COMMERCE COUNCIL MEETING PACKET

MARCH 30, 2006
9:00 A.M. – 9:30 A.M.
ROOM 404 - HOB

Allan G. Bense
Speaker

Frank Farkas
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Commerce Council

Start Date and Time:	Thursday, March 30, 2006 09:00 am
End Date and Time:	Thursday, March 30, 2006 09:30 am
Location:	404 HOB
Duration:	0.50 hrs

Consideration of the following bill(s):

HB 249 CS Florida 211 Network by Jennings
HB 805 CS Plans, Policies, Contracts, and Programs for the Provision of Health Care Services by Benson
HB 1611 CS Practice of Interior Design by Goldstein
HB 333 CS Public Food Service Establishments by McInvale

Pursuant to Rule 7.22(c), the deadline for amendments to bills on the agenda by non-appointed Members shall be 5:00 p.m., Wednesday, March 29, 2006.

By the request of the Chair, all Members are asked to have amendments to bills on the agenda by 5:00 p.m., Wednesday, March 29, 2006.

NOTICE FINALIZED on 03/28/2006 15:02 by GLATFELTER.SUKIE

HB 249 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 249 CS Florida 211 Network
SPONSOR(S): Jennings
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee	13 Y, 0 N, w/CS	Cater	Holt
2) Health Care Appropriations Committee	15 Y, 0 N, w/CS	Speir	Massengale
3) Commerce Council		Cater	Randle
4)			
5)			

SUMMARY ANALYSIS

House Bill 249 CS amends section 408.918, Florida Statutes, to expand the Florida 211 Network to provide services in each county. The bill revises legislative intent by adding the finding that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster. The bill requires each Florida 211 Network provider to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster.

The bill provides a $5 million appropriation from the General Revenue Fund to the Agency for Health Care Administration (agency) for Fiscal Year 2006-2007, with unencumbered funds reappropriated for the 2007-2008 fiscal year in the General Appropriations Act, to support the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers. The bill directs the agency to distribute the funds to the Florida alliance of Information & Referral Services (alliance). The alliance is to make the funds available to 211 providers on a matching basis, with each 211 provider required to match $1 for $1 the amount that it is provided from the alliance.

By December 15, 2006, 211 providers receiving state funds are required to report to the alliance the expenditure of their funds. By January 1, 2007, the alliance is required to provide a statewide report to the agency. No later than February 15, 2007, the agency is required to submit a statewide expenditure report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

This act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families—The bill provides for the expansion of the Florida 211 Network, which provides community information and referral services. This expansion will assist more individuals and families in getting the assistance they need for a wide range of services.

Maintain Public Security—The bill requires 211 service providers to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster. In the event of a disaster, this may put less strain on emergency personnel.

B. EFFECT OF PROPOSED CHANGES:

Background

On July 21, 2000, the Federal Communications Commission (FCC) adopted Order No. FCC 00-256, in CC Docket No. 92-105, relating to the 211 dialing code. The FCC reserved the 211 dialing code for community information and referral services. The 211 code is intended to be an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies. Dialing 211 helps, for example, the elderly, the disabled, those who do not speak English, those who are having a personal crisis, the illiterate, or those who are new to communities, by providing referrals to and information about health and human services organizations and agencies.

In 2002, the Florida Health and Human Services Access Act (Act) [1] authorized the Agency for Health Care Administration (agency) to develop a comprehensive, automated system for access to health care services. This system was to be implemented as a pilot project aimed at testing the feasibility of adopting a statewide 211 information and referral network capable of supporting the eligibility determination process required for publicly-funded health care programs.

Section 408.918, Florida Statutes, further authorized the planning, development, and implementation of a statewide Florida 211 Network to serve as the single point of entry for information and referrals to publicly funded health and human service programs. The pilot project was scheduled to be completed on December 31, 2003, but it was terminated on June 30, 2003, because of loss of funding.

Under s. 408.918 (2), Florida Statutes, the agency was required to develop criteria that organizations must satisfy to become certified Florida 211 Network providers. Previously, any organization could obtain a 211 number without meeting specific standards or qualifications.

Through certification, the agency ensures that quality, consistent information and services are provided to those seeking health and human services across the state. Prior to receiving certification, all candidates must be able to effectively demonstrate that their organization works collaboratively and have written agreements with specialized information and referral systems including crisis centers, child care resource and referral programs, elder help-lines, homeless coalitions, designated emergency management systems, 911 and 311[2] systems.

[1] Ch. 2002-223, L.O.F., this act created ss. 408.911-408.918, F.S.
[2] The FCC has set aside 311 for non-emergency police and other governmental services.

The Florida 211 Network Provider Certification rule[3] was adopted on April 28, 2003. The agency has authorized, or is in the process of authorizing, 12 organizations for certification as Florida 211 Network providers. Several other agencies have made official inquires regarding the certification process. According to the United Way of Florida, 211 is currently available to more than 14.7 million people in 42 counties, or about 82.5 percent of the state's population.

Currently, Florida's 211 providers receive funding from various sources. Funds may be provided through the United Way, county and local city governments, nonprofit agencies, corporations, grants, or private donations.

Proposed Changes

The bill amends section 408.918, Florida Statutes, relating to the Florida 211 Network. The bill revises legislative intent by adding the finding that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster. The bill also clarifies that coordination among information and referral systems includes those serving persons with disabilities and special health needs.

The bill creates section 408.918(2)(c) to designate the agency as the lead entity for purposes of receiving and distributing funds that may become available from the federal government to support the Florida 2-1-1 Network.. Current legislation pending before Congress (S. 211 and H.R. 896) would allocate $150,000 to all 50 states to support 2-1-1. It requires each state to identify a lead agency for receipt and distribution of those federal funds, should the bill pass.

The bill creates section 408.918(3)(a) through section 408.918(3)(c), Florida Statutes. Paragraph (a) requires the Florida 211 Network to be expanded statewide to provide services in each county. Moreover, each 211 provider is required to coordinate with county emergency management agencies to determine how the 211 Network may be used in the event of a disaster, including how the 211 provider will respond with information essential to assisting individuals during a natural disaster.

To implement the Florida 211 Network business plan, paragraph (b) requires the agency to distribute the funds to the Florida Alliance of Information & Referral Services (alliance). The alliance is to make the funds available to 211 providers on a matching basis, with each 211 provider being required to provide $1 match for every $1 provided by the alliance. At a minimum, the funds are to be used to achieve statewide 211 coverage.

Paragraph (c) relates to reporting requirements. By December 15, 2006, each 211 provider that receives funding under this subsection is required to report to the alliance its expenditure of funds on a form developed by the agency. By January 1, 2007, the alliance is required to provide a statewide report to the agency, which includes the individual reports and aggregated data provided by the 211 providers. By February 15, 2007, the agency is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the expenditure of the funds appropriated to it for 211 purposes.

The bill creates section 408.918(4), Florida Statutes, to define "211 provider" as an information and referral organization whose primary purpose is to maintain information about human service resources in the community, supply descriptive information about the agencies or organizations that offer services, and assist consumers in accessing appropriate providers.

The bill appropriates $5 million for Fiscal Year 2006-2007 from the General Revenue Fund to the agency for the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers. Any funds not encumbered for the 2006-2007 fiscal year shall revert on June 30, 2007, and may be reappropriated in the General Appropriations Act for the 2007-2008 fiscal year for the same purposes.

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[3] S. 59G-11, F.A.C.

This act takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1. Amends s. 408.918, F.S., revising legislative intent; providing for the expansion of the Florida 211 Network; and creating reporting requirements.

Section 2. Provides an appropriation.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures: FY 2006-07

Nonrecurring Expenditures

General Revenue Fund	$5,000,000
Total Funds	$5,000,000

The bill provides that the Agency for Health Care Administration will distribute the $5 million from General Revenue to the Florida Alliance of Information and Referral Services to implement the statewide expansion of the Florida 211 Network and to enhance the existing 211 provider organizations.

The bill also provides that any funds that are not encumbered for the 2006-2007 fiscal year shall revert on June 30, 3007, and are reappropriated for the 2007-2008 fiscal year for the same purpose.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands the Florida 211 Network system, which provides an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need with the appropriate community-based organizations and government agencies.

D. FISCAL COMMENTS:

According to the agency, with the passage of Medicaid Reform, Integrated Long Term Care, and other programs during the 2005 legislative session, existing agency staff resources are currently preparing to implement major changes to the Medicaid Program while continuing to operate the existing programs.

Over the next few years, the agency will be operating multiple systems that will continue to use all existing staff resources. As a result, the agency currently has no staff resources to allocate to the additional workload that would be created to implement a statewide 211 provider certification.

To adequately administer and fully address the increased workload activities that the proposed legislation represents, the agency believes that it needs three full-time equivalent staff. The agency is therefore requesting the following three full-time equivalent positions:

(1) *AHCA Administrator.* This will be a select exempt position. The administrator will serve as the agency's representative on the FLAIRS Board, the 211 Subcommittee Coordinator for the Board, and the agency's designated liaison to Alliance for Information and Referral Services (AIRS), which is the national organization for 211 accreditation. Additionally, this position will develop program-specific policies and procedures; develop statewide program and budget implementation plan, including the approval, distribution, and oversight of state allocated funds, which will be provided to FLAIRS for statewide distribution; complete both national and state legislative bill analyses relating to 211 information and referral services; write annual reports and all other reports relating to Florida's 211 Provider System; and supervise the other two positions.

(2) *Government Analyst II.* This position will be responsible for completing all activities relating to the agency's certification of Florida's 211 Network Provider System. This will include initial certification of potential 211 provider organizations, re-certification of existing 211 Florida network providers, and the completion of onsite visits as required by the Florida 211 Network Provider Certification Rule (Chapter 59G-11, Florida Administrative Code). In addition, this position will provide ongoing technical assistance to existing, as well as potential, Florida 211 network providers.

(3) *Government Operations Consultant I.* This position will be responsible for developing and implementing a statewide database and matrix of certification requirements, which will include provider requirements and specific activity time guidelines. This position will also be responsible for maintaining all reports and will serve as a research coordinator completing state and national research activities.

The agency estimates that the cost of these positions will be $201,345 for the 2006-2007 fiscal year and $193,515 for the 2007-2008 fiscal year, with 100 percent coming from General Revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 10, 2006, the Utilities & Telecommunications Committee adopted a strike-all amendment and two amendments to the strike-all to create a committee substitute. The committee substitute does the following:

- Updates the WHEREAS clause with current information relating to the availability of 211 service in Florida.
- Updates the WHEREAS clause to reflect the 2005 hurricanes.
- Adds that local health and human service systems include those serving persons with disabilities and special health care needs.
- Adds that the coordination between 211 providers and emergency management officials in the event of a disaster includes how a 211 will respond with essential information to assist individuals during a natural disaster.
- Deletes the disparity factor language, which ensured that all areas of the state receive an equitable share of funds from the implementation language.
- Defines "211 provider."
- Changes from February 15, 2007 to January 15, 2007, the date that the agency submits a report to the Governor, President of the Senate, and Speaker of the House of Representatives detailing the expenditure of appropriated funds.
- Provides that any funds not encumbered for the 2006-2007 fiscal year shall revert on June 30, 2007, and are reappropriated for the 2007-2008 fiscal year.

On March 17, 2006, the Health Care Appropriations Committee adopted four amendments to the committee substitute. The amendments made the following changes:

- Designated the agency as the lead entity for purposes of receiving and distributing funds that may become available from the federal government to support the Florida 2-1-1 Network.
- Delays from January 15 to February 15 the Agency for Health Care Administration's responsibility to report to the Legislature regarding expenditure of funds appropriated by this bill.
- Conforms the definition of "Florida 211 Network Provider" in the bill to the definition in the Florida Administrative Code.
- Made a technical change to the appropriation.

This analysis reflects the bill as amended.

CHAMBER ACTION

The Health Care Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida 211 Network; amending s. 408.918, F.S.; designating the Agency for Health Care Administration as the lead entity for purposes of receiving and distributing federal funds; requiring the Florida 211 Network to provide services in each county and to coordinate services with county emergency management agencies during disasters; providing requirements for distribution of state funds appropriated for such purposes; requiring local matching funds; requiring expenditure reports to the Florida Alliance of Information and Referral Services, the Agency for Health Care Administration, the Governor, and the Legislature; defining the term "Florida 211 Network provider"; providing an appropriation; providing an effective date.

22 WHEREAS, the 2002 Legislature created the "Florida Health
23 and Human Services Access Act" in sections 408.911-408.918,
24 Florida Statutes, and
25 WHEREAS, the act "authorizes the planning, development,
26 and, subject to appropriations, the implementation of a
27 statewide Florida 211 Network, which shall serve as the single
28 point of coordination for information and referral for health
29 and human services" in section 408.918(1), Florida Statutes, and
30 WHEREAS, in order to participate in the Florida 211
31 Network, a 211 provider must be certified by the Agency for
32 Health Care Administration under section 408.918(2), Florida
33 Statutes, and
34 WHEREAS, 211 is the 911 telephone number for nonemergency
35 health and human services and for crisis response information,
36 is available in 42 counties, and represents 14.7 million people,
37 or 82.5 percent of the state's population, and
38 WHEREAS, the Florida Alliance of Information and Referral
39 Services is the statewide membership organization in which all
40 211 providers participate and which has drafted the Florida 211
41 Network business plan identifying the most efficient processes
42 by which the Florida 211 Network should expand statewide, and
43 WHEREAS, 211 providers have compiled information on
44 thousands of human services programs across the state, and
45 WHEREAS, 211 call centers make it easier for more than 14
46 million Floridians to get the information they need to keep them
47 out of emergency rooms, off government assistance, out of "deep-
48 end" social services programs, safe from abuse, and in stable
49 housing, and

50 WHEREAS, 211 call centers also help people find job
51 training and assistance, elder care and child care, and before-
52 school and after-school care that allow them to stay employed,
53 and
54 WHEREAS, during the 2004 and 2005 hurricane seasons, 211
55 call centers provided critically needed support to many
56 emergency operations centers, provided information to Floridians
57 impacted by hurricanes, were instrumental in identifying unmet
58 and emerging needs, and helped mobilize and manage volunteers,
59 and
60 WHEREAS, 211 call centers will continue to be a critical
61 part of recovery efforts, providing a connection to help for
62 people whose lives have been dramatically affected by the 2005
63 hurricanes, NOW, THEREFORE,
64
65 Be It Enacted by the Legislature of the State of Florida:
66
67 Section 1. Section 408.918, Florida Statutes, is amended
68 to read:
69 408.918 Florida 211 Network; uniform certification
70 requirements.--
71 (1) The Legislature <u>finds that a statewide Florida 211</u>
72 <u>Network would be of great benefit to Floridians, particularly in</u>
73 <u>times of disaster, and</u> authorizes the planning, development,
74 and, subject to appropriations, the implementation of a
75 statewide Florida 211 Network, which shall serve as the single
76 point of coordination for information and referral for health

77 and human services. The objectives for establishing the Florida
78 211 Network shall be to:
79 (a) Provide comprehensive and cost-effective access to
80 health and human services information.
81 (b) Improve access to accurate information by simplifying
82 and enhancing state and local health and human services
83 information and referral systems and by fostering collaboration
84 among information and referral systems, including those serving
85 persons with disabilities and special health care needs.
86 (c) Electronically connect local information and referral
87 systems to each other, to service providers, and to consumers of
88 information and referral services.
89 (d) Establish and promote standards for data collection
90 and for distributing information among state and local
91 organizations.
92 (e) Promote the use of a common dialing access code and
93 the visibility and public awareness of the availability of
94 information and referral services.
95 (f) Provide a management and administrative structure to
96 support the Florida 211 Network and establish technical
97 assistance, training, and support programs for information and
98 referral-service programs.
99 (g) Test methods for integrating information and referral
100 services with local and state health and human services programs
101 and for consolidating and streamlining eligibility and case
102 management processes.

103 (h) Provide access to standardized, comprehensive data to
104 assist in identifying gaps and needs in health and human
105 services programs.
106 (i) Provide a unified systems plan with a developed
107 platform, taxonomy, and standards for data management and
108 access.
109 (2) In order to participate in the Florida 211 Network, a
110 211 provider must be certified by the Agency for Health Care
111 Administration. The agency shall develop criteria for
112 certification, as recommended by the Florida Alliance of
113 Information and Referral Services, and shall adopt the criteria
114 as administrative rules.
115 (a) If any provider of information and referral services
116 or other entity leases a 211 number from a local exchange
117 company and is not certified by the agency, the agency shall,
118 after consultation with the local exchange company and the
119 Public Service Commission, request that the Federal
120 Communications Commission direct the local exchange company to
121 revoke the use of the 211 number.
122 (b) The agency shall seek the assistance and guidance of
123 the Public Service Commission and the Federal Communications
124 Commission in resolving any disputes arising over jurisdiction
125 related to 211 numbers.
126 (c) The agency is designated the lead entity for purposes
127 of receiving and distributing funds that may become available
128 from the Federal Government to support the Florida 211 Network.
129 (3)(a) The Florida 211 Network shall be expanded statewide
130 to provide services in each county. Each 211 provider shall

131 coordinate with each county emergency management agency in the
132 211 service area to determine how the Florida 211 Network may be
133 used in the event of a disaster, including how a 211 provider
134 will respond with information that is essential to assisting
135 individuals during a natural disaster.
136 (b) To implement the Florida 211 Network business plan,
137 the agency shall distribute to the Florida Alliance of
138 Information and Referral Services funds appropriated to the
139 agency to expand the Florida 211 Network statewide and to
140 enhance operations of existing 211 providers. The funds
141 distributed to the Florida Alliance of Information and Referral
142 Services shall be made available to 211 providers on a matching
143 basis, with each 211 provider required to provide $1 for each $1
144 provided to that 211 provider from state funds appropriated for
145 that purpose. At a minimum, the funds shall be used to achieve
146 statewide 211 coverage.
147 (c)1. No later than December 15, 2006, each 211 provider
148 that receives funding under this subsection shall report to the
149 Florida Alliance of Information and Referral Services the
150 expenditure of the state funds on a form developed by the
151 agency.
152 2. No later than January 1, 2007, the Florida Alliance of
153 Information and Referral Services shall provide a statewide
154 report to the agency which includes the individual reports and
155 aggregated data provided by the 211 providers.
156 3. No later than February 15, 2007, the agency shall
157 submit a report to the Governor, the President of the Senate,
158 and the Speaker of the House of Representatives detailing

159 expenditure of the funds appropriated to it for the purposes of
160 this subsection.
161 (4) As used in this section, the term "Florida 211 Network
162 provider" or "211 provider" means an information and referral
163 organization the primary purpose of which is to maintain
164 information about human service resources in the community,
165 supply descriptive information about the agencies or
166 organizations that offer such services, and assist consumers in
167 accessing appropriate providers of such services.
168 Section 2. The sum of $5 million is appropriated for the
169 2006-2007 fiscal year from nonrecurring general revenue to the
170 Agency for Health Care Administration to fund the statewide
171 expansion of the Florida 211 Network to all counties and to
172 enhance the operations of existing 211 providers under s.
173 408.918, Florida Statutes, as amended by this act. Any funds
174 that are not encumbered for the 2006-2007 fiscal year shall
175 revert on June 30, 2007, and may be reappropriated in the 2007-
176 2008 fiscal year General Appropriations Act for the same
177 purposes.
178 Section 3. This act shall take effect upon becoming a law.

HB 805 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 805 CS Health Care Insurers and ID Cards
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	18 Y, 0 N, w/CS	Tinney	Cooper
2) Health Care Regulation Committee	9 Y, 0 N, w/CS	Bell	Mitchell
3) Commerce Council		Tinney	Randle
4)			
5)			

SUMMARY ANALYSIS

HB 805 requires individual and group health insurers and HMOs to provide an identification card to policyholders and subscribers. Although the bill amends various sections of law, the requirements for the information to be contained on the health insurance identification card is the same, whether the requirements specify an identification card for an individual or group health policy or an HMO. Under the bill, a health insurance ID card is required to include the following information:

1. Name of organization issuing or administering the health policy;
2. Name of person or family covered by the policy;
3. Type of health care plan or network;
4. Member ID number, contract number, or policy or group number;
5. Telephone number or electronic address for use in receiving insurer authorization;
6. Telephone number or electronic address for use in determining estimated co-payments, deductibles, co-insurance, or maximum out-of-pocket expenses for the insured and covered dependents; and
7. National identification code for insurer, if available.

All insurers are required to present the required ID card information in an easy-to-read manner. The bill also authorizes an insurer to encode the information on a magnetic strip or a smart card, or through other electronic technology.

The requirements of the bill may necessitate the redesign of current insurance cards in order to include the information required by the bill. However, given that the effective date of the bill is not until July 1, 2007 and only applies to new cards issued by insurers and HMOs, the fiscal impact should be minimal.

The bill also amends several other sections of law to correct cross-references.

State agencies report they will not incur costs to implement the bill.

The bill expands health flex plan eligibility from 200 to 250 percent of the federal poverty level. The current federal poverty level is $37,000 for a family of four.

The portion of the bill relating to ID cards has an effective date of July 1, 2007 and the portion of the bill pertaining to health flex plans has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government; Empower Families; and Promote Personal Responsibility—Under the bill, health insurers and HMOs are required to provide an insurance ID card containing specified information to policyholders and subscribers and their respective covered dependents.

B. EFFECT OF PROPOSED CHANGES:

Insurance Regulation and General Provisions

In Florida, regulation of the insurance industry is shared by the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR). The state's Chief Financial Officer (CFO) heads DFS while the head of OIR is the Governor and Cabinet members sitting as the Financial Services Commission. Generally, OIR is responsible for granting a certificate of authority or license to an insurer; a domestic insurer, i.e., an insurer based in Florida, must possess a certificate of authority in order to conduct business in Florida.

Similarly, many insurers are required by law to seek OIR approval for their rates, or the prices they charge for coverage, and approval of the insurance forms they use for issuing policies. The Office of Insurance Regulation investigates allegations of fraud against insurers and administers state laws governing the financial reserve requirements imposed on insurers. The regulation and licensure of insurance agents and agencies is the purview of DFS. Staff of DFS also provides consumer information and assistance through the Division of Consumer Services.

Florida's Current Health Insurance Market

Various federal and state laws regulate Florida's health insurance market. The result of the various laws is that Florida's health insurance market is segmented into various groups, including self-insured groups or health plans, large groups of 51 or more participants, small groups ranging in size from 1 to 50 members, individual health policies, health maintenance organizations (HMOs), and out-of-state groups. Each segment of the market may be further divided into sub-groups, both in Florida, and in most other states, however, the Florida Insurance Code governs the activities, policies, and premiums of health insurance within the market segments serving policyholders in Florida.

Chapter 627, F.S., governs rates and contracts for all types of insurance available in Florida, including life, health, property, automobile, credit life and disability, workers' compensation, and title, among other types of policies. For example, part VI, chapter 627, F.S., governs health insurance policies for individuals, while part VII of ch. 627, F.S., governs group, blanket, and franchise health insurance policies. Part II of ch. 627, F.S., outlines the requirements insurers must include in their policies, i.e., contracts.

Chapter 641, F.S., governs health care service programs. This includes HMOs, prepaid health clinics, and other health care services.

Currently, laws governing health insurers and their policies (i.e., contracts) do not require insurers to provide an insurance card to policyholders and subscribers. The laws generally require health insurers to provide policyholders either with an outline of benefits and coverage or a member/policyholder

handbook, however.[1] Many health insurers currently issue insurance cards to their policyholders, however, each insurer determines the type of information to be printed on the card.

Auto Insurance: Proof of Coverage

Laws governing auto insurance in Florida require insurers to provide policyholders with proof of insurance.[2] Such proof generally is provided through an insurance card. Proof of auto insurance typically contains both the policyholder's and insurer's name; a telephone number for the insurer; the policy number; a brief description of the covered auto(s), including manufacturer, model, and vehicle identification number (VIN). The back of the proof of auto insurance also may contain information and phone numbers for use in reporting an accident to the insurer.

Under Florida law, the owner of a motor vehicle is required to register his or her vehicle annually.[3] As part of the registration process, a vehicle owner is required to show proof of insurance coverage with minimum benefits for personal injury protection (PIP) and property damage.[4]

Health Insurance Policies: Changes Proposed by the Bill

The bill requires individual and group health insurers and HMOs to provide an identification card to policyholders and subscribers. Although the bill amends various sections of law, the requirements for the information to be contained on the health insurance identification card are the same, whether the requirements specify an identification card for an individual or group health policy or an HMO. For example, under the bill, a health insurance ID card is required to include the following information:

1. Name of organization issuing or administering the health policy;
2. Name of person or family covered by the policy (contract holder, certificate holder, or subscriber);
3. Type of health care plan or network;
4. Member ID number, contract number, or policy or group number;
5. Telephone number or electronic address for use in receiving insurer authorization;
6. Telephone number or electronic address for use in determining estimated co-payments, deductibles, co-insurance, or maximum out-of-pocket expenses for the insured and covered dependents; and
7. National identification code for insurer, if available.

Part VI of ch. 627, F.S., specifies the requirements for health insurance policies sold to individuals in Florida. Section 627.642, F.S., regarding the outline of coverage for individual policies, is amended to require insurers offering individual major medical health insurance policies to issue an insurance ID card to their policyholders.

The bill also amends s. 627.657, F.S., regarding group health insurance policies to require group insurers to issue an ID card to their policyholders. Similarly, the bill amends s. 641.31, F.S., relating to HMO contracts, to require HMOs to issue an ID card to their respective members.

All insurers are required to present the required ID card information in an easy-to-read manner. The bill also authorizes an insurer to encode the information on a magnetic strip or a smart card, or through

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[1] *See* s. 627.642, F.S., (2005) relating to the outline of coverage for individual health insurance policies. Similarly, *see* s. 627.657, F.S., (2005) prescribing the provisions and form of group health insurance policies. *See* also ss. 627.64725 and 641.185, F.S., (2005) outlining the requirements for HMO plans to provide the conditions of their respective plans either on the policy or in a member handbook.

[2] *See*, e.g., ss. 320.02 and 627.936(9)(a), F.S., (2005) regarding proof of insurance coverage for motor vehicles and the requirement for auto insurers to provide notice to the Department of Highway Safety and Motor Vehicles regarding issuance, non-renewal, and cancellation of auto coverage.

[3] Section 320.02, F.S., (2005).

[4] *See*, e.g., s. 627.733(3) for requirements relating to PIP coverage and s. 324.022, F.S., (2005) for the law specifying auto insurance coverage for property damage.

other electronic technology. Several other sections of law are amended by the bill to correct cross-references.

Health Flex Plans

In 2002 the Legislature established the Health Flex Plan Program recognizing that a significant portion of Florida residents are unable to afford health insurance coverage. The Health Flex Plan Program was established as a pilot program in an effort to offer basic affordable health care services to low-income uninsured state residents, "by encouraging health insurers, health maintenance organizations, health-care-provider-sponsored organizations to develop alternative approaches to traditional health insurance, which emphasize coverage for basic and preventative care services."[5] The Agency for Health Care Administration (AHCA) is directed by law to administer the Health Flex Plan Program. In 2004 the Legislature expanded Health Flex plans to all 67 counties.

Health Flex Plans can be offered by licensed insurers, HMOs, health care providers, local governments, health care districts, or other public or private organizations, and through small employers' business purchasing arrangements sponsored by local government. Currently eligibility to enroll in the Health Flex Plan is limited to individuals who:

- Are residents of this state;
- Are 64 years of age or younger;
- Have family income equal to or less than 200 percent of the federal poverty level.[6] The current federal poverty level is $37,000 for a family of four;
- Have been uninsured for at least six months prior to enrollment; and
- Are not covered by a private insurance policy and are not eligible for coverage by a public health care program.

Health Flex Plans: Changes Proposed by the Bill

The bill expands the financial eligibility requirements to qualify for health flex plans. In order to meet the financial eligibility requirements to qualify for health flex plans, family income must be less than or equal to 250 percent of the federal poverty level. The bill provides that employment-based group eligibility is expanded to 75 percent of the employees have a family income of 250 percent of the federal poverty level.

C. SECTION DIRECTORY:

Section 1. Amends s. 408.909, F.S., relating to enrollment in health flex plans.

Section 2. Amends s. 627.642, F.S., relating to health coverage provided under individual health insurance policies.

Section 3. Amends s. 627.657, F.S., relating to health coverage provided by group, blanket, and franchise health insurance policies.

Section 4. Amends s. 641.31, F.S., relating to health maintenance (i.e., HMOs) contracts and coverage.

Section 5. Amends s. 383.145, F.S., relating to hearing screening for infants and newborns to correct a cross-reference.

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[5] *See* s. 408.909(1), F.S. (2005)
[6] The current federal poverty level is $37,000 for a family of four.

Section 6. Amends s. 641.185, F.S., relating to HMO subscriber protections, to correct a cross-reference.

Section 7. Amends s. 641.2018, F.S., relating to coverage for home health care under an HMO contract, to correct a cross-reference.

Section 8. Amends s. 641.3107, F.S., relating to the delivery of HMO contracts to subscribers, to correct a cross-reference.

Section 9. Amends s. 641.3922, F.S., relating to HMO conversion policies, to correct a cross-reference.

Section 10. Amends s. 641.513, F.S., relating to emergency services provided by HMOs, to correct a cross-reference.

Section 11. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. The Department of Financial Services and the Department of Health, the Agency for Health Care Administration, and OIR all indicate the bill will have no financial impact on the respective departments and agencies.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Many health insurers and HMOs currently provide their policyholders and members with an insurance card. Most current health insurer cards do not contain all of the information required by the bill, however. This likely will mean the existing health insurance cards will be replaced by the respective insurer or HMO in order to include the information required by the bill. In some cases, the requirements of the bill may necessitate the redesign of current insurance cards in order to include the information required by the bill.

However, given that the effective date of the bill is not until July 1, 2007 and only applies to new cards issued by insurers and HMOs, the fiscal impact should be minimal.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Many laws imposing requirements on insurers also grant rulemaking authority to OIR and the Financial Services Commission, however this bill does not. This bill is specific in describing the information to be contained on the health insurance ID card. As a result, insurers should implement the provisions of the bill without additional direction from an administrative rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 9, 2006 meeting, the Insurance Committee adopted five amendments to the bill to clarify the types of information health insurers must include on the health ID cards required by the bill. The amendments made the following changes to the bill:

- specifies that individual major medical health insurance policies (rather than **all** individual policies) must provide policyholders with an ID card;
- changes the information to be included by health insurers on ID cards to terminology used in most health insurance policies;
- changes the information to be included by health insurers on ID cards to terminology frequently used in health policies and recognizes federal rules adopted under the Health Insurance Portability and Accountability Act (HIPAA) govern the type of information an insurer may disclose;
- allows insurers to provide required information electronically or embedded in magnetic strips on smart cards; and
- specifies that an ID card issued by an HMO must identify the insurer as an HMO.

As its March 22, 2006 meeting, the Health Care Regulation Committee adopted 10 amendments to the bill to make technical changes and expand coverage for Health Flex Plans to 250 percent of the federal poverty level.

- **Amendment 1-3:** Ensures that a company cannot advertise as a health plan (i.e. PPO, HMO, etc.) if they are not licensed in Florida.
- **Amendment 4-5:** Provides cross references for the definition of "medical policy."
- **Amendment 6:** Clarifies that when the federal Department of Health and Human Services establishes a "national plan identifier," it must be included on health identification cards.

- **Amendment 7-8:** Clarifies that a phone number or web address must be listed on the health identification card so patients or facilities may verify if the plan is insured and the benefits provided.
- **Amendment 9:** Extends the effective date of the bill to July 1, 2007 and specifies that the new requirements for health identification cards only apply to cards issued after July 1, 2007.
- **Amendment 10:** Increases financial eligibility for health flex plans to 250% of the federal poverty level and provides for employment-based group health flex plan eligibility, when 75% of the employees have a family income equal or less than 250% of the federal poverty level.
- **Amendment 11:** Creates an effective date of July 1, 2006 for the new eligibility requirements for health flex plans.
- **Amendment 12-14:** Changes the terms "covered person" and "covered family" to "contract holder," "certificate holder," and "subscriber." These terms are used to describe policy holders in the individual insurance market, group market, and HMO market.

The analysis is drafted to the committee substitute.

CHAMBER ACTION

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1 The Health Care Regulation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to plans, policies, contracts, and
7 programs for the provision of health care services;
8 amending s. 408.909, F.S.; revising eligibility
9 requirements for participation in health flex plans;
10 amending s. 627.642, F.S.; requiring an identification
11 card containing specified information to be given to
12 insureds who have health and accident insurance; amending
13 s. 627.657, F.S.; requiring an identification card
14 containing specified information to be given to insureds
15 under group health insurance policies; amending s. 641.31,
16 F.S.; requiring an identification card to be given to
17 persons having health care services through a health
18 maintenance contract; amending ss. 383.145, 641.185,
19 641.2018, 641.3107, 641.3922, and 641.513, F.S.;
20 conforming cross-references to changes made by the act;
21 providing application; providing effective dates.
22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Effective July 1, 2006, subsection (5) of
26 section 408.909, Florida Statutes, is amended to read:
27 408.909 Health flex plans.--
28 (5) ELIGIBILITY.--Eligibility to enroll in an approved
29 health flex plan is limited to residents of this state who meet
30 all of the following requirements:
31 (a) Are 64 years of age or younger.~~;~~
32 (b) Have a family income equal to or less than 250 ~~200~~
33 percent of the federal poverty level.~~;~~
34 (c) Are eligible under a federally approved Medicaid
35 demonstration waiver and reside in Palm Beach County or Miami-
36 Dade County.~~;~~
37 (d) Are not covered by a private insurance policy and are
38 not eligible for coverage through a public health insurance
39 program, such as Medicare or Medicaid, unless specifically
40 authorized under paragraph (c), or another public health care
41 program, such as KidCare, and have not been covered at any time
42 during the past 6 months.~~; and~~
43 (e) Have applied for health care coverage through an
44 approved health flex plan and have agreed to make any payments
45 required for participation, including periodic payments or
46 payments due at the time health care services are provided.
47 (f) Are part of an employer group where at least 75
48 percent of the employees have a family income equal to or less
49 than 250 percent of the federal poverty level.
50 Section 2. Subsection (3) is added to section 627.642,
51 Florida Statutes, to read:

52 627.642 Outline of coverage.--
53 (3) In addition to the outline of coverage, a policy as
54 specified in s. 627.6699(3)(k) must be accompanied by an
55 identification card that contains, at a minimum:
56 (a) The name of the organization issuing the policy or
57 name of the organization administering the policy, whichever
58 applies.
59 (b) The name of the contract holder.
60 (c) Type of plan or name of network, but only health plans
61 filed with the state may be identified on the card.
62 (d) The member identification number, contract number, and
63 policy or group number, if applicable.
64 (e) A contact phone number or electronic address for
65 authorizations.
66 (f) A phone number or electronic address whereby the
67 covered person or hospital, physician, or other person rendering
68 services covered by the policy may determine if the plan is
69 insured and may obtain a benefits verification in order to
70 estimate patient financial responsibility, in compliance with
71 privacy rules under the Health Insurance Portability and
72 Accountability Act.
73 (g) The national plan identifier, in accordance with the
74 compliance date set forth by the federal Department of Health
75 and Human Services.
76
77 The identification card must present the information in a
78 readily identifiable manner or, alternatively, the information
79 may be embedded on the card and available through magnetic

80 stripe or smart card. The information may also be provided
81 through other electronic technology.
82 Section 3. Present subsection (2) of section 627.657,
83 Florida Statutes, is renumbered as subsection (3), and a new
84 subsection (2) is added to that section, to read:
85 627.657 Provisions of group health insurance policies.--
86 (2) The medical policy as specified in s. 627.6699(3)(k)
87 must be accompanied by an identification card that contains, at
88 a minimum:
89 (a) The name of the organization issuing the policy or
90 name of the organization administering the policy, whichever
91 applies.
92 (b) The name of the certificateholder.
93 (c) Type of plan or name of network, but only health plans
94 filed with the state may be identified on the card.
95 (d) The member identification number, contract number, and
96 policy or group number, if applicable.
97 (e) A contact phone number or electronic address for
98 authorizations.
99 (f) A phone number or electronic address whereby the
100 covered person or hospital, physician, or other person rendering
101 services covered by the policy may determine if the plan is
102 insured and may obtain a benefits verification in order to
103 estimate patient financial responsibility, in compliance with
104 privacy rules under the Health Insurance Portability and
105 Accountability Act.

106 (g) The national plan identifier, in accordance with the
107 compliance date set forth by the federal Department of Health
108 and Human Services.
109
110 The identification card must present the information in a
111 readily identifiable manner or, alternatively, the information
112 may be embedded on the card and available through magnetic
113 stripe or smart card. The information may also be provided
114 through other electronic technology.
115 Section 4. Present subsections (5) through (40) of section
116 641.31, Florida Statutes, are renumbered as subsections (6)
117 through (41), respectively, and a new subsection (5) is added to
118 that section, to read:
119 641.31 Health maintenance contracts.--
120 (5) The contract, certificate, or member handbook must be
121 accompanied by an identification card that contains, at a
122 minimum:
123 (a) The name of the organization offering the contract or
124 name of the organization administering the contract, whichever
125 applies.
126 (b) The name of the subscriber.
127 (c) A statement that the health plan is a health
128 maintenance organization. Only a health plan with a certificate
129 of authority issued under this chapter may be identified as a
130 health maintenance organization.
131 (d) The member identification number, contract number, and
132 group number, if applicable.

133 (e) A contact phone number or electronic address for
134 authorizations.
135 (f) A phone number or electronic address whereby the
136 covered person or hospital, physician, or other person rendering
137 services covered by the contract may determine if the plan is
138 insured and may obtain a benefits verification in order to
139 estimate patient financial responsibility, in compliance with
140 privacy rules under the Health Insurance Portability and
141 Accountability Act.
142 (g) The national plan identifier, in accordance with the
143 compliance date set forth by the federal Department of Health
144 and Human Services.
145
146 The identification card must present the information in a
147 readily identifiable manner or, alternatively, the information
148 may be embedded on the card and available through magnetic
149 stripe or smart card. The information may also be provided
150 through other electronic technology.
151 Section 5. Paragraph (j) of subsection (3) of section
152 383.145, Florida Statutes, is amended to read:
153 383.145 Newborn and infant hearing screening.--
154 (3) REQUIREMENTS FOR SCREENING OF NEWBORNS; INSURANCE
155 COVERAGE; REFERRAL FOR ONGOING SERVICES.--
156 (j) The initial procedure for screening the hearing of the
157 newborn or infant and any medically necessary followup
158 reevaluations leading to diagnosis shall be a covered benefit,
159 reimbursable under Medicaid as an expense compensated
160 supplemental to the per diem rate for Medicaid patients enrolled

161 in MediPass or Medicaid patients covered by a fee for service
162 program. For Medicaid patients enrolled in HMOs, providers shall
163 be reimbursed directly by the Medicaid Program Office at the
164 Medicaid rate. This service may not be considered a covered
165 service for the purposes of establishing the payment rate for
166 Medicaid HMOs. All health insurance policies and health
167 maintenance organizations as provided under ss. 627.6416,
168 627.6579, and 641.31(31) ~~(30)~~, except for supplemental policies
169 that only provide coverage for specific diseases, hospital
170 indemnity, or Medicare supplement, or to the supplemental
171 polices, shall compensate providers for the covered benefit at
172 the contracted rate. Nonhospital-based providers shall be
173 eligible to bill Medicaid for the professional and technical
174 component of each procedure code.
175 Section 6. Paragraphs (b) and (i) of subsection (1) of
176 section 641.185, Florida Statutes, are amended to read:
177 641.185 Health maintenance organization subscriber
178 protections.--
179 (1) With respect to the provisions of this part and part
180 III, the principles expressed in the following statements shall
181 serve as standards to be followed by the commission, the office,
182 the department, and the Agency for Health Care Administration in
183 exercising their powers and duties, in exercising administrative
184 discretion, in administrative interpretations of the law, in
185 enforcing its provisions, and in adopting rules:
186 (b) A health maintenance organization subscriber should
187 receive quality health care from a broad panel of providers,
188 including referrals, preventive care pursuant to s. 641.402(1),

189 emergency screening and services pursuant to ss. 641.31(13) ~~(12)~~
190 and 641.513, and second opinions pursuant to s. 641.51.
191 (i) A health maintenance organization subscriber should
192 receive timely and, if necessary, urgent grievances and appeals
193 within the health maintenance organization pursuant to ss.
194 641.228, 641.31(6) ~~(5)~~, 641.47, and 641.511.
195 Section 7. Subsection (1) of section 641.2018, Florida
196 Statutes, is amended to read:
197 641.2018 Limited coverage for home health care
198 authorized.--
199 (1) Notwithstanding other provisions of this chapter, a
200 health maintenance organization may issue a contract that limits
201 coverage to home health care services only. The organization and
202 the contract shall be subject to all of the requirements of this
203 part that do not require or otherwise apply to specific benefits
204 other than home care services. To this extent, all of the
205 requirements of this part apply to any organization or contract
206 that limits coverage to home care services, except the
207 requirements for providing comprehensive health care services as
208 provided in ss. 641.19(4), (11), and (12), and 641.31(1), except
209 ss. 641.31(10) ~~(9)~~, (13) ~~(12), (17)~~, (18), (19), (20), (21), (22),
210 and (25) ~~(24)~~ and 641.31095.
211 Section 8. Section 641.3107, Florida Statutes, is amended
212 to read:
213 641.3107 Delivery of contract.--Unless delivered upon
214 execution or issuance, a health maintenance contract,
215 certificate of coverage, or member handbook shall be mailed or
216 delivered to the subscriber or, in the case of a group health

217 maintenance contract, to the employer or other person who will
218 hold the contract on behalf of the subscriber group within 10
219 working days from approval of the enrollment form by the health
220 maintenance organization or by the effective date of coverage,
221 whichever occurs first. However, if the employer or other person
222 who will hold the contract on behalf of the subscriber group
223 requires retroactive enrollment of a subscriber, the
224 organization shall deliver the contract, certificate, or member
225 handbook to the subscriber within 10 days after receiving notice
226 from the employer of the retroactive enrollment. This section
227 does not apply to the delivery of those contracts specified in
228 s. 641.31(14) ~~(13)~~.
229 Section 9. Paragraph (a) of subsection (7) of section
230 641.3922, Florida Statutes, is amended to read:
231 641.3922 Conversion contracts; conditions.--Issuance of a
232 converted contract shall be subject to the following conditions:
233 (7) REASONS FOR CANCELLATION; TERMINATION.--The converted
234 health maintenance contract must contain a cancellation or
235 nonrenewability clause providing that the health maintenance
236 organization may refuse to renew the contract of any person
237 covered thereunder, but cancellation or nonrenewal must be
238 limited to one or more of the following reasons:
239 (a) Fraud or intentional misrepresentation, subject to the
240 limitations of s. 641.31(24) ~~(23)~~, in applying for any benefits
241 under the converted health maintenance contract.~~;~~
242 Section 10. Subsection (4) of section 641.513, Florida
243 Statutes, is amended to read:

244 641.513 Requirements for providing emergency services and
245 care.--
246 (4) A subscriber may be charged a reasonable copayment, as
247 provided in s. 641.31(13) ~~(12)~~, for the use of an emergency room.
248 Section 11. Except as otherwise expressly provided in this
249 act, this act shall take effect January 1, 2007, and shall apply
250 to identification cards issued for policies or certificates
251 issued or renewed on or after that date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 805 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Commerce Council
2 Representative(s) Benson offered the following:
3
4 **Amendment**
5 Remove line(s) 60-61 and 93-94 and insert:
6 (c) Type of plan only if health plan is filed with the
7 state, indication that plan is self-funded, or name of network.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1611 CS Practice of Interior Design
SPONSOR(S): Goldstein
TIED BILLS: **IDEN./SIM. BILLS:** SB 2652

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	16 Y, 0 N, w/CS	Livingston	Liepshutz
2) Commerce Council		Livingston	Randle
3)			
4)			
5)			

SUMMARY ANALYSIS

Part I of chapter 481, F.S., regulates architects and interior designers. Both professions are regulated by the Board of Architecture and Interior Design under the Department of Business and Professional Regulation (DBPR). Practitioners must meet licensure requirements in order to legally practice their profession.

The bill:

authorizes a person who has been licensed as a practitioner by the board and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any professional services; and

prohibits the use of an unlicensed individual to provide engineering or architectural services, plumbing or electrical work, landscape services, or other work requiring a licensed professional if the work is performed for an interior design construction contract administered by a registered interior designer or by a registered interior designer performing project management as the owner's representative.

It is not anticipated that the bill will have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to impact the House principles.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Current regulation of professions is carried out by DBPR, in part, by licensing practitioners. Each profession is administered either directly by the DBPR or through a separately appointed board, council, or a commission. Regulation is intended to protect the public by ensuring that licensed professionals meet prescribed standards of education, competency, and practice. Chapter 455, F.S., provides general powers for the regulation of the areas of jurisdiction under the DBPR.

Part I of chapter 481, F.S., regulates architects and interior designers. Both professions are regulated by the Board of Architecture and Interior Design under the DBPR. Practitioners must meet licensure requirements in order to legally practice their profession.

Interior design is defined to mean

> designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

"Registered interior designer" or "interior designer" means a natural person who is licensed under this part.

Various acts constitute grounds for which the disciplinary actions may be taken. For instance, a person may not knowingly: practice interior design unless the person is a registered interior designer unless specifically exempted; use the name or title "architect" or "registered architect," or "interior designer" or "registered interior designer," or words to that effect, when the person is not then the holder of a valid license issued pursuant to this part; or employ unlicensed persons to practice architecture or interior design

Effect of proposed changes

The bill:

authorizes a person who has been licensed as a practitioner by the board and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any professional services; and

prohibits the use of an unlicensed individual to provide engineering or architectural services, plumbing or electrical work, landscape services, or other work requiring a licensed professional if the work is performed for an interior design construction contract administered by a registered interior designer or by a registered interior designer performing project management or oversight as the owner's representative.

C. SECTION DIRECTORY:

Section 1. Amends s. 481.223, F.S., to allow the use of the title interior designer, retired" and prohibit unlicensed activity.

Section 2. Effective date - July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not anticipated to be significant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

NA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 23, 2006, the Committee on Business Regulation considered the bill, adopted one amendment, and reported the bill favorably with CS.

Amendment #1 by Goldstein
Removes reference to the definition of "space planning" and thus return to current law.

CHAMBER ACTION

The Business Regulation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the practice of interior design; amending s. 481.223, F.S.; authorizing retired interior designers to use the title "interior designer, retired"; prohibiting a person from performing certain acts without employing a registered interior designer; providing an effective date.

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

Section 1. Subsection (1) of section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties; injunctive relief.--

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect;

(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein. However, a licensed interior designer who relinquishes or does

24 not renew his or her license may use the title "interior
25 designer, retired" but may not render any interior design
26 services;
27 (c) Use the name or title "architect" or "registered
28 architect," or "interior designer" or "registered interior
29 designer," or words to that effect, when the person is not then
30 the holder of a valid license issued pursuant to this part;
31 (d) Present as his or her own the license of another;
32 (e) Give false or forged evidence to the board or a member
33 thereof;
34 (f) Use or attempt to use an architect or interior
35 designer license that has been suspended, revoked, or placed on
36 inactive or delinquent status;
37 (g) Employ unlicensed persons to practice architecture or
38 interior design; ~~or~~
39 (h) Conceal information relative to violations of this
40 part; or~~.~~
41 (i) Use an unlicensed individual to provide engineering or
42 architectural services, plumbing or electrical work, landscape
43 services, or other work requiring a licensed professional if the
44 work is performed for an interior design construction contract
45 administered by a registered interior designer or by a
46 registered interior designer performing project management or
47 oversight as the owner's representative.
48 Section 2. This act shall take effect July 1, 2006.

Bill No. **1611**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Commerce Council
2 Representative(s) Goldstein offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Subsection (16) is added to section 481.203,
7 Florida Statutes, to read:
8 481.203 Definitions.--As used in this part:
9 (16) "Responsible supervising control" means the exercise
10 of direct personal supervision and control throughout the
11 preparation of documents, instruments of service, or any other
12 work requiring the seal and signature of a person licensed under
13 this part.
14 Section 2. Subsection (4) is added to section 481.205,
15 Florida Statutes, to read:
16 481.205 Board of Architecture and Interior Design.--
17 (4) The board, by rule, may establish minimum procedures,
18 documentation, and other requirements to evidence the exercise
19 of responsible supervising control by a person licensed under
20 this part in connection with work performed both inside and
21 outside the licensee's office.

22 Section 3. Paragraphs (a) and (b) of subsection (1) of
23 section 481.223, Florida Statutes, are amended to read:
24 481.223 Prohibitions; penalties; injunctive relief.--
25 (1) A person may not knowingly:
26 (a) Practice architecture unless the person is an
27 architect or a registered architect. However, a licensed
28 architect who relinquishes or does not renew his or her license
29 may use the title "architect, retired" but may not render any
30 architectural services;
31 (b) Practice interior design unless the person is a
32 registered interior designer unless otherwise exempted herein.
33 However, a licensed interior designer who relinquishes or does
34 not renew his or her license may use the title "interior
35 designer, retired" but may not render any interior design
36 services;
37 Section 4. This act shall take effect July 1, 2006.
38
39
40 ========== T I T L E A M E N D M E N T ==========
41 Remove the entire title and insert:
42 An act relating to the practice of architecture and
43 interior design; amending s. 481.203, F.S.; providing a
44 definition; amending s. 481.205, F.S.; authorizing the
45 Board of Architecture and Interior Design to establish
46 rules relating to responsible supervising control;
47 amending s. 481.223, F.S.; authorizing retired architects
48 and interior designers to use the title "architect,
49 retired" and "interior designer, retired," respectively;
50 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 333 CS Public Food Service Establishments
SPONSOR(S): McInvale and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1172

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	14 Y, 1 N	Watson	Liepshutz
2) Local Government Council	7 Y, 1 N, w/CS	Nelson	Hamby
3) Commerce Council		Watson	Randle
4)			
5)			

SUMMARY ANALYSIS

This bill creates a three-year pilot program authorizing municipalities to adopt an ordinance establishing procedures for public food service establishments to apply for a limited exemption from existing Florida Department of Business and Professional Regulation (DBPR) rules. The exemption would allow dogs in designated outdoor sections of public food service establishments.

The bill provides minimum requirements for permit applications and safety and sanitation regulations to be implemented by the municipalities; provides for state assistance in the development of enforcement procedures and regulations; provides an effective date of July 1, 2006, and for automatic repeal if not renewed by July 1, 2009.

This bill will have an indeterminate effect on municipalities and restaurants that choose to participate relating to permitting revenues and fees and regulatory compliance. DBPR estimates a non-recurring cost of $74,673 and recurring costs of $613,009 that will increase slightly each year to implement the bill. Also, the Department of Health has indicated that it may experience an increase in foodborne illness complaint investigations resulting in yearly additional costs of approximately $13,187.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Less Government: This bill increases the number of governmental bodies that have regulatory authority over health guidelines for public food service establishments. DBPR represents that the bill will indirectly require the need for more government employees.

Individual Liberty: This bill increases commercial and individual liberty by allowing public food service establishments and individuals the ability to choose to bring dogs into outdoor areas of such establishments if their municipality passes an appropriate ordinance.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The legislature requires the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation (the "Division") to administer laws and rules relating to the inspection and regulation of food service establishments for the purpose of safeguarding the public health, safety and welfare. Section 509.032(7), F.S., expressly limits the general home rule powers of a local government as it relates to the regulation of such businesses.

Pursuant to its rulemaking authority, the Division has adopted the 2001 Food Code published by the U.S. Food and Drug Administration (FDA). The Food Code is a reference document that "provides practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness."[1] Section 6-501.115 of the Code generally prohibits live animals on the premises of food service establishments. "Premises" is defined to mean "[t]the physical facility, its contents, and the contiguous land or property...."[2] There are limited exceptions to this prohibition including those for patrol dogs accompanying police or security officers and service animals controlled by disabled persons.[3]

Effect of Proposed Changes

This bill creates a three-year pilot program that would permit patrons' dogs within designated outdoor areas of food service establishments. The bill grants municipalities the authority to establish a local exemption procedure, by ordinance, to current Division rules that prohibit dogs on the premises of food service establishments. Interested establishments are required to apply for and receive a permit from the governing body of their municipality. Minimum requirements for the information supplied in the application process are outlined in the bill.

The bill also sets forth specific regulations that must be included in all permits issued by participating municipalities. The regulations include various restrictions on the dogs' mobility, sanitation measures to reduce health risks posed by dogs, and signs notifying guests and employees of applicable rules and procedures. The bill also allows municipalities to include additional regulations and limitations in the permits to protect the health, safety and general welfare of the public. Municipalities are granted powers reasonably necessary to regulate and enforce this bill. The Division of Hotels and Restaurants is directed to provide reasonable assistance to participating municipalities in the development of enforcement procedures and regulations.

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[1] See, the FDA's introduction to the Food Code at http://www.cfsan.fda.gov/~dms/fc05-int.html.
[2] See, s. 1-201.10(b)(67) at http://www.cfsan.fda.gov/~dms/fc01-1.html#1-2.
[3] See, s. 6-501.115 at http://www.cfsan.fda.gov/~dms/fc01-6.html#6-5.

The act has an effective date of July 1, 2006, and expires on July 1, 2009, unless reenacted by the legislature.

C. SECTION DIRECTORY

Section 1: Provides finding and intent.

Section 2: Creates s. 509.233, F.S. Authorizes local exemption, provides limits on the exemption and permit requirements, grants enforcement powers, provides for state assistance, and provides for automatic repeal unless renewed.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not impact state revenues.

2. Expenditures:

   The Department of Business and Professional Regulation represents that implementation of this bill would require $74,673 in non-recurring costs to the department, and $613,039 in recurring costs that would increase slightly each year. The recurring costs include the addition of eight full time employees to assist municipalities in the development of regulations, handle an increased volume of calls to the DBPR's Customer Call Center, and to compensate for the additional time required to inspect exempted restaurants.

   Also, the Department of Health (DOH) has stated that it may experience an increase in foodborne illness complaint investigations. While the DOH indicates that this is speculative and difficult to quantify, it has estimated that the bill could result in an increase in investigations of up to 2.5 percent resulting in yearly additional costs of approximately $13,187.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill has the potential to increase fees for participating municipalities through the permitting process.

2. Expenditures:

   This bill has the potential to create an indeterminate impact upon expenditures associated with monitoring and enforcement in municipalities that choose to participate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Establishments electing to participate will incur indeterminate costs associated with compliance to the signage and sanitation requirements, and possibly training costs for personnel.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Florida Department of Business and Professional Regulation[4]

Protecting the health (a condition of optimal well-being), safety (freedom from danger, risk or injury), and welfare (health, happiness and general well-being) of the public requires the Division to adopt rules that provide the greatest protection to the greatest amount of people possible. The FDA Food Code is scientifically-based and "represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered . . . in food service." (2001 FDA Food Code) For this reason, the Division adopted the FDA Food Code as the statewide food service standard.

The 2001 FDA Food Code defines "critical" as "a provision of this Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard." The FDA Food Code identifies live animals in public food service establishments as critical. The risks associated with allowing animals, including dogs, in public food service establishments illustrates the critical nature of the issue.

This bill would reduce the ability of the Division to protect the public's health, safety and welfare by introducing potential contaminants and safety hazards into public food service establishments. Animals carry disease-causing organisms which can be transmitted to humans through direct and indirect contamination of food and food-contact surfaces. Diseases carried by animals have caused infectious disease outbreaks, including Escherichia coli, Salmonella, Coxiella burnetti, Mycobacterium tuberculosis and ringworm. Exposure to rabies is also a concern. Diseases can be spread to humans through an animal's saliva, urine, fecal matter, fur and skin. This bill does not address the presence of unhealthy dogs in public food service establishments or any form of regulation of current immunization status. This bill does provide for hand washing by employees, signage requiring hand washing, and requires hand sanitizer at each table in the designated area. However, there is no way to ensure patrons will follow the sanitation recommendations.

This bill would reduce public safety by introducing potential environmental hazards. Allergies can be associated with dander, fur, body wastes and saliva. Dogs also present an increased risk of bites, kicks, falls, scratches and other forms of aggression.

The bill does not establish any caps on monetary fees charged by local governments for the variance.

[4] At the 2/22/2006 meeting of the Local Government Council, the Department of Business and Professional Regulation's legislative liaison, John McBride, indicated that the department now supports the bill.

Finally, an opportunity for each individual municipality to adopt and enforce regulations would be created, resulting in multiple ordinances and jurisdictions throughout the state. Statewide, uniform jurisdiction is an integral component of attaining federal standardization. Providing for an exemption to the 2001 FDA Food Code would undermine efforts to achieve statewide standardization, as the federal standards would no longer be met. It would also create precedent for allowing "local preference" regarding technical food safety requirements. The Division would be required to assist municipalities with development of the exemption process and enforcement. The mandated state assistance would divert state resources from core mission, potentially reducing the effectiveness of the division in protecting the health, safety and welfare of the public.

Florida Department of Health

The Florida Department of Health (DOH) regulates food service establishments other than those addressed in the bill, in accordance with s. 381.0072, F.S. Food service establishments regulated by the DOH include detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars and lounges, facilities used at temporary food events, mobile food units, and vending machines at any facility regulated under this section. Section 64E-11.008(8), F.A.C., prohibits animals from food service establishments regulated by the DOH, except for animals for the disabled as provided for in ch. 413.08, F.S. This standard is used in all 50 states and by the FDA.

As indicated in the bill, s. 509.032, F.S., requires the DOH to work with DBPR to perform epidemiological investigations in public food service establishments as the result of foodborne illnesses. This bill increases the risk of foodborne illness transmitted through dogs both directly and indirectly as a result of increased risk of unsanitary conditions, and it is anticipated that there may be an resulting increase in foodborne illness complaint investigations.

The DOH has concerns that the bill will significantly increase the risk of foodborne illness, especially in populations most susceptible, i.e., the elderly, young, and immune compromised. Additionally, the bill seeks to use hand sanitizers as a public health intervention. Currently, DOH follows the recommendations of the CDC and FDA that advise that hand sanitizers are not intended as a substitute for handwashing in food service establishments. Further, hand sanitizers are only effective against specific types of organisms and are not appropriate for high bacterial loads or viruses. Therefore, solely providing patrons with hand sanitizers for use after contact with dogs may be ineffective in adequately removing contaminants from the hands.

Additionally, the bill does not appear to address:

- varying levels of obedience among dogs and their propensity for confrontation both with other dogs (which could result in widespread contamination) and other patrons (which could result in dog bites);
- required intervention, such as vaccination, to prevent the possible spread for rabies and other zoonotic diseases;
- the recognition of the male dog's propensity for territorial marking through urination;
- employees incidental (and un-solicited) contact with dogs that result in a soiled and contaminated uniform; and
- oversight of this initiative by officials trained in public health who are accustomed to ensuring that plans, locations, and processes have effective barriers against microbiological and environmental contaminants.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted a strike-all amendment at its meeting on February 22, 2006. The amendment restructures the bill to remove the legislative intent language from the proposed

statute; specifies that dogs will not be permitted to travel through indoor or non-designated outdoor portions of a food service establishment; provides that permits may not be transferred upon the sale of a food service establishment; provides for monitoring by participating municipalities of permit holders; and makes technical and clarifying corrections.

CHAMBER ACTION

1 The Local Government Council recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to public food service establishments;
7 providing legislative findings and intent; creating s.
8 509.233, F.S.; creating a pilot program that authorizes
9 municipalities to adopt an ordinance establishing a local
10 exemption to certain provisions of general law and agency
11 rules relating to public food service establishments in
12 order to permit patrons' dogs at certain designated
13 outdoor portions of such establishments; providing for
14 implementation and enforcement procedures; providing for
15 state assistance; providing for future review and repeal;
16 providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Findings and intent.--The Legislature finds and
21 declares:
22 (1) Chapter 509, Florida Statutes, requires the Division
23 of Hotels and Restaurants of the Department of Business and

24 Professional Regulation to carry out all laws and rules relating
25 to the inspection and regulation of public food service
26 establishments for the purpose of safeguarding the public
27 health, safety, and welfare.
28 (2) Section 509.013(5), Florida Statutes, defines "public
29 food service establishment" as "any building, vehicle, place, or
30 structure, or any room or division in a building, vehicle,
31 place, or structure where food is prepared, served, or sold for
32 immediate consumption on or in the vicinity of the premises;
33 called for or taken out by customers; or prepared prior to being
34 delivered to another location for consumption."
35 (3) Section 509.032, Florida Statutes, requires the
36 Division of Hotels and Restaurants of the Department of Business
37 and Professional Regulation to adopt and enforce such rules as
38 are necessary to ensure the protection of the public from food-
39 borne illness in public food service establishments.
40 (4) Section 509.032, Florida Statutes, further requires
41 the Division of Hotels and Restaurants of the Department of
42 Business and Professional Regulation to adopt such rules in
43 order to "provide the standards and requirements for obtaining,
44 storing, preparing, processing, serving, or displaying food in
45 public food service establishments, approving public food
46 service establishment facility plans, conducting necessary
47 public food service establishment inspections for compliance
48 with sanitation regulations, cooperating and coordinating with
49 the Department of Health in epidemiological investigations, and
50 initiating enforcement actions, and for other such
51 responsibilities deemed necessary by the division."

52 (5) Pursuant to the grant of rulemaking authority cited in
53 s. 509.032, Florida Statutes, the Division of Hotels and
54 Restaurants of the Department of Business and Professional
55 Regulation has adopted by rule sanitation and safety
56 requirements of public food service establishments, including
57 requirements relating to physical facilities, which adopts by
58 reference certain portions of the Food and Drug Administration
59 Food Code, as amended from time to time, as developed by the
60 Food and Drug Administration of the United States Department of
61 Health and Human Services.
62 (6) The Food and Drug Administration Food Code generally
63 prohibits live animals from public food service establishments.
64 (7) Section 509.032(7), Florida Statutes, expressly
65 preempts to the state regulation of public lodging
66 establishments and public food service establishments for
67 compliance with the sanitation standards adopted by the Division
68 of Hotels and Restaurants of the Department of Business and
69 Professional Regulation.
70 (8) Section 509.032(7), Florida Statutes, expressly limits
71 the general home rule powers of local governments as it relates
72 to the regulation of public food service establishments.
73 (9) The purpose of this act is to establish a 3-year pilot
74 program to allow participating municipalities to enact an
75 ordinance establishing procedures by which public food service
76 establishments could become exempt from certain portions of the
77 Food and Drug Administration Food Code and allow patrons' dogs
78 within certain designated outdoor portions of their respective
79 establishments.

80 Section 2. Section 509.233, Florida Statutes, is created
81 to read:
82 509.233 Public food service establishment requirements;
83 local exemption for dogs in designated outdoor portions; pilot
84 program.--
85 (1) INTENT.--It is the intent of the Legislature by this
86 section to establish a 3-year pilot program for municipalities
87 to allow patrons' dogs within certain designated outdoor
88 portions of public food service establishments.
89 (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.
90 509.032(7), the governing body of a municipality participating
91 in the pilot program is authorized to establish, by ordinance, a
92 local exemption procedure to certain provisions of the Food and
93 Drug Administration Food Code, as currently adopted by the
94 division, in order to allow patrons' dogs within certain
95 designated outdoor portions of public food service
96 establishments.
97 (3) LOCAL DISCRETION; CODIFICATION.--
98 (a) The adoption of the local exemption procedure shall be
99 at the sole discretion of the governing body of a participating
100 municipality. Nothing in this section shall be construed to
101 require or compel a municipal governing body to adopt an
102 ordinance pursuant to this section.
103 (b) Any ordinance adopted pursuant to this section shall
104 provide for codification within the land development code of a
105 participating municipality.
106 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

107 (a) Any local exemption procedure adopted pursuant to this
108 section shall only provide a variance to those portions of the
109 currently adopted Food and Drug Administration Food Code in
110 order to allow patrons' dogs within certain designated outdoor
111 portions of public food service establishments.
112 (b) In order to protect the health, safety, and general
113 welfare of the public, the local exemption procedure shall
114 require participating public food service establishments to
115 apply for and receive a permit from the governing body of the
116 municipality before allowing patrons' dogs on their premises.
117 The municipality shall require from the applicant such
118 information as the municipality deems reasonably necessary to
119 enforce the provisions of this section, but shall require, at a
120 minimum, the following information:
121 1. The name, location, and mailing address of the public
122 food service establishment.
123 2. The name, mailing address, and telephone contact
124 information of the permit applicant.
125 3. A diagram and description of the outdoor area to be
126 designated as available to patrons' dogs, including dimensions
127 of the designated area; a depiction of the number and placement
128 of tables, chairs, and restaurant equipment, if any; the
129 entryways and exits to the designated outdoor area; the
130 boundaries of the designated area and of other areas of outdoor
131 dining not available for patrons' dogs; any fences or other
132 barriers; surrounding property lines and public rights-of-way,
133 including sidewalks and common pathways; and such other
134 information reasonably required by the permitting authority. The

135 diagram or plan shall be accurate and to scale but need not be
136 prepared by a licensed design professional.
137 4. A description of the days of the week and hours of
138 operation that patrons' dogs will be permitted in the designated
139 outdoor area.
140 (c) In order to protect the health, safety, and general
141 welfare of the public, the local exemption ordinance shall
142 include such regulations and limitations as deemed necessary by
143 the participating municipality and shall include, but not be
144 limited to, the following requirements:
145 1. All public food service establishment employees shall
146 wash their hands promptly after touching, petting, or otherwise
147 handling dogs. Employees shall be prohibited from touching,
148 petting, or otherwise handling dogs while serving food or
149 beverages or handling tableware or before entering other parts
150 of the public food service establishment.
151 2. Patrons in a designated outdoor area shall be advised
152 that they should wash their hands before eating. Waterless hand
153 sanitizer shall be provided at all tables in the designated
154 outdoor area.
155 3. Employees and patrons shall be instructed that they
156 shall not allow dogs to come into contact with serving dishes,
157 utensils, tableware, linens, paper products, or any other items
158 involved in food service operations.
159 4. Patrons shall keep their dogs on a leash at all times
160 and shall keep their dogs under reasonable control.
161 5. Dogs shall not be allowed on chairs, tables, or other
162 furnishings.

163 6. All table and chair surfaces shall be cleaned and
164 sanitized with an approved product between seating of patrons.
165 Spilled food and drink shall be removed from the floor or ground
166 between seating of patrons.
167 7. Accidents involving dog waste shall be cleaned
168 immediately and the area sanitized with an approved product. A
169 kit with the appropriate materials for this purpose shall be
170 kept near the designated outdoor area.
171 8. A sign or signs reminding employees of the applicable
172 rules shall be posted on premises in a manner and place as
173 determined by the local permitting authority.
174 9. A sign or signs reminding patrons of the applicable
175 rules shall be posted on premises in a manner and place as
176 determined by the local permitting authority.
177 10. A sign or signs shall be posted in a manner and place
178 as determined by the local permitting authority that places the
179 public on notice that the designated outdoor area is available
180 for the use of patrons and patrons' dogs.
181 11. Dogs shall not be permitted to travel through indoor
182 or nondesignated outdoor portions of the public food service
183 establishment.
184 (d) A permit issued pursuant to this section shall not be
185 transferred to a subsequent owner upon the sale of a public food
186 service establishment but shall expire automatically upon the
187 sale of the establishment. The subsequent owner shall be
188 required to reapply for a permit pursuant to this section if the
189 subsequent owner wishes to continue to accommodate patrons'
190 dogs.

191 (5) POWERS; ENFORCEMENT.--Participating municipalities
192 shall have such powers as are reasonably necessary to regulate
193 and enforce the provisions of this section.
194 (6) STATE AND LOCAL COOPERATION.--The division shall
195 provide reasonable assistance to participating municipalities in
196 the development of enforcement procedures and regulations, and
197 participating municipalities shall monitor permitholders for
198 compliance in cooperation with the division. At a minimum,
199 participating municipalities shall establish a procedure to
200 accept, document, and respond to complaints and to timely report
201 to the division all such complaints and the participating
202 municipalities' enforcement responses to such complaints. A
203 participating municipality shall provide the division with a
204 copy of all approved applications and permits issued, and the
205 participating municipality shall require that all applications,
206 permits, and other related materials contain the appropriate
207 division-issued license number for each public food service
208 establishment.
209 (7) FUTURE REVIEW AND REPEAL.--This section shall expire
210 July 1, 2009, unless reviewed and saved from repeal through
211 reenactment by the Legislature.
212 Section 3. This act shall take effect July 1, 2006.