S., was created in 1995 to provide guidelines to conduct criminal background screening for employment. The statute identifies two types (level one and level two) of screening. Health care professionals, long term care facility employees and contracted personnel, are required to submit to background screening based on the type of profession and the level of contact with the facility's residents. Other workers are exempt unless the screening is a requirement of the employee's profession or occupation.

The project will identify and compare background screening requirements of health care professionals, employees and contractors providing services to the aging and adult population in long term care facilities. The project will also identify costs associated with background screening.

Expected Format for Outcome: The outcome format will be a data matrix that aggregates information and compares the characteristics of the background screening requirement of health care professionals, employees and contractors serving the aging and adult population.

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|------------------------------------|----------------------|----------------------|-----------------------|----------------------|----------------------|----------------------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research | X | X | X | | | | |
| Research other states | X | X | | | | | |
| Meet with affected parties | | | X | | | | |
| Finalize report | | | | | X | X | |
| Submit report to Speaker's Office | | | | | | | X |
| Midterm progress report to Speaker's Office | | | | 9/5 | | | |
| Maximum due date for completion | | | | | | | 12/29 |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Health Quality

Project Title: Scope of Practice: A Comparison of Florida Healthcare Practitioners

Staff Responsible: Paul Lowell, Staff Director

Problem Statement: Florida law requires the licensure of a large number of diverse healthcare practitioners, including physicians, dentists, and nurses, as well as audiologists, electrologists, and massage therapists. The practice boundaries separating these healthcare practitioners are frequently statutorily vague and misunderstood by practitioners and the public alike.

Purpose of the Project: Staff will research Florida law and work with stakeholders in the public and private sector to identify and distinguish the characteristics of credentialing processes and practice parameters for each regulated healthcare profession. The presentation of the project findings will enable an assessment of these characteristics both in isolation and relative to the other licensed healthcare practitioners.

Expected Format for Outcome: The format for the project is a data matrix that aggregates information and compares the characteristics of each licensed healthcare practitioner. In addition, detailed information on the scope of practice of each healthcare practitioner will be provided.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Healthcare Council

Project Title: Provider Assessments as a Source of Revenue

Staff Responsible: Carol Gormley, Stephanie Massengale, Eric Pridgeon

Problem Statement: The growth of Medicaid expenditures continues to outstrip available revenues. The 2008-2009 General Appropriations Act included a two-year freeze on cost-based provider rates as well as rate reductions of 6.5 percent for nursing homes, 7.3 percent for hospitals, and 2.5 percent for Intermediate Care Facilities for the Developmentally Disabled (ICF/DD). Many providers reported their concerns about the financial impact of these changes and the potential impact of any further reductions. Nursing homes, hospitals, and ICF/DDs were among those providers recommending assessments as an alternative to rate reductions.

Purpose of the Project: Staff will research federal regulations concerning provider assessments, gather information on such assessments from other states, seek input from affected providers, and identify the methodologies and amounts of revenue that may be generated from any assessments. The presentation of the project findings will provide a foundation of information for members to use in evaluating various alternatives.

Expected Format for Outcome: The format for the project will include a written summary of federal requirements, similar actions by other states, input from affected providers, and an overview of possible assessment methods. The project will also produce data tables to display financial impact on providers in the state based on application of one or more assessment methodologies.



Jobs & Entrepreneurship Council

Interim Projects

**Representative Ron Reagan, Chair
Representative Don Brown, Vice Chair**

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Jobs & Entrepreneurship Council, Committee on Business Regulation

Project Title: Taxation of moist smokeless tobacco products

Staff Responsible: Paul Liepshutz, Alan Livingston

Problem Statement: Currently, the Division of Alcoholic Beverages and Tobacco (division) oversees the collection of excise taxes from the sale of cigarettes and other tobacco products. Smokeless tobacco, also known as snuff, moist snuff, or moist smokeless tobacco, is a tobacco product that is held in the mouth and is typically packaged in small cans.

Most states tax smokeless tobacco products on an ad valorem basis. In Florida, the rate is 25 percent of the wholesale price. Some states tax these tobacco products on a per unit or weight basis.

In 2002, a distributor of moist snuff submitted a refund request to the division for excess taxes paid. The refund request was denied by the division and litigation ensued beginning in 2003. Litigation of this issue is known as “price transfer litigation.” According to the division, the litigation was ultimately settled through mediation.

Proponents of a weight-based excise tax assert that a weight-based excise tax would eliminate confusion as to the price point at which the tax should be imposed. Opponents of a weight-based tax assert that the issue has been resolved and that the confusion, if any, is not due to uncertainty in the law but to state tax collectors misapplying the law.

Purpose of the Project: This project is designed to document data relevant to processes for the taxation of smokeless tobacco products in Florida and in other states.

Expected Format for Outcome: Whitepaper

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Jobs & Entrepreneurship Council, Committee on Financial Institutions

Project Title: Monitor implementation of SB 2158

Staff Responsible: Eric Haug, Wendy Holt

Problem Statement: SB 2158/HB 955 substantially rewrote chapter 560, F.S., relating to money services businesses. The rewrite of this chapter was to enhance the regulatory framework by providing better tools for the detection, referral and prosecution of crimes such as money laundering, fraud and tax evasion. The Office of Financial Regulation (OFR) is responsible for implementing the numerous provisions of this legislation which will require that Office to make changes in its staffing, contracting of services, rules, internal procedures, inter-agency coordination, communications and budget. The effectiveness of this legislation hinges largely on how OFR “retools” to implement this legislation before its effective date of January 1, 2009.

Purpose of the Project: Monitor and offer guidance to OFR with “retooling” to implementation SB 2158.

Expected Format for Outcome: A report of monitoring activities and the readiness of OFR to comply with the requirements of SB 2158 on January 1, 2009.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Jobs & Entrepreneurship Council, Committee on Insurance

Project Title: Monitor the Citizens Property Insurance Corporation Mission Review Task Force

Staff Responsible: Katrina Callaway, Lynne Overton

Problem Statement: SB 2860 created the Citizens Property Insurance Corporation Mission Review Task Force to analyze and compile available data and to develop a report setting forth the statutory and operational changes needed to return Citizens Property Insurance Corporation to its former role as a state-created, noncompetitive residual market mechanism that provides property insurance coverage to risks that are otherwise entitled but unable to obtain such coverage in the private insurance market.

In developing its report, the task force must consider:

- The nature of Citizens Property Insurance Corporation's role in providing property insurance coverage only if such coverage is not available from private insurers.
- The ability of the admitted market to offer policies to those consumers formerly insured through Citizens Property Insurance Corporation. This consideration shall include, but not be limited to, the availability of private market reinsurance and coverage through the Florida Hurricane Catastrophe Fund and the capacity of the industry to offer policies to former Citizens Property Insurance Corporation policyholders within existing writing ratio limitations.
- The relationship of rates charged by Citizens Property Insurance Corporation to rates charged by private insurers, with due consideration for the corporation's role as a noncompetitive residual market mechanism.
- The relationships between the exposure of Citizens Property Insurance Corporation to catastrophic hurricane losses, the corporation's history of purchasing any reinsurance coverage, and the corporation's capital capacity to meet its potential claim obligations without incurring large deficits.
- The projected assessments on all policies required to offset the lack of capital to pay claims. The projections shall be specific to losses of \$3 billion, \$12 billion, and \$23 billion caused by a storm or a group of storms in any given year.
- The operational implications of the variation in the number of policies in force over time in Citizens Property Insurance Corporation and the merits of outsourcing some or all of its operational responsibilities.
- Changes in the mission and operations of Citizens Property Insurance Corporation to reduce or eliminate any adverse effect such mission and operations may be having on the promotion of sound and economic growth and development of the coastal areas of this state.

- Appropriate and consistent geographic boundaries of the high-risk account.
- The rankings, by county, of the average approved rates in Citizens Property Insurance Corporation and any savings associated with policyholder choice in selecting Citizens.

The task force shall meet this summer and fall and submit its final report by January 31, 2009.

Purpose of the Project: Since legislation likely will result from the task force recommendations, staff will attend meetings and otherwise monitor the task force. Close monitoring of the task force will allow staff to be aware of the progress and findings of the task force. Staff will be able to assist members in preparing any legislation recommended by the task force.

Expected Format for Outcome: Regular updates on task forces activities to Council & Committee Chairs and other interested members.

One or more Proposed Council Bills to implement the recommendations of the task force.

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Jobs & Entrepreneurship Council, Committee on Insurance

Project Title: Reduction of Catastrophic Loss Risk Exposure to the State and its Citizens

Staff Responsible: Katrina Callaway, Lynne Overton

Problem Statement: The Citizens Property Insurance Corporation currently has about \$454 billion in exposure in Florida. A major year storm event (1 in 100 years PML) could produce a loss of \$26 billion for Citizens. With only \$3.9 billion in surplus, Citizens would have to rely on \$11.9 billion in Florida Hurricane Catastrophe Fund reimbursements and would still have a \$10.7 billion shortfall. The shortfall would result in deficit assessments on Floridians.

The Florida Hurricane Catastrophe Fund had potential reimbursement obligations to insurers of \$27.85 billion for the 2007 hurricane season. This amount consists of:

- \$15.85 billion of mandatory FHCF coverage, (subject to a growth factor each year);
- \$11.43 billion of TICL coverage selected by insurers (of the optional \$12 billion offered only for 2007, 2008, and 2009); and
- \$557 million selected by insurers eligible to purchase up to \$10 million additional coverage (offered only for 2007).

To fully meet the potential \$27.85 billion obligation for 2007, the FHCF relied on:

- \$2.08 billion estimated year-end cash balance;
- \$6.3 billion in proceeds from pre-event notes that have already been issued (for short-term liquidity needs);
- Up to \$25.75 billion in bonds to be issued after a hurricane (which could be used to retire the pre-event notes).

If the maximum \$25.75 billion of post-event bonds was required, an annual assessment of about 5 percent of premiums would be imposed for 30 years on most property and casualty insurance policies.

Purpose of the Project: Staff will analyze ways to reduce risk exposure for assessments on Florida citizens by both Citizens and the FHCF.

Expected Format for Outcome: Staff will produce a report of findings.

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|--------------|--------------|---------------|--------------|--------------|--------------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research | X | X | X | X | X | | |
| Meet with affected parties | | X | X | X | X | | |
| Write draft report | | | | | | X | |
| Finalize report | | | | | | | X |
| Submit report to Speaker's Office | | | | | | | X |
| Midterm progress report to Speaker's Office | | | | 9/5 | | | |
| Maximum due date for completion | | | | | | | 12/29 |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Jobs & Entrepreneurship Council, Committee on Insurance

Project Title: Monitor the Title Insurance Study Advisory Council

Staff Responsible: Bob Reilly

Problem Statement: HB 937 created the Title Insurance Study Advisory Council. The council will review Florida’s title insurance system with the goal of making recommendations for legislation to promote a sound and stable system. The 21 member commission shall begin meeting in August and provide its final report on or before December 31, 2009.

Purpose of the Project: Since legislation likely will result from the council recommendations, staff will attend meetings and otherwise monitor the council. Close monitoring of the council will allow staff to be aware of the progress and findings of the council. Staff will be able to assist members in preparing any legislation recommended by the council.

Expected Format for Outcome: Regular updates on council activities to Council & Committee Chairs and other interested members.

One or more Proposed Council Bills to implement the recommendations of the council if any recommendations are made prior to the 2009 legislative session.

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|---|-----------------------------|-----------|-----------|------------|-----------|-----------|-----------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Attend council meetings | | | X | X | X | X | X |
| Midterm progress report to Speaker’s Office | | | | 9/5 | | | |
| Maximum due date for completion | | | | | | | 12/29 |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Utilities & Telecommunications

Project Title: Review of Regulatory Framework for Local Exchange Service

Staff Responsible: Cochran Keating, Stephanie Cater

Problem Statement: In 1995, the Legislature established a new regulatory framework for local telephone service intended to encourage competition, innovation, and investment in telecommunications services. As part of this framework, the Legislature determined that the transition from the monopoly provision of local exchange service to a competitive market would require “appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition.” Accordingly, the 1995 law retained portions of the existing regulatory scheme (including the carrier-of-last resort obligation for incumbent local exchange companies and quality of service oversight) and adopted price-cap regulation to serve as consumer protections in the transition to a competitive market. The 1995 law also required the Public Service Commission (PSC) to prepare an annual report to the Legislature on the status of competition in the telecommunications industry.

In 1996, the Federal government followed suit with a new regulatory framework designed to meet the similar goals of innovation and competition in telecommunications markets. Since that time, competition for incumbent local exchange companies has developed, to varying degrees, from competitive local exchange companies, wireless service providers, cable telephony providers, and Voice-over-Internet Protocol (VoIP) offerings. As competition develops, the question naturally arises as to what the continuing regulatory framework should be for local exchange service.

Upon the joint petition of five of Florida’s incumbent local exchange companies, including the three largest companies (AT&T, Embarq, and Verizon), the PSC opened a rulemaking proceeding in March to consider significant changes to its rules regulating these companies. The petition requests primarily that the PSC develop a rule by which a determination may be made as to whether certain local telecommunications service markets should be defined as competitive. The companies’ proposed rule provides that a company with at least two-thirds of its Florida access lines in markets deemed competitive would be eligible for streamlined regulation of all of the company’s access lines. Streamlined regulation, as proposed in the petition, would entitle a company to be exempt from specified PSC rules that the companies believe to be unnecessary in a competitive market. The joint petition makes reference to the fact that other states have begun revisiting their regulatory frameworks for local exchange service.



Policy & Budget Council

Interim Projects

Representative Ray Sansom, Chair
Representative Stan Mayfield, Vice Chair

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Policy and Budget Council

Project Title: Base Budget Review Methodology (modified Zero Based Budgeting)

Staff Responsible: Skip Martin, JoAnne Leznoff

Problem Statement: The Florida Legislative budgeting process employs an incremental approach to budget development that builds the annual state budget by considering a list of proposed funding issues, each of which entail either increasing or decreasing the prior year funding for programs and services (referred to as the “base budget” or the “continuation budget”). While this is by far the most common approach used by the rest of the states, there have also been attempts to provide a more thorough review and analysis of the state agency spending details embedded in prior year appropriations so that legislators can make more informed decisions regarding not only the proposed incremental changes to appropriations, but also regarding continuation of the prior year funding levels. Florida has addressed this issue in recent years as one aspect of Performance Based Budgeting, Activity Based Budgeting, and Zero Based Budgeting. In addition, several House of Representatives councils independently developed various base budget analyses that were considered by members during the 2008 legislative session.

Several notable issues among those that have been identified as major challenges common to all these efforts include:

- Overwhelming amounts of spending detail that must be processed – literally thousands of pages of data.
- Lack of an analytical framework and/or guiding principles for aggregating, classifying and evaluating the details of agency spending.
- The significant number of exceptions to any structured decision-making model arising from the legislative process wherein competing political/philosophical priorities must be reconciled.
- Lack of legislative and executive branch consensus on the levels of detail at which each branch should control spending.
- Difficulty in applying a uniform analysis methodology to the divergent and complex government programs and services. However, without a uniform methodology, consistent, fair and comparative analyses are not possible.

Purpose of the Project: The purpose of this project will be to develop a methodology that can be employed by legislative budget analysts beginning in October of 2008 to prepare incisive briefing documents and objective analyses of the “base budget” data for the 2009 legislative members to consider when developing the annual proposed state budget. The starting point will be to articulate a set of analytic questions that should be answered by the methodology, targeting those concerns and interests most uniformly expressed by legislators over the years. Setting the boundaries of the methodology will be critical to successfully selecting the data elements/details to be used from the massive amount of information available from existing data sources.

Because the information to be reviewed is already known and is unique to Florida and the requirements of Florida law, the methodology for this project will be to explore how to best incorporate within the base budget review methodology information from the Legislative Appropriations System/Planning and Budgeting Subsystem (LAS/PBS) and the state’s accounting system in conjunction with agency-specific data systems. Selected staff from the Governor’s Office and selected state agencies will be consulted, and many of the legislative budget staff from the various councils will be involved in this development effort as well.

Expected Format for Outcome: A whitepaper will be composed that articulates specific objectives for a base budget review and enumerates the data collection and analysis procedures that can be applied uniformly in all areas of the budget. Each council will also be expected to subsequently modify/expand the methodology as needed to appropriately analyze the base budget for their unique subject areas.

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|-----------|-----------|------------|-----------|-----------|-----------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research/review of data available | XXX | XXX | | | | | |
| Meet with affected parties | XXX | XXX | XXX | | | | |
| Analyze information reviewed | | XXX | XXX | | | | |
| Write draft report | | | XXX | | | | |
| Finalize report | | | | XXX | | | |
| Submit report to Speaker’s Office | | | | XXX | | | |
| Maximum due date for completion | | | | | XXX | | |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Policy and Budget Council

Project Title: Streamlined Sales Tax: Issues and Options

Staff Responsible: Brian Jacobic

Problem Statement: For a number of years, the “remote” sales of goods and services, especially via the internet, have grown dramatically. Though much of this sales activity is subject to current state sales and use taxes, longstanding U.S. Supreme Court decisions and practical enforcement limitations have severely limited the collection of current taxes on much “remote commerce.”

Purpose of the Project: The purpose of the project is to first describe the current situation. This will include a discussion of internet commerce trends, current sales taxation of remote commerce, and current multi-state efforts to address the issue. Second, Florida’s policy options will be outlined.

Expected Format for Outcome: Formal report

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|-----------|------------|------------|--------------|----------|-----------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 200 | Dec. 2008 |
| Background research | | 7/15 | | | | | |
| Research other states | | 7/15 | | | | | |
| Meet with affected parties | | 7/30 | | | | | |
| Write draft report | | | 8/25 | | | | |
| Finalize report | | | | 9/15 | | | |
| Submit report to Speaker’s Office | | | | 9/30 | | | |
| Midterm progress report to Speaker’s Office | | | 8/1 | | | | |
| Maximum due date for completion | | | | | 10/30 | | |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Policy and Budget Council

Project Title: Documentary Stamp Tax: Implications and Options Arising from the Crescent Miami Case

Staff Responsible: Jose Diez-Arguelles

Problem Statement: A recent lawsuit (the Crescent Miami Center case) has created the opportunity to legally avoid Documentary Stamp Taxes under certain circumstances. Evidence suggests that this mechanism is growing in popularity and substantial revenues are being lost from the state and local Documentary Stamp Tax bases (Miami-Dade levies a local option tax).

Purpose of the Project: The purpose of the project is to first describe the structure of the Documentary Stamp Tax (base, rate, and collections), similar taxes in other states, and the state tax implications of the Crescent Miami Center case. Second, policy responses to the current situation will be discussed.

Expected Format for Outcome: Formal report

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|------------------------------------|----------------------|----------------------|-----------------------|----------------------|----------------------|----------------------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research | | 7/15 | | | | | |
| Research other states | | 7/15 | | | | | |
| Write draft report | | | 8/15 | | | | |
| Finalize report | | | | 9/15 | | | |
| Submit report to Speaker's Office | | | | 9/30 | | | |
| Midterm progress report to Speaker's Office | | | 8/1 | | | | |
| Maximum due date for completion | | | | | 10/30 | | |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Policy and Budget Council

Project Title: Taxation of Smokeless Tobacco: Issues and Options

Staff Responsible: Sarah Voyles

Problem Statement: Recent lawsuits and resulting settlements by the Department of Business and Professional Regulation have created the opportunity for taxpayers to structure their operations in order to significantly reduced collection of taxes levied on smokeless tobacco products. Consequently, recent and projected tax collections have eroded.

Purpose of the Project: The purpose of the project is to first describe the structure of the smokeless tobacco industry, the structure and collections of the state tax on smokeless tobacco products, how other states tax smokeless tobacco, and the state tax implications of recent lawsuits. Second, policy responses to the current situation will be discussed.

Expected Format for Outcome: Formal report

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|--------------|--------------|---------------|--------------|-------------|--------------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 200 | Dec. 2008 |
| Background research | | 7/15 | | | | | |
| Research other states | | 7/15 | | | | | |
| Meet with affected parties | | 7/30 | | | | | |
| Write draft report | | | 8/25 | | | | |
| Finalize report | | | | 9/15 | | | |
| Submit report to Speaker's Office | | | | 9/30 | | | |
| Midterm progress report to Speaker's Office | | | 8/1 | | | | |
| Maximum due date for completion | | | | | 10/30 | | |



Safety & Security Council

Interim Projects

Representative Dick Kravitz, Chair
Representative Dennis Ross, Vice Chair

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Safety & Security Council, Committee on Homeland Security & Public Safety

Project Title: Seaport Security

Staff Responsible: Randy Havlicak, Trina Kramer

Problem Statement: Since 9/11, state and federal governments have increased security measures at deepwater seaports to include both federal and state funding to implement many of the security requirements. Recently, there have been discussions and efforts to relax some of Florida's seaport security requirements and protections. Members need to be informed of both the positive and negative effects such current security precautions have on Florida. Additionally, Members need to be aware of what effect changes to Chapter 311 may have on safety and security efforts in Florida.

Purpose of the Project: The project will identify, analyze and report on the security requirements Florida places on its seaports vis-à-vis federal requirements and other states. The project will identify the amount of state and federal funding Florida seaports have received over recent years to enhance security measures. The report will also assess the applicability and effectiveness of Florida's seaport security standards.

Expected Format for Outcome: Formal Report

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Safety & Security Council

Project Title: Conflict Counsel

Staff Responsible: Greg Davis, Loretta Jones Darity

Problem Statement: Under Revision 7 to Article V of the Florida Constitution, the state is responsible for the payment of court appointed counsel for indigent criminal defendants where the public defender has a conflict of interest in representing the defendant and for indigent parents involved in dependency proceedings. These cases were initially handled by private attorneys appointed by the court from a private attorney registry. These expenses were difficult to predict; thus making funding in this area challenging.

The Legislature, in 2007, passed SB 1088 creating five offices of criminal conflict and civil regional counsel to provide state lawyers to represent indigent parties in criminal cases and in dependency and termination of parental rights proceedings, as well as certain other civil proceedings authorized by law. These new offices are beginning to operate and represent parties in these criminal conflict and civil cases that were previously assigned to private attorneys from the registry. Legal issues have arisen regarding the creation and operation of these new criminal conflict and civil regional counsel offices.

Purpose of the Project: The project will review the current structure and process the state provides for appointing attorneys for indigent parties in these cases to determine whether the new structure is addressing the issues that existed under the private attorney registry. It will also look at legal issues these new offices are facing.

Expected Format for Outcome: Whitepaper

Florida House of Representatives

2008-2009 Interim Project Format

Council/Committee: Committee on Homeland Security & Public Safety

Project Title: Online Offenders: How states prohibit, limit, and monitor a sex offender's use of the Internet.

Staff Responsible: Katie Cunningham

Problem Statement: Currently in Florida, certain sex offenders who are on probation are prohibited from accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

Purpose of the Project: To determine how or if other states prohibit, limit and monitor a sex offender's use of the Internet.

Expected Format for Outcome: Whitepaper

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|-----------|-----------|------------|-----------|-----------|-----------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research | X | X | | | | | |
| Research other states | | X | X | | | | |
| Meet with affected parties | | X | X | X | | | |
| Write draft report | | | | X | X | | |
| Finalize report | | | | | X | X | |
| Submit report to Speaker's Office | | | | | | X | |
| Midterm progress report to Speaker's Office | | | | 9/5 | | | |
| Maximum due date for completion | | | | | | | 12/29 |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Constitution & Civil Law

Project Title: Review of Expert Witness Standards

Staff Responsible: Tom Thomas

Problem Statement: An expert witness is a person, who, through education or experience, has developed skill or knowledge in a particular subject, so that he or she may form an opinion that will assist the fact-finder. Previously, both Federal and Florida courts used the standard established in Frye v. United States that provides "in order to introduce expert testimony deduced from a scientific principle or discovery, the principle or discovery must be sufficiently established to have gained general acceptance in the particular field in which it belongs."

Federal courts continued to use the Frye standard until 1993 when the United States Supreme Court held in Daubert that the Frye standard had been superseded by the Federal Rules of Evidence. The Florida Evidence Code was established in 1979 and was patterned after the Federal Rules of Evidence. Florida courts still, however, use the Frye standard for expert testimony. The Florida Supreme court has held that "despite the federal adoption of a more lenient standard in Daubert . . . we have maintained the higher standard of reliability as dictated by Frye." In November 2007, two Justices questioned why Florida still uses the Frye standard, stating that "we have never explained how Frye has survived the adoption of the rules of evidence." The two dissenting Justices concluded that Frye was superseded by the adoption of Florida's Evidence Code.

Purpose of the Project: The project will review Florida's use of expert witness testimony and the standards that are applied. The project will review standards used in federal court, as well as in other states. Law review commentaries, as well as any other available materials, will be reviewed to glean opinions of various commentators on the advantages and disadvantages of the different expert witness standards. Staff will meet with interested parties to gather input.

Expected Format for Outcome: A whitepaper will summarize the research findings and identify options for the Legislature's consideration.

Anticipated Timeframe:

| | Anticipated Completion Date | | | | | | |
|--|-----------------------------|--------------|--------------|---------------|--------------|--------------|--------------|
| | June 2008 | July 2008 | Aug. 2008 | Sept. 2008 | Oct. 2008 | Nov. 2008 | Dec. 2008 |
| Background research | X | X | | | | | |
| Research other states and federal law | | X | X | | | | |
| Meet with affected parties | | | X | X | | | |
| Write draft report | | | | | X | | |
| Finalize report | | | | | | X | |
| Submit report to Speaker's Office | | | | | | X | |
| Midterm progress report to Speaker's Office | | | | 9/5 | | | |
| Maximum due date for completion | | | | | | | 12/29 |

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Courts

Project Title: Indigent Fee Waivers for Civil Litigants

Staff Responsible: Nathan Bond

Problem Statement: A state constitutional amendment to the judicial article, effective in 2004, requires the state to assume most of the costs of operating the court system that were formerly paid by local governments. Prior state law required local governments to grant indigent persons a waiver of civil court costs. The statutory implementation of the amendment created a new state policy eliminating the waiver and requiring indigent persons to enter into a periodic payment plan for payment of civil court costs. Advocates for the poor believe that these payment plans are an unreasonable burden on the poor, and have advocated a return to full waiver of civil court costs for indigent persons.

Purpose of the Project: The purpose of the project is to examine civil indigent waivers to determine impact on the poor, cost of implementation, and collection rates and costs. Staff will examine waivers in other states, collection rates of contracts, and impact on affected persons.

Expected Format for Outcome: Formal report

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Committee on Juvenile Justice

Project Title: Recidivism Among Delinquent Youth Placed in Residential Commitment Programs

Staff Responsible: Stephen Hogge

Problem Statement: Data provided by the Department of Juvenile Justice (DJJ) to House staff indicated that youth committed to a residential facility have a very high recidivism rate within 24 to 36 months of release, e.g., 85% were subsequently referred to DJJ and nearly 2/3rds were convicted of a felony. Recognizing the data was very limited, covering only youth placed in a residential commitment program in 2002, it, nonetheless, raises questions about the effectiveness of our juvenile justice system, including whether: commitment makes any difference at all; juveniles are released from custody too soon; juveniles receive necessary treatment or receive treatment that is ineffective; or post-release care is available and/or effective.

Purpose of the Project: The purpose of this project is to determine if the recidivism rate for youth placed in residential commitment programs is as high as the preliminary data for 2002 indicates and, if so, to explore some of the possible reasons for such a high recidivism rate. The methodology will include data collection and analysis; interviews and surveys of DJJ staff, judges, juvenile probation officers and commitment managers and others; and literature reviews.

Expected Format for Outcome: Whitepaper



Schools & Learning Council

Interim Projects

Representative Joe Pickens, Chair
Representative Anthony Trey Traviesa, Vice Chair

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Schools & Learning Council

Project Title: Class Size Reduction: Meeting the 2010 State Constitution Requirements

Staff Responsible: Lynn Cobb, Mark Eggers, Allyce Heflin

Problem Statement: The State Constitutional Maximum Class Size mandate hits at the beginning of the 2010 school year. There are currently many classrooms throughout the state that are not in compliance.

Purpose of the Project: Provide projections of class size in each grade grouping in each school throughout the state for 2008, 2009, and 2010. Provide cost estimates and recommendations, both operational and capital outlay, for reaching compliance by the 2010 school year.

Expected Format for Outcome: Formal report

Florida House of Representatives

2008-2009 Interim Project

Council/Committee: Schools & Learning Council/Committee on Postsecondary Education;
Healthcare Council/Committee on Health Quality

Project Title: Nursing Shortage and Education Strategies in Florida

Staff Responsible: Lynn Cobb, Council Director, Schools & Learning Council
Betty Tilton, Staff Director, Committee on Postsecondary Education
Carol Gormley, Council Director, Healthcare Council
Paul Lowell, Staff Director, Committee on Health Quality

Problem Statement: Florida, like other states, faces a nursing shortage. Each year, the demand for nursing care in Florida outstrips the number of qualified nurses needed by hospitals, nursing homes, and other health care providers. Approaches for meeting the increased demand include expanding education capacity, improving recruitment and retention of the state's potential nursing workforce, and attracting qualified personnel from outside the state.

Although the Legislature has provided additional funding in prior years to increase the capacity of Florida's nursing education programs to produce additional graduates, the shortage persists and is expected to worsen as the population ages. Even with considerable market and political pressure to grow the nursing workforce, qualified applicants continue to be turned away from Florida's nursing programs.

Purpose of the Project: Assess the issues driving the nursing shortage. Examine current statutes, rules, policies and practices to identify barriers to increasing the supply of qualified nurses in Florida, including the expansion of existing nursing programs or the creation of new programs. Identify strategies to meet the demand of qualified students for access to nursing education programs in Florida. Determine the range of possible methods to assure an adequate supply of qualified nurses to meet Florida's future health care needs.

Expected Format for Outcome: Formal report and draft legislation, if necessary.

