Fiscal Council

Joe Negron, Chair
Fred Brummer, Vice Chair
Thursday, March 30, 2006
212 Knott Building

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Fiscal Council

Start Date and Time:	Thursday, March 30, 2006 01:00 pm
End Date and Time:	Thursday, March 30, 2006 05:00 pm
Location:	212 Knott Building
Duration:	4.00 hrs

Consideration of the following bill(s):

HB 47 CS Hurricane Preparedness by Greenstein
HB 113 CS Judges by Negron
HCB 6001 Per Diem and Travel Expenses by Governmental Operations Committee, Coley, Ausley
HB 7105 Taxation of Alcoholic Beverages by Finance & Tax Committee

Consideration of the following proposed committee bill(s):

PCB FC 06-01 -- Appropriations
PCB FC 06-02 -- Implementing the 2006-07 General Appropriations Act
PCB FC 06-03 -- Education Funding
PCB FC 06-04 -- Health Care
PCB FC 06-05 -- Substance Abuse/Mental Health Funding
PCB FC 06-06 -- Community Based Care
PCB FC 06-07 -- Client Services Fee Collections
PCB FC 06-08 -- Home and Community-Based Services
PCB FC 06-09 -- Corrections
PCB FC 06-10 -- Juvenile Justice
PCB FC 06-11 -- Sexually Violent Predators
PCB FC 06-12 -- Employee Benefits
PCB FC 06-13 -- Retirement
PCB FC 06-14 -- Fuel Tax Collection TF
PCB FC 06-15 -- Court Technology Trust Fund
PCB FC 06-16 -- Operating TF/State Court System
PCB FC 06-17 -- Federal Grants TF/State Court System
PCB FC 06-18 -- Administrative Trust Fund - Department of Corrections
PCB FC 06-19 -- Federal Grants Trust Fund - Department of Corrections
PCB FC 06-20 -- Administrative Trust Fund - Department of Law Enforcement
PCB FC 06-21 -- Federal Grants Trust Fund - Department of Law Enforcement I
PCB FC 06-22 -- Trust Funds

NOTICE FINALIZED on 03/28/2006 16:19 by SLB

Florida House of Representatives

Fiscal Council

Allan Bense
Speaker

Joe Negron
Chair

AGENDA
Thursday, March 30, 2006
1:00 p.m. – 5:00 p.m.
212 Knott Building

I. Meeting Call to Order

II. Opening Remarks by Chair

Consideration of the following bill(s):
HB 47 CS Hurricane Preparedness by Greenstein
HB 113 CS Judges by Negron
HCB 6001 Per Diem and Travel Expenses by Governmental Operations Committee, Coley, Ausley
HB 7105 Taxation of Alcoholic Beverages by Finance & Tax Committee

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PCB FC 06-01 -- Appropriations
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PCB FC 06-20 -- Administrative Trust Fund - Department of Law Enforcement
PCB FC 06-21 -- Federal Grants Trust Fund - Department of Law Enforcement I
PCB FC 06-22 -- Trust Funds

III. Closing Remarks and Adjournment

221 Capitol Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-6204

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 47 CS Hurricane Preparedness
SPONSOR(S): Greenstein and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 24

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 0 N, w/CS	Noriega	Diez-Arguelles
2) Fiscal Council		Noriega	Kelly
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill provides that no sales tax will be collected from May 21, 2006 through June 1, 2006, and from May 20, 2007 through May 31, 2007 on:

(a) any portable self-powered light source selling for $20 or less;
(b) any portable self-powered radio, two-way radio, or weatherband radio selling for $50 or less;
(c) any tarpaulin or other flexible waterproof sheeting selling for $50 or less;
(d) any ground anchor system or tie-down kit selling for $50 or less;
(e) any gas or diesel fuel tank selling for $25 or less;
(f) any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;
(g) any cell phone battery selling for $60 or less and any cell phone charger selling for $40 or less;
(h) any nonelectric food storage cooler selling for $30 or less;
(i) any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less;
(j) any storm shutter device selling for $300 or less;
(k) any carbon monoxide detector selling for $75 or less; and
(l) any single product consisting of two or more of the items listed in (a)-(k) selling for $200 or less.

The provisions of this bill do not apply to sales within an airport as defined in s. 330.27(2), F.S., within a public lodging establishment as defined in s. 509.013(4), F.S., or within a theme park or entertainment complex as defined in s. 509.013(9), F.S.

This bill grants rule-making authority to the Department of Revenue and appropriates $221,400 from the General Revenue Fund to administer this sales tax holiday.

The bill is estimated to have a negative fiscal impact of $33.9 million to state government and $7.5 million to local governments in FY 2005-06, and of $34.4 million to state government and $7.7 million to local governments in FY 2006-07.

The bill reduces the authority of counties to raise revenue. Therefore, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

This bill will become effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes:
This bill creates two 12-day sales tax holidays in 2006 and 2007 on certain supplies purchased in Florida to prepare for hurricane season.

B. EFFECT OF PROPOSED CHANGES:

Ch. 212, F.S., imposes a state sales tax on the sale of tangible personal property and authorizes local option taxes on such sales. This bill provides that no sales tax will be collected on certain items from May 21, 2006 through June 1, 2006. The first seven days of this period coincide with National Hurricane Preparedness Week (May 21-27, 2006). In addition, the bill provides that no sales tax will be collected on the same list of items from May 20, 2007 through May 31, 2007.

The list of exempt items includes: (a) any portable self-powered light source selling for $20 or less; (b) any portable self-powered radio, two-way radio, or weatherband radio selling for $50 or less; (c) any tarpaulin or other flexible waterproof sheeting selling for $50 or less; (d) any ground anchor system or tie-down kit selling for $50 or less; (e) any gas or diesel fuel tank selling for $25 or less; (f) any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less; (g) any cell phone battery selling for $60 or less and any cell phone charger selling for $40 or less; (h) any nonelectric food storage cooler selling for $30 or less; (i) any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less; (j) any storm shutter device selling for $300 or less; (k) any carbon monoxide detector selling for $75 or less; and (l) any single product consisting of two or more of the items listed in (a)-(k) selling for $200 or less.

The provisions of this bill do not apply to sales within an airport as defined in s. 330.27(2), F.S., within a public lodging establishment as defined in s. 509.013(4), F.S., or within a theme park or entertainment complex as defined in s. 509.013(9), F.S.

C. SECTION DIRECTORY:

Section 1. Provides a sales tax exemption for certain supplies purchased from May 21, 2006 through June 1, 2006, and from May 20, 2007 through May 31, 2007; provides exceptions to this exemption; provides rule-making authority to the Department of Revenue.

Section 2. Appropriates $221,400 from the General Revenue Fund to the Department of Revenue to administer this sales tax holiday.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is estimated to have the following negative fiscal impact on state government:

	2005-06	2006-07
General Revenue	(33.8m)	(34.3m)
State Trust	(0.1m)	(0.1m)
Total	(33.9m)	(34.4m)

2. Expenditures:

   The bill contains an appropriation of $221,400 from the General Revenue Fund to implement the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill is estimated to have the following negative fiscal impact on local governments:

	2005-06	2006-07
Revenue Sharing	(1.1m)	(1.1m)
Local Gov't. Half Cent	(3.2m)	(3.3m)
Local Option	(3.2m)	(3.3m)
Total Local Impact	(7.5m)	(7.7m)

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons that purchase the items covered by this bill during the two 12-day periods may save money by not having to pay a sales tax. In addition, the availability of the sales tax exemption may prompt some consumers to purchase more of the items eligible for the exemption, thereby causing an increase in the number of sales by Florida retailers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill appropriates $221,400 from the General Revenue Fund to the Department of Revenue for purposes of administering the provisions of the law. However, the Department estimates that the costs of printing and mailing a Taxpayer Identification Publication by first class postage to the parties affected by the provisions of the bill is $277,540 for fiscal year 2005-2006. The bill does not include an appropriation to administer the provisions of the law for fiscal year 2006-2007, and the Department estimates this cost to be $218,028.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 10, 2006, the Finance and Tax Committee adopted two amendments to the bill. One amendment conformed the bill to the Senate bill, which changed the effective dates of this holiday from May 21, 2006 through June 1, 2006, and provided dates for this same holiday next year, from May 20, 2007 through May 31, 2007. In addition, the amendment removed all references to first-aid kits (already exempt), plywood, hardware, construction companies, contractors, and commercial businesses. The amendment added storm shutters selling for less than $300, carbon monoxide detectors selling for less than $75, and a provision to allow combinations of exempt items to be sold in a package not exceeding $200, to the list of exempt items.

The other amendment provided that the provisions of this bill do not apply to sales within an airport as defined in s. 330.27(2), F.S., within a public lodging establishment as defined in s. 509.013(4), F.S., or within a theme park or entertainment complex as defined in s. 509.013(9), F.S.

This analysis reflects the changes contained in the amendments adopted by the Finance and Tax Committee.

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to hurricane preparedness; providing an exemption from the sales and use tax for sales of certain tangible personal property for certain periods; providing an exception for sales within certain facilities; authorizing the Department of Revenue to adopt certain rules; providing an appropriation; providing an effective date.

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

Section 1. (1) Effective May 21, 2006, through June 1, 2006, and May 20, 2007, through May 31, 2007, no tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on the sale of:

(a) Any portable self-powered light source selling for $20 or less.

(b) Any portable self-powered radio, two-way radio, or weatherband radio selling for $50 or less.

24 (c) Any tarpaulin or other flexible waterproof sheeting
25 selling for $50 or less.
26 (d) Any ground anchor system or tie-down kit selling for
27 $50 or less.
28 (e) Any gas or diesel fuel tank selling for $25 or less.
29 (f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-
30 volt, or 9-volt batteries, excluding automobile and boat
31 batteries, selling for $30 or less.
32 (g) Any cell phone battery selling for $60 or less and any
33 cell phone charger selling for $40 or less.
34 (h) Any nonelectric food storage cooler selling for $30 or
35 less.
36 (i) Any portable generator used to provide light or
37 communications or preserve food in the event of a power outage
38 selling for $1,000 or less.
39 (j) Any storm shutter device selling for $300 or less.
40 (k) Any carbon monoxide detector selling for $75 or less.
41 (l) Any single product consisting of two or more of the
42 items listed in paragraphs (a)-(k) selling for $200 or less.
43 (2) This section does not apply to sales within an airport
44 as defined in s. 330.27(2), Florida Statutes, within a public
45 lodging establishment as defined in s. 509.013(4), Florida
46 Statutes, or within a theme park or entertainment complex as
47 defined in s. 509.013(9), Florida Statutes.
48 (3) The Department of Revenue may adopt rules pursuant to
49 ss. 120.536(1) and 120.54, Florida Statutes, to carry out this
50 section.

51 Section 2. The sum of $221,400 is appropriated from the
52 General Revenue Fund to the Department of Revenue for purposes
53 of administering section 1.
54 Section 3. This act shall take effect upon becoming a law.

Amendment No. (for drafter's use only)

Bill No. **47 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: Fiscal Council
2 Representative(s) Greenstein offered the following:
3
4 **Amendment (with title amendments)**
5 Remove line(s) 39-53 and insert:
6 (j) Any storm shutter device selling for $200 or less. As
7 used in this paragraph, "storm shutter device" means materials
8 and products manufactured, rated, and marketed specifically for
9 the purpose of preventing window damage from storms.
10 (k) Any carbon monoxide detector selling for $75 or less.
11 (l) Any blue ice selling for $10 or less.
12 (m) Any single product consisting of two or more of the
13 items listed in paragraphs (a)-(l), and other tax exempt items,
14 selling for $75 or less.
15 (2) This section does not apply to sales within an airport
16 as defined in s. 330.27(2), Florida Statutes, within a public
17 lodging establishment as defined in s. 509.013(4), Florida
18 Statutes, or within a theme park or entertainment complex as
19 defined in s. 509.013(9), Florida Statutes.

20 (3) The Department of Revenue may adopt rules pursuant to
21 ss. 120.536(1) and 120.54, Florida Statutes, to carry out this
22 section.
23 Section 2. For the 2005-2006 fiscal year, the sum of
24 $277,540 is appropriated from the General Revenue Fund to the
25 Department of Revenue for purposes of administering the sales
26 tax exemption authorized by section 1 during the 2006 calendar
27 year. The unexpended balance of this appropriation on June 30,
28 2006, shall revert on that date and is reappropriated for the
29 2006-2007 fiscal year for the purpose of the original
30 appropriation.
31 Section 3. For the 2006-2007 fiscal year, the sum of
32 $218,028 is appropriated from the General Revenue Fund to the
33 Department of Revenue for the purpose of administering the sales
34 tax exemption authorized by section 1 during the 2007 calendar
35 year.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 113 CS Judges
SPONSOR(S): Negron and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 364, SB 766

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Appropriations Committee	4 Y, 0 N, w/CS	Brazzell	DeBeaugrine
2) Judiciary Committee	12 Y, 0 N	Thomas	Hogge
3) Fiscal Council		Brazzell	Kelly
4)			
5)			

SUMMARY ANALYSIS

The Supreme Court issued Order No. SC05-2120, dated December 15, 2005, certifying the need for a total of 66 additional appellate, circuit, and county judges.

HB 113 CS establishes 2 new appellate judgeships, 24 new circuit judgeships, and 40 new county court judgeships, for a total of 66 new judgeships. The new judgeships will be established in two phases, the first beginning September 1, 2006, and the second beginning December 1, 2006.

The estimated annual recurring cost to the state is $16.1 million. For Fiscal Year 2006-07, the CS provides recurring appropriations for Fiscal Year 2006-07 of $11.6 million and nonrecurring appropriations of $385,448. The bill also authorizes 149.0 FTE and associated salary rate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

The Supreme Court of Florida issued SC05-2120 on December 15, 2005, in regard to the Certification of Need for Additional Judges. In the certification, the court recommended 2 new appellate judges, 40 new circuit judges, and 24 new county court judges, for a total of 66 new judges.

HB 113 CS establishes, effective September 1, 2006:

- 2 new appellate judgeships, one each in the 2nd and 4th District Courts of Appeals.
- 20 new circuit judgeships: 1 each in the First, Second, Fourth, Sixth, Seventh, Ninth, Tenth, Twelfth, Fourteenth, Seventeenth, Eighteenth, and Nineteenth Judicial Circuits; and 2 each in the Fifth, Eleventh, Thirteenth, and Twentieth Judicial Circuits.
- 11 new county court judgeships: 1 each in Charlotte, Collier, Orange, and Pasco Counties; 2 each in Brevard and Pinellas Counties; and 3 in Broward County.

Effective December 1, 2006, the bill establishes:

- 20 new circuit judgeships: 1 each in the First, Seventh, Tenth, and Twelfth Circuits; and 2 each in the Fourth, Fifth, Ninth, Eleventh, Thirteenth, and Seventeenth Circuits; and 4 in the Twentieth Circuit.
- 13 new county court judgeships: 1 each in Brevard, Miami-Dade, Duval, Lee, Marion, Orange, Osceola, Palm Beach, Pasco, Pinellas, and Polk Counties; and 2 in Broward County.

Accordingly, the bill establishes a total of:

- For circuit judgeships, 1 each in the Second, Sixth, Fourteenth, Eighteenth, and Nineteenth Circuits; 2 each in the First, Seventh, Tenth, and Twelfth Circuits; 3 each in the Fourth, Ninth, and Seventeenth Circuits; 4 each in the Fifth, Eleventh, and Thirteenth Circuits; and 6 in the Twentieth Circuit.
- For county judgeships, 1 each in Charlotte, Collier, Miami-Dade, Duval, Lee, Marion, Osceola, Palm Beach, and Polk Counties; 2 each in Orange and Pasco Counties; 3 each in Brevard and Pinellas Counties; and 5 in Broward County.

C. SECTION DIRECTORY:

Section 1. Amends s. 26.031, F.S., establishing new circuit judgeships effective September 1, 2006.

Section 2. Amends s. 34.022, F.S., establishing new county court judgeships effective September 1, 2006.

Section 3. Amends s. 26.031, F.S., establishing new circuit judgeships effective December 1, 2006.

Section 4. Amends s. 34.022, F.S., establishing new county court judgeships effective December 1, 2006.

Section 5. Amends s. 35.06, F.S., establishing new appellate judgeships effective September 1, 2006.

Section 6. Authorizes positions and approved salary rate and provides appropriations.

Section 7. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill provides a recurring appropriation to the state courts of $11.6 million and a nonrecurring appropriation of $385,448 from the General Revenue Fund to cover the cost of 149 new positions, including judges, judicial assistants, and law clerks; associated expenses; Operating Capital Outlay (OCO); and special category expenses for a portion of Fiscal Year 2006-2007. Subsequent required annual recurring appropriations total approximately $16.1 million. The bill also provides salary rate of 11,897,925.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The cost of county judges and judicial assistants are paid for by the state. Under s. 29.008, F.S., counties are responsible for facilities, security, communications and information technology costs for county and circuit courts. This bill could result in additional costs in these areas.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 10, 2006, meeting, the Judiciary Appropriations Committee approved a strike-all amendment which conformed HB 113 to the Supreme Court's December 15, 2005, judicial certification order. The amendment increased the total number of judgeships established from 55 to 66. It also established certain judgeships beginning September 1, 2006, with the remainder established beginning December 1, 2006. The amendment also added language appropriating funds and authorizing positions and rate.

CHAMBER ACTION

The Judiciary Appropriations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to judges; amending s. 26.031, F.S.; revising the number of circuit court judges in certain circuits; amending s. 34.022, F.S.; revising the number of county court judges in certain counties; amending s. 35.06, F.S.; revising the number of appellate court judges in certain appellate districts; providing appropriations and authorizing positions; providing effective dates.

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

Section 1. Effective September 1, 2006, subsections (1), (2), (4) through (7), (9) through (14), and (17) through (20) of section 26.031, Florida Statutes, as amended by section 1 of chapter 2005-356, Laws of Florida, are amended to read:

26.031 Judicial circuits; number of judges.--The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT TOTAL

24 (1) First.....23 ~~22~~
25 (2) Second.....17 ~~16~~
26 (4) Fourth.....33 ~~32~~
27 (5) Fifth.....30 ~~28~~
28 (6) Sixth.....45 ~~44~~
29 (7) Seventh.....27 ~~26~~
30 (9) Ninth.....41 ~~40~~
31 (10) Tenth.....27 ~~26~~
32 (11) Eleventh.....79 ~~77~~
33 (12) Twelfth.....20 ~~19~~
34 (13) Thirteenth.....43 ~~41~~
35 (14) Fourteenth.....11 ~~10~~
36 (17) Seventeenth.....57 ~~56~~
37 (18) Eighteenth.....26 ~~25~~
38 (19) Nineteenth.....19 ~~18~~
39 (20) Twentieth.....27 ~~25~~
40 Section 2. Effective September 1, 2006, subsections (5),
41 (6), (8), (11), (48), (51), and (52) of section 34.022, Florida
42 Statutes, as amended by section 2 of chapter 2005-356, Laws of
43 Florida, are amended to read:
44 34.022 Number of county court judges for each county.--The
45 number of county court judges in each county shall be as
46 follows:
47
48 COUNTY TOTAL
49 (5) Brevard.....11 ~~9~~
50 (6) Broward.....31 ~~28~~
51 (8) Charlotte.....3 ~~2~~

52 (11) Collier.....6 ~~5~~
53 (48) Orange.....17 ~~16~~
54 (51) Pasco.....6 ~~5~~
55 (52) Pinellas.....17 ~~15~~
56 Section 3. Effective December 1, 2006, subsections (1),
57 (4), (5), (7), (9) through (13), (17), and (20) of section
58 26.031, Florida Statutes, as amended by section 1 of chapter
59 2005-356, Laws of Florida, and as amended by this act, are
60 amended to read:
61 26.031 Judicial circuits; number of judges.--The number of
62 circuit judges in each circuit shall be as follows:
63
64 JUDICIAL CIRCUIT TOTAL
65 (1) First.....24 ~~23~~
66 (4) Fourth.....35 ~~33~~
67 (5) Fifth.....32 ~~30~~
68 (7) Seventh.....28 ~~27~~
69 (9) Ninth.....43 ~~41~~
70 (10) Tenth.....28 ~~27~~
71 (11) Eleventh.....81 ~~79~~
72 (12) Twelfth.....21 ~~20~~
73 (13) Thirteenth.....45 ~~43~~
74 (17) Seventeenth.....59 ~~57~~
75 (20) Twentieth.....31 ~~27~~
76 Section 4. Effective December 1, 2006, subsections (5),
77 (6), (15), (35), (41), (43), and (48) through (53) of section
78 34.022, Florida Statutes, as amended by section 2 of chapter

79 2005-356, Laws of Florida, and as amended by this act, are
80 amended to read:
81 34.022 Number of county court judges for each county.--The
82 number of county court judges in each county shall be as
83 follows:
84
85 COUNTY TOTAL
86 (5) Brevard.....12 ~~11~~
87 (6) Broward.....33 ~~31~~
88 (15) Duval.....17 ~~16~~
89 (35) Lee.....8 ~~7~~
90 (41) Marion.....5 ~~4~~
91 (43) Miami-Dade.....43 ~~42~~
92 (48) Orange.....18 ~~17~~
93 (49) Osceola.....4 ~~3~~
94 (50) Palm Beach.....19 ~~18~~
95 (51) Pasco.....7 ~~6~~
96 (52) Pinellas.....18 ~~17~~
97 (53) Polk.....10 ~~9~~
98 Section 5. Effective September 1, 2006, subsections (2)
99 and (4) of section 35.06, Florida Statutes, are amended to read:
100 35.06 Organization of district courts of appeal.--A
101 district court of appeal shall be organized in each of the five
102 appellate districts to be named District Court of Appeal, _____
103 District. The number of judges of each district court of appeal
104 shall be as follows:
105 (2) In the second district there shall be 15 ~~14~~ judges.
106 (4) In the fourth district there shall be 13 ~~12~~ judges.

107 Section 6. One hundred and forty-nine full-time positions
108 and 11,897,925 in associated salary rate are authorized, and the
109 sums of $11,639,020 in recurring funds and $385,448 in
110 nonrecurring funds are hereby appropriated from the General
111 Revenue Fund to the state courts for the 2006-2007 fiscal year.
112 Section 7. Except as otherwise expressly provided in this
113 act, this act shall take effect upon becoming a law.

HCB 6001

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6001 PHCB GO 06-01 Per Diem and Travel Expenses
SPONSOR(S): Governmental Operations Committee, Coley, and Ausley
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Governmental Operations Committee	7 Y, 0 N	Mitchell	Williamson
1) Fiscal Council		Dobbs	Kelly
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill makes a number of changes relating to the per diem and travel expenses of public officers, employees, and authorized persons:

- Revises the legislative intent;
- Changes the rate of per diem from the 1981 rate of $50 to $75;
- Increases the subsistence reimbursement for meals from the 1981 rates: $3 to $5 for breakfast, $6 to $11 for lunch, and $12 to $19 for dinner;
- Raises the mileage allowance for use of a privately owned vehicle from 29 cents per mile, which was established in 1994, to 44.5 cents per mile;
- Authorizes counties, county officers, district school boards, and special districts to establish per diem and subsistence rates as long as those rates are not less than the rates currently in effect; and
- Removes duplicative or incorrect language and makes minor grammatical changes.

The bill does not appear to create, modify, or eliminate rulemaking authority.

This bill has an estimated fiscal impact on state government expenses of $8.4 million from recurring General Revenue and $12.7 million from recurring trust funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

None.

B. EFFECT OF PROPOSED CHANGES:

Section 112.061, Florida Statutes (2005), sets forth the per diem and travel expenses of public officers,[1] employees,[2] and authorized persons[3] when performing authorized travel.[4]

A version of this section was first enacted by the Legislature in 1945.[5] Much of the current form of this section, however, dates back to 1963.[6]

This bill changes seven aspects of section 112.061, Florida Statutes: (1) legislative intent, (2) authority to incur travel expenses, (3) Class C travel reimbursement, (4) rates of per diem and subsistence allowance, (5) transportation reimbursement, (6) travel authorization and voucher forms, and (7) applicability to certain local government entities.

Legislative Intent

Subsection (1) of section 112.061, Florida Statutes sets forth the legislative intent. It recognizes the existence of "inequities, conflicts, inconsistencies, and lapses in the numerous laws regulating or attempting to regulate travel expenses of public officers, employees, and authorized persons in the state." The expressed intent of the Legislature is to remedy these inequities, conflicts, inconsistencies, and lapses by establishing uniform maximum rates applicable to all public officers, employees, and authorized persons whose travel expenses are paid by a public agency, along with limitations and exceptions.[7]

This subsection also sets forth the legislative intent to preserve standardization and uniformity by prevailing over any conflicting provisions in special law, local law, or general law – unless the general law contains a specific exemption.[8]

This bill changes the legislative intent to provide that the purpose is to *prevent* the inequities, conflicts, inconsistencies, and lapses. The bill replaces the term "uniform maximum rates" with the term "standard travel reimbursement rates."[9] The bill also recognizes the procedures and exemptions provided by section 112.061, Florida Statutes.

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[1] Fla. Stat. § 112.061(2)(c) (2005) ("An individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the foregoing two classes of individuals as initial designee or successor.")

[2] Fla. Stat. § 112.061(2)(d) (2005) ("An individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to an agency head.")

[3] Fla. Stat. § 112.061(2)(e) (2005) ("A person other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties; a person who is called upon by an agency to contribute time and services as consultant or adviser; or a person who is a candidate for an executive or professional position.")

[4] Fla. Stat. § 112.061(2)(f) (2005) ("Traveler--A public officer, public employee, or authorized person, when performing authorized travel.")

[5] Ch. 22830, Laws of Fla.

[6] Ch. 63-400, Laws of Fla.

[7] Fla. Stat. §112.061(1) (2005).

[8] *Id.*

[9] As discussed in the section on Applicability to Certain Local Governments, section 112.061, Florida Statutes, no longer governs the per diem and travel expenses of municipalities. Counties, certain county constitutional officers, district school boards, and special districts will also have considerably more latitude in setting their own per diem and subsistence reimbursement rates under the

Authority to Incur Travel Expenses

Subsection (3) relates to the authority to incur travel expenses. The only changes the bill makes to this subsection are to remove an unnecessary reference to "authorized persons" in the paragraph on costs of per diem of travelers[10] for foreign travel and to make a conforming change to the word "maximum" (to "rate") in the paragraph related to the Department of Health.

Class C Travel Reimbursements

Section 112.061, Florida Statutes, recognizes three types of travel:

- Class A travel is continuous travel of 24 hours or more away from official headquarters.[11]
- Class B travel is continuous travel of less than 24 hours which involves overnight absence from official headquarters.[12]
- Class C travel is travel for short or day trips where the traveler is not away from his or her official headquarters overnight.[13]

Yet, since 2001, the Legislature has eliminated reimbursement for Class C (short or day trips) travel for "state travelers" through the implementing bill for the General Appropriations Act[14]:

> For the 2005-2006 fiscal year only and notwithstanding the other provisions of this subsection, for Class C travel, a state traveler shall not be reimbursed on a per diem basis nor shall a traveler receive subsistence allowance. This paragraph expires July 1, 2006.[15]

This bill removes the two expiring references, which currently eliminate Class C travel (short or day trips) reimbursement for state travelers.

Rates of Per Diem and Subsistence Allowance

Subsection (6) relates to rates of per diem and subsistence allowance. When traveling as Class A travel (24 hours or more) or Class B travel (less than 24 hours, but overnight) to a convention or conference or within or outside the state on state business, travelers are currently allowed to choose one of two types of "subsistence" reimbursements: (1) a $50 per diem; or (2) actual expenses for lodging at a single-occupancy rate and a set reimbursement for meals, if actual expenses exceed $50.[16] The meal reimbursement rate is the same as that set for Class C (short or day trips): $3 for breakfast, $6 for lunch, and $12 for dinner.[17] These meal and per diem rates were established in 1981.[18]

This bill increases the per diem rate to $75 and increases the subsistence reimbursement rate for meals: $5 for breakfast, $11 for lunch, and $19 for dinner.

Transportation Reimbursement

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provisions of this bill. As such, section 112.061, Florida Statutes, does not establish a "uniform maximum rate" as much as it establishes state "standard travel reimbursement rates."

[10] The definition of "traveler" includes "authorized person," *supra* note 4.

[11] Fla. Stat. §112.061(2)(k) (2005).

[12] Fla. Stat. §112.061(2)(l) (2005).

[13] Fla. Stat. §112.061(2)(m) (2005).

[14] Ch. 2001-254, Laws of Fla., § 48; ch. 2002-402, Laws of Fla., § 46; ch. 2003-399, Laws of Fla., § 49; ch. 2004-269, Laws of Fla., § 32; ch. 2005-71, Laws of Fla., § 23.

[15] Fla. Stat. § 112.061(5)(c) and (6)(d) (2005).

[16] Fla. Stat. § 112.061(6)(a) (2005).

[17] Fla. Stat. § 112.061(6)(b) (2005).

[18] Ch. 81-207, Laws of Fla.

Subsection (7) relates to transportation and permits the use of privately owned vehicles for official travel instead of publicly owned vehicles or common carriers.[19] Travel using a privately owned vehicle is reimbursed at a fixed rate of 29 cents per mile or the common carrier fare for such travel.[20] The current mileage reimbursement rate was established in 1994.[21]

This bill increases the mileage allowance for travel using a privately owned vehicle to 44.5 cents per mile[22] and makes it an economical determination by the agency head to pay the common carrier fare instead.

Travel Authorization and Voucher Forms

Subsection (11) relates to travel authorization and voucher forms. This bill makes minor grammatical changes to this subsection.

Applicability to Certain Local Government Entities

Subsection (14) was added to section 112.061, Florida Statutes, in 2003.[23] This subsection allows the counties, county constitutional officers, district school boards, and independent special districts to establish rates that *exceed* the maximum travel reimbursement rates. By contrast, section 166.021, Florida Statutes, which was also created in 2003, authorizes municipalities to establish a per diem and travel expense policy and exempts those municipalities who do establish such a policy from the provisions of section 112.061, Florida Statutes.[24]

This bill allows counties, county constitutional officers, district school boards, and independent special districts to establish per diem and subsistence rates which vary from section 112.061, Florida Statutes, as long as those rates are not less than the rates in effect for the 2005-2006 fiscal year: $50 for per diem, $3 for breakfast, $6 for lunch, and $12 for dinner.

C. SECTION DIRECTORY:

Section 1: Amends section 112.061, Florida Statutes, related to the per diem and travel expenses of public officers, employees, and authorized persons.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to create, modify, amend, or eliminate a revenue source of state government.

2. Expenditures:

---

[19] Fla. Stat. § 112.061(7)(d)1. (2005) (Authorized by the agency head or her or his designee).
[20] *Id.* (As determined by the agency head).
[21] Ch. 94-139, Laws of Fla.
[22] Beginning January 1, 2006, the business standard mileage rate for the use of a vehicle is 44.5 cents per mile. This new rate for business miles compares to a rate of 40.5 cents per mile for the first eight months of 2005. In September 2005, the IRS made a special one-time adjustment for the last four months of 2005, raising the rate for business miles to 48.5 cents per mile in response to a sharp increase in gas prices. Internal Revenue Service, IRS Announces 2006 Standard Mileage Rates, at http://www.irs.gov/newsroom/article/0,,id=151226,00.html (last visited Jan. 12, 2006).
[23] Ch. 2003-125, Laws of Fla.
[24] *Id.* The "whereas" clauses several factors in the adoption of this exemption: the authority granted by the Municipal Home Rule Powers Act, the manner in which local governments relied on Attorney General Opinion 74-18, and the potential impact of Attorney General Opinion 2003-01.

With the increases to the per diem, subsistence, and mileage reimbursement rates, this bill will create, modify, and amend an expenditure of state government, estimated to be $8.4 million from General Revenue and $12.7 million from trust funds annually.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to create, modify, amend, or eliminate a revenue source of local governments.

2. Expenditures:

This bill does not appear to create, modify, amend, or eliminate an expenditure of local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

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 spend funds or to take an action requiring the expenditure of funds.[25] This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its meeting on February 22, 2006, the Governmental Operations Committee adopted an amendment to the proposed House combined bill which set the per diem, subsistence, and mileage rates.

[25] Counties or county constitutional officers are not required to pay the higher per diem and subsistence rates provided by this bill. Rather, counties and county constitutional officers may establish varying rates as long as those rates are not less than the current statutory rates.

1 A bill to be entitled
2 An act relating to per diem and travel expenses; amending
3 s. 112.061, F.S.; revising per diem, subsistence, and
4 mileage rates for purposes of reimbursement of travel
5 expenses of public officers, employees, and authorized
6 persons; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (1), paragraphs (e) and (g) of
11 subsection (3), paragraph (c) of subsection (5), subsection (6),
12 paragraph (d) of subsection (7), and subsections (11) and (14) of
13 section 112.061, Florida Statutes, are amended to read:
14 112.061 Per diem and travel expenses of public officers,
15 employees, and authorized persons.--
16 (1) LEGISLATIVE INTENT.--To prevent ~~There are~~ inequities,
17 conflicts, inconsistencies, and lapses in the numerous laws
18 regulating or attempting to regulate travel expenses of public
19 officers, employees, and authorized persons in the state, ~~.~~ it is
20 the intent of the Legislature:
21 (a) To ~~remedy same and to~~ establish standard travel
22 reimbursement ~~uniform maximum~~ rates, procedures, and limitations,
23 with certain justifiable exceptions and exemptions, applicable to
24 all public officers, employees, and authorized persons whose
25 travel is authorized and ~~expenses are~~ paid by a public agency.
26 (b) To preserve the standardization ~~and uniformity~~
27 established by this law:
28 1. The provisions of this section shall prevail over any
29 conflicting provisions in a general law, present or future, to

30 the extent of the conflict; but if any such general law contains
31 a specific exemption from this section, including a specific
32 reference to this section, such general law shall prevail, but
33 only to the extent of the exemption.
34 2. The provisions of any special or local law, present or
35 future, shall prevail over any conflicting provisions in this
36 section, but only to the extent of the conflict.
37 (3) AUTHORITY TO INCUR TRAVEL EXPENSES.--
38 (e) The agency head, or a designated representative, may
39 pay by advancement or reimbursement, or a combination thereof,
40 the costs of per diem of travelers ~~and authorized persons~~ for
41 foreign travel at the current rates as specified in the federal
42 publication "Standardized Regulations (Government Civilians,
43 Foreign Areas)" and incidental expenses as provided in this
44 section.
45 (g) The secretary of the Department of Health or a designee
46 may authorize travel expenses incidental to the rendering of
47 medical services for and on behalf of clients of the Department
48 of Health. The Department of Health may establish rates lower
49 than the rate ~~maximum~~ provided in this section for these travel
50 expenses.
51 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
52 purposes of reimbursement and methods of calculating fractional
53 days of travel, the following principles are prescribed:
54 ~~(c) For the 2005-2006 fiscal year only and notwithstanding~~
55 ~~the other provisions of this subsection, for Class C travel, a~~
56 ~~state traveler shall not be reimbursed on a per diem basis nor~~
57 ~~shall a traveler receive subsistence allowance. This paragraph~~
58 ~~expires July 1, 2006.~~

59 (6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.--For
60 purposes of reimbursement rates and methods of calculation, per
61 diem and subsistence allowances are provided as follows ~~divided~~
62 ~~into the following groups and rates~~:
63 (a) All travelers shall be allowed for subsistence when
64 traveling to a convention or conference or when traveling within
65 or outside the state in order to conduct bona fide state
66 business, which convention, conference, or business serves a
67 direct and lawful public purpose with relation to the public
68 agency served by the person attending such meeting or conducting
69 such business, either of the following for each day of such
70 travel at the option of the traveler:
71 1. Seventy-five ~~Fifty~~ dollars per diem; or
72 2. If actual expenses exceed $75 ~~$50~~, the amounts permitted
73 in paragraph (b) for subsistence ~~meals~~, plus actual expenses for
74 lodging at a single-occupancy rate to be substantiated by paid
75 bills therefor.
76
77 When lodging or meals are provided at a state institution, the
78 traveler shall be reimbursed only for the actual expenses of such
79 lodging or meals, not to exceed the maximum provided for in this
80 subsection.
81 (b) All travelers shall be allowed the following amounts
82 for subsistence while on Class C travel on official business as
83 provided in paragraph (5)(b):
84 1. Breakfast....$5 ~~$3~~
85 2. Lunch....$11 ~~$6~~
86 3. Dinner....$19 ~~$12~~

87 (c) No one, whether traveling out of state or in state,
88 shall be reimbursed for any meal or lodging included in a
89 convention or conference registration fee paid by the state.
90 ~~(d) For the 2005-2006 fiscal year only and notwithstanding~~
91 ~~the other provisions of this subsection, for Class C travel, a~~
92 ~~state traveler shall not be reimbursed on a per diem basis nor~~
93 ~~shall a traveler receive subsistence allowance. This paragraph~~
94 ~~expires July 1, 2006.~~
95 (7) TRANSPORTATION.--
96 (d)1. The use of privately owned vehicles for official
97 travel in lieu of publicly owned vehicles or common carriers may
98 be authorized by the agency head or his or her designee. Whenever
99 travel is by privately owned vehicle:~~,~~
100 a. The traveler shall be entitled to a mileage allowance at
101 a fixed rate of 44.5 ~~25~~ cents per mile; ~~for state fiscal year~~
102 ~~1994-1995 and 29 cents per mile thereafter~~ or
103 b. The traveler shall be entitled to the common carrier
104 fare for such travel if~~, as~~ determined by the agency head to be
105 more economical.
106 2. Reimbursement for expenditures related to the operation,
107 maintenance, and ownership of a vehicle shall not be allowed when
108 privately owned vehicles are used on public business and
109 reimbursement is made pursuant to this paragraph, except as
110 provided in subsection (8).
111 3.~~2.~~ All mileage shall be shown from point of origin to
112 point of destination and, when possible, shall be computed on the
113 basis of the current map of the Department of Transportation.
114 Vicinity mileage necessary for the conduct of official business

115 is allowable but must be shown as a separate item on the expense
116 voucher.
117 (11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.--
118 (a) Authorization forms.--The Department of Financial
119 Services shall furnish a uniform travel authorization request
120 form which shall be used by all state officers, ~~and~~ employees,
121 and authorized persons when requesting approval for the
122 performance of travel to a convention or conference. The form
123 shall include, but not be limited to, provision for the name of
124 each traveler, purpose of travel, period of travel, estimated
125 cost to the state, and a statement of benefits accruing to the
126 state by virtue of such travel. A copy of the program or agenda
127 of the convention or conference, itemizing registration fees and
128 any meals or lodging included in the registration fee, shall be
129 attached to, and filed with, the copy of the travel authorization
130 request form on file with the agency. The form shall be signed by
131 the traveler and by the traveler's supervisor stating that the
132 travel is to be incurred in connection with official business of
133 the state. The head of the agency or his or her designated
134 representative shall not authorize or approve such request in the
135 absence of the appropriate signatures. A copy of the travel
136 authorization form shall be attached to, and become a part of,
137 the support of the agency's copy of the travel voucher.
138 (b) Voucher forms.--
139 1. The Department of Financial Services shall furnish a
140 uniform travel voucher form which shall be used by all state
141 officers, ~~and~~ employees, and authorized persons when submitting
142 travel expense statements for approval and payment. No travel
143 expense statement shall be approved for payment by the Chief

144 Financial Officer unless made on the form prescribed and
145 furnished by the department. The travel voucher form shall
146 provide for, among other things, the purpose of the official
147 travel and a certification or affirmation, to be signed by the
148 traveler, indicating the truth and correctness of the claim in
149 every material matter, that the travel expenses were actually
150 incurred by the traveler as necessary in the performance of
151 official duties, that per diem claimed has been appropriately
152 reduced for any meals or lodging included in the convention or
153 conference registration fees claimed by the traveler, and that
154 the voucher conforms in every respect with the requirements of
155 this section. The original copy of the executed uniform travel
156 authorization request form shall be attached to the uniform
157 travel voucher on file with the respective agency.
158 2. Statements for travel expenses incidental to the
159 rendering of medical services for and on behalf of clients of the
160 Department of Health shall be on forms approved by the Department
161 of Financial Services.
162 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
163 SCHOOL BOARDS, AND SPECIAL DISTRICTS.--
164 (a) The following entities may establish rates that vary
165 from the per diem rate provided in paragraph (6)(a), the
166 subsistence rates provided in paragraph (6)(b), or the mileage
167 rate provided in paragraph (7)(d) if those rates are not less
168 than the statutorily established rates that are in effect for the
169 2005-2006 fiscal year ~~Rates that exceed the maximum travel~~
170 ~~reimbursement rates for nonstate travelers specified in paragraph~~
171 ~~(6)(a) for per diem, in paragraph (6)(b) for subsistence, and in~~
172 ~~subparagraph (7)(d)1. for mileage may be established by~~:

173 1. The governing body of a county by the enactment of an
174 ordinance or resolution;
175 2. A county constitutional officer, pursuant to s. 1(d),
176 Art. VIII of the State Constitution, by the establishment of
177 written policy;
178 3. The governing body of a district school board by the
179 adoption of rules; or
180 4. The governing body of a special district, as defined in
181 s. 189.403(1), except those special districts that are subject to
182 s. 166.021(10), by the enactment of a resolution.
183 (b) Rates established pursuant to paragraph (a) must apply
184 uniformly to all travel by the county, county constitutional
185 officer and entity governed by that officer, district school
186 board, or special district.
187 (c) Except as otherwise provided in this subsection,
188 counties, county constitutional officers and entities governed by
189 those officers, district school boards, and special districts,
190 other than those subject to s. 166.021(10), remain subject to the
191 requirements of this section.
192 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **6001**

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: 6001
2 Representative(s) Berfield offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 192 and insert:
6 Section 2. For the 2006-2007 fiscal year, the sum of $8.4
7 million in recurring funds from the General Revenue Fund and
8 $12.7 million in recurring funds from Trust Funds are
9 appropriated in Administered Funds for distribution to the
10 agencies to administer the provisions of this act.
11 Section 3. This act shall take effect July 1, 2006.
12
13 ========== D I R E C T O R Y A M E N D M E N T ==========
14 Remove line(s) and insert:
15
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) and insert:
19

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7105 PCB FT 06-02 Taxation of Alcoholic Beverages
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Finance & Tax Committee	7 Y, 2 N	Levin	Diez-Arguelles
1) Fiscal Council		Levin	Kelly
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Since 1990, Florida has imposed a tax on the retail sale of alcoholic beverages sold for consumption on the premises of the vendor. The tax rate was reduced by one-third in 1999, and again by one-half in 2000. The current tax rates are: 3.34 cents per 1 ounce of spirits or 4 ounces of wine, 1.34 cents per 12 ounces of beer, and 2 cents per 12 ounces of cider.

Twenty-seven and two-tenths percent of the tax proceeds are transferred to the Children and Adolescents Substance Abuse Trust Fund, for the purpose of funding programs directed at reducing and eliminating substance abuse problems. The remainder of the tax proceeds is transferred to the General Revenue Fund.

The bill eliminates the tax on the retail sale of alcoholic beverages for consumption on the premises of the vendor, terminates the Children and Adolescents Substance Abuse Trust Fund, and appropriates in excess of $11 million from General Revenue to the Department of Children and Family Services to continue current trust funded appropriations for purposes of reducing or eliminating substance abuse in children and adolescents.

The bill provides an effective date of July 1, 2006, except as otherwise provided in this bill.

The Revenue Estimating Conference has determined that the bill will reduce state revenues by ($45.3 million) in FY 06-07 and by ($51.8 million) in FY 07-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Ensure Lower Taxes: The bill eliminates the tax imposed on alcoholic beverages sold for consumption on the premises of the vendor.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Since 1990, Florida has imposed a tax on the retail sale of alcoholic beverages sold for consumption on the premises of the vendor. The tax rate was reduced by one-third in 1999, and again by one-half in 2000. Current tax rates are: 3.34 cents per 1 ounce of spirits or 4 ounces of wine, 1.34 cents per 12 ounces of beer, and 2 cents per 12 ounces of cider.[1]

Twenty-seven and two-tenths percent of the tax proceeds are transferred to the Children and Adolescents Substance Abuse Trust Fund, for the purpose of funding programs directed at reducing and eliminating substance abuse problems. The remainder of the tax proceeds is transferred to the General Revenue Fund.[2]

Proposed Changes

The bill eliminates the tax on the retail sale of alcoholic beverages sold for consumption on the premises of the vendor and terminates the Children and Adolescents Substance Abuse Trust Fund, effective July 1, 2006. The bill retains in place the administrative tax collection provisions of the statute until July 1, 2007.

The bill appropriates $11,298,205 for FY 06-07 from the General Revenue Fund to the Department of Children and Family Services to continue current trust funded for the purpose of funding programs directed at reducing or eliminating substance abuse in children and adolescents.

C. SECTION DIRECTORY:

Section 1. Amends s. 561.121 (4), F.S., to provide that tax revenues collected after July 1, 2006 must be transferred to the General Revenue Fund.

Section 2. Terminates the Children and Adolescents Substance Abuse Trust Fund and transfers any remaining balances, after payment of outstanding obligations, to the General Revenue Fund.

Section 3. Amends s. 215.20, F.S., to eliminate a cross reference to the Children and Adolescents Substance Abuse Trust Fund.

Section 4. Amends s. 561.501, F.S., to delete the tax imposed on alcoholic beverages consumed on the premises of the vendor.

Section 5. Repeals s. 561.501, F.S., as amended by this bill, effective July 1, 2007.

Section 6. Repeals s. 561.121 (4), F.S., effective July 1, 2007.

Section 7. Amends s. 561.025, F.S., to remove a cross reference, effective July 1, 2007.

Section 8. Appropriates $11,298,205 from the General Revenue Fund to the Department of Children and Family Services for the purpose of reducing or eliminating substance abuse in children and adolescents.

Section 9. Provides an effective date of July 1, 2006, unless otherwise provided in the act.

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[1] Section 561.501, F.S.
[2] Section 561.121(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 06-07	FY 07-08
General Revenue	($31.5m)	($37.7m)
GR Service Charge	(1.0m)	(1.0m)
CASA Trust Fund	($12.8m)	($13.1m)
Total	($45.3m)	($51.8m)

2. Expenditures:

The bill appropriates $11,298,205 for FY 06-07 from the General Revenue Fund to the Department of Children and Family Services for the purpose funding programs directed at reducing or eliminating substance abuse in children and adolescents.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Retail vendors of alcoholic beverages sold for consumption on the premises will no longer have to remit and report alcoholic beverage taxes to the state.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require cities and counties to spend funds, does not reduce the authority of cities and counties to raise revenues and does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the taxation of alcoholic beverages;
3 amending s. 561.121, F.S.; deleting provisions crediting
4 specified taxes on alcoholic beverages to accounts funding
5 substance abuse programs for children and adolescents;
6 providing for future deletion of a provision providing for
7 payment and credit of alcoholic beverage surcharge funds
8 to the General Revenue Fund to conform; terminating the
9 Children and Adolescents Substance Abuse Trust Fund within
10 the Department of Children and Family Services; providing
11 for disposition of balances in and revenues of such trust
12 fund; amending s. 215.20, F.S.; conforming provisions to
13 the repeal of the trust fund; amending s. 561.501, F.S.;
14 deleting a provision imposing a surcharge on alcoholic
15 beverages sold for consumption on the premises; amending
16 s. 561.025, F.S., to conform; providing for future repeal
17 of s. 561.501, F.S., relating to the collection of the
18 alcoholic beverage surcharge; providing an appropriation;
19 providing effective dates.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Subsection (4) of section 561.121, Florida
24 Statutes, is amended to read:
25 561.121 Deposit of revenue.--
26 (4)~~(a)~~ State funds collected pursuant to s. 561.501 shall
27 be paid into the State Treasury and credited to the General
28 Revenue Fund ~~following accounts:~~

29 ~~1. Twenty-seven and two-tenths percent of the surcharge on~~
30 ~~the sale of alcoholic beverages for consumption on premises~~
31 ~~shall be transferred to the Children and Adolescents Substance~~
32 ~~Abuse Trust Fund, which shall remain with the Department of~~
33 ~~Children and Family Services for the purpose of funding programs~~
34 ~~directed at reducing and eliminating substance abuse problems~~
35 ~~among children and adolescents.~~
36 ~~2. The remainder of collections shall be credited to the~~
37 ~~General Revenue Fund.~~
38 ~~(b) For the 2004-2005 state fiscal year only, and~~
39 ~~notwithstanding the provisions of subparagraph (a)1., moneys in~~
40 ~~the Children and Adolescents Substance Abuse Trust Fund may also~~
41 ~~be used for the purpose of funding programs directed at reducing~~
42 ~~and eliminating substance abuse problems among adults. This~~
43 ~~paragraph expires July 1, 2005~~.
44 Section 2. Effective July 1, 2007, subsection (4) of
45 section 561.121, Florida Statutes, as amended by this act, is
46 amended to read:
47 561.121 Deposit of revenue.--
48 ~~(4) State funds collected pursuant to s. 561.501 shall be~~
49 ~~paid into the State Treasury and credited to the General Revenue~~
50 ~~Fund.~~
51 Section 3. <u>(1) The Children and Adolescents Substance</u>
52 <u>Abuse Trust Fund within the Department of Children and Family</u>
53 <u>Services, FLAIR number 60-2-088, is terminated.</u>
54 <u>(2) The current balance remaining in and all revenues of</u>
55 <u>the trust fund shall be transferred to the General Revenue Fund.</u>
56 <u>(3) The Department of Children and Family Services shall</u>

57 pay any outstanding debts and obligations of the terminated fund
58 as soon as practicable, and the Chief Financial Officer shall
59 close out and remove the terminated fund from the various state
60 accounting systems using generally accepted accounting
61 principles concerning warrants outstanding, assets, and
62 liabilities.
63 Section 4. Paragraph (e) of subsection (4) of section
64 215.20, Florida Statutes, is amended to read:
65 215.20 Certain income and certain trust funds to
66 contribute to the General Revenue Fund.--
67 (4) The income of a revenue nature deposited in the
68 following described trust funds, by whatever name designated, is
69 that from which the appropriations authorized by subsection (3)
70 shall be made:
71 (e) Within the Department of Children and Family Services:
72 1. The Administrative Trust Fund.
73 2. The Child Welfare Training Trust Fund.
74 ~~3. The Children and Adolescents Substance Abuse Trust~~
75 ~~Fund.~~
76 3.~~4.~~ The Domestic Violence Trust Fund.
77 4.~~5.~~ The Grants and Donations Trust Fund.
78 5.~~6.~~ The Operations and Maintenance Trust Fund.
79
80 The enumeration of the foregoing moneys or trust funds shall not
81 prohibit the applicability thereto of s. 215.24 should the
82 Governor determine that for the reasons mentioned in s. 215.24
83 the money or trust funds should be exempt herefrom, as it is the
84 purpose of this law to exempt income from its force and effect

85 when, by the operation of this law, federal matching funds or
86 contributions or private grants to any trust fund would be lost
87 to the state.
88 Section 5. Section 561.501, Florida Statutes, is amended
89 to read:
90 561.501 Surcharge on sale of alcoholic beverages for
91 consumption on the premises; penalty.--
92 ~~(1) Notwithstanding s. 561.50 or any other provision of~~
93 ~~the Beverage Law, a surcharge of 3.34 cents is imposed upon each~~
94 ~~ounce of liquor and each 4 ounces of wine, a surcharge of 2~~
95 ~~cents is imposed on each 12 ounces of cider, and a surcharge of~~
96 ~~1.34 cents is imposed on each 12 ounces of beer sold at retail~~
97 ~~for consumption on premises licensed by the division as an~~
98 ~~alcoholic beverage vendor. However, the surcharges imposed under~~
99 ~~this subsection need not be paid upon such beverages when they~~
100 ~~are sold by an organization that is licensed by the division~~
101 ~~under s. 561.422 or s. 565.02(4) as an alcoholic beverage vendor~~
102 ~~and that is determined by the Internal Revenue Service to be~~
103 ~~currently exempt from federal income tax under s. 501(c)(3),~~
104 ~~(4), (5), (6), (7), (8), or (19) of the Internal Revenue Code of~~
105 ~~1986, as amended.~~
106 (1) ~~(2)~~ The vendor shall report and remit payments to the
107 division each month by the 15th of the month following the month
108 in which the surcharges are imposed. For purposes of
109 compensating the retailer for the keeping of prescribed records
110 and the proper accounting and remitting of surcharges imposed
111 under this section, the retailer shall be allowed to deduct from
112 the payment due the state 1 percent of the amount of the

113 surcharge due. Retail records shall be kept on the quantities of
114 all liquor, wine, and beer purchased, inventories, and sales.
115 However, a collection allowance is not allowed on any
116 collections that are not timely remitted. If by the 20th of the
117 month following the month in which the surcharges are imposed,
118 reports and remittances are not made, the division shall assess
119 a late penalty in the amount of 10 percent of the amount due per
120 month for each 30 days, or fraction thereof, after the 20th of
121 the month, not to exceed a total penalty of 50 percent, in the
122 aggregate, of any unpaid surcharges. The division shall
123 establish, by rule, the required reporting, collection, and
124 accounting procedures. Records must be maintained for 3 years.
125 Failure to accurately and timely remit surcharges imposed under
126 this section is a violation of the Beverage Law.
127 (2) ~~(3)~~ (a) The division may compromise a taxpayer's
128 liability for the surcharge imposed by this section upon the
129 grounds of doubt as to liability for or collectibility of such
130 tax. A taxpayer's liability for penalties as prescribed by this
131 section may be settled or compromised if the division finds that
132 the noncompliance is due to reasonable cause and not to willful
133 negligence, willful neglect, or fraud. The division shall
134 maintain records of all compromises, and the records must state
135 the basis for the compromise.
136 (b) The division may enter into agreements for scheduling
137 payments of taxes, interest, and penalties prescribed in this
138 section.
139 (c) The division shall establish by rule guidelines and
140 procedures for administering this section.

141 (3) ~~(4)~~ If any vendor fails to remit the surcharge, or any
142 portion thereof, by the 20th of the month following the month in
143 which the surcharges are imposed, there shall be added to the
144 amount due interest at the rate of 1 percent per month of the
145 amount due from the date due until paid. Interest on the
146 delinquent tax shall be calculated beginning on the 21st day of
147 the month following the month for which the surcharge is due.
148 (4) ~~(5)~~ All penalties and interest imposed by this section
149 are payable to and collectible by the division in the same
150 manner as if they were a part of the tax imposed. The division
151 may settle or compromise any such interest or penalty under
152 paragraph (2)(a) ~~(3)(a)~~.
153 Section 6. Section 561.025, Florida Statutes, is amended
154 to read:
155 561.025 Alcoholic Beverage and Tobacco Trust Fund.--There
156 is created within the State Treasury the Alcoholic Beverage and
157 Tobacco Trust Fund. All funds collected by the division under
158 ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law
159 with the exception of state funds collected pursuant to ss.
160 ~~561.501,~~ 563.05, 564.06, and 565.12 shall be deposited in the
161 State Treasury to the credit of the trust fund, notwithstanding
162 any other provision of law to the contrary. Moneys deposited to
163 the credit of the trust fund shall be used to operate the
164 division and to provide a proportionate share of the operation
165 of the office of the secretary and the Division of
166 Administration of the Department of Business and Professional
167 Regulation; except that:

168 (1) The revenue transfer provisions of ss. 561.32 and
169 561.342(1) and (2) shall continue in full force and effect, and
170 the division shall cause such revenue to be returned to the
171 municipality or county in the manner provided for in s. 561.32
172 or s. 561.342(1) and (2); and
173 (2) Ten percent of the revenues derived from retail
174 tobacco products dealer permit fees collected under s. 569.003
175 shall be transferred to the Department of Education to provide
176 for teacher training and for research and evaluation to reduce
177 and prevent the use of tobacco products by children.
178 Section 7. Effective July 1, 2007, section 561.501,
179 Florida Statutes, is repealed.
180 Section 8. The sum of $11,298,205 is appropriated from the
181 General Revenue Fund to the Department of Children and Family
182 Services for purposes of reducing or eliminating substance abuse
183 in children and adolescents.
184 Section 9. Except as otherwise expressly provided in this
185 act, this act shall take effect July 1, 2006.

PCB FC 06-01

A bill to be entitled

An act making appropriations; providing moneys for the annual period beginning July 1, 2006, and ending June 30, 2007, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

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

The moneys contained herein are appropriated from the named funds for the 2006-2007 fiscal year to the state agency indicated, as the amounts to be used to pay the salaries and other operational expenditures of the named agencies, and are in lieu of all moneys appropriated for these purposes in other sections of the Florida Statutes.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-02 Implementing the 2006-07 General Appropriations Act
SPONSOR(S): Fiscal Council
TIED BILLS: PCB FC 06-01 **IDEN./SIM. BILLS:** SB 7126

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Overton	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB FC 06-02 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2006-2007. The statutory changes are effective for only one year and either expire on July 1, 2007 or revert to the language as it existed before the changes made by the bill. The bill includes legislative adoption, by reference to a document filed with the Clerk of the House of Representatives, of performance measures and standards for specific programs of the agencies in the budget. The bill also incorporates by reference a document titled "Public School Funding The Florida Education Finance Program."

The bill substantially amends, creates, repeals, or renders inapplicable the following sections of the Florida Statutes: ss. 11.151, 112.061, 120.551, 216.0262, 216.292, 253.034, 287.057, 320.0806, 402.3017, 502.015, and 1004.065.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Section 19 of Article III of the Florida Constitution states that appropriations acts "shall contain provisions on no other subject" other than making appropriations. This language has been interpreted to defeat proviso to appropriations that have the effect of amending general law. See, e.g., Brown v. Firestone, 382 So.2d 654 (Fla. 1980); Chiles v. Milligan, 659 So.2d 1055 (Fla. 1995). For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the General Appropriations Act (GAA) instead of in the GAA.

C. SECTION DIRECTORY:

Section 1. This section provides legislative intent.

Section 2. Implements Specific Appropriations 7, 8, and 91-97, incorporating the document "Public School Funding The Florida Education Finance Program" by reference, indicating that the calculations shown therein are the basis for certain education appropriations pursuant to s. 1011.65, F.S.

Section 3. Amends s. 1004.065, F.S., to provide limitations on the financing of project funding for university and direct-support organizations. Implements section 11 of the 2006-2007 General Appropriations Act.

Section 4. Amends s. 287.057, F.S., to implement Specific Appropriations 375-380, to provide that the Department of Children and Family Services may enter into a contract to finance, design, and construct a secure facility for sexually violent predators. The secure facility shall have at least 600 beds and the contractor shall operate all aspects of daily operations within the secure facility. The contractor may sponsor the issuance of tax-exempt certificates of participation or other securities to finance the project, and the state may enter into a lease-purchase agreement for the secure facility.

Section 5. Authorizes the Department of Corrections and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of either department. The payment may not exceed one percent of construction costs, less any building impact fees paid to the local government. Implements legislative intent regarding the use of funds in Specific Appropriations 720, 731, 741, and 1167.

Section 6. Amends s. 216.262, F.S., to implement Specific Appropriations 710-805, allowing the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population and the additional positions are approved by the Legislative Budget Commission.

Section 7. Implements Specific Appropriations 880B, 3248, and 3248B, allowing funds to be transferred, pursuant to s. 216.177, F.S., from the courts to the Justice Administration Commission in order to address unanticipated shortfalls in due process services appropriations.

Section 8. Implements Specific Appropriations 880B, 3248, and 3248A, authorizing the Governor or the Chief Justice of the Supreme Court to submit a budget amendment, in accordance with ss. 29.015

and 29.016, F.S., for consideration by the Legislative Budget Commission to authorize the expenditure of funds from unallocated general revenue to offset deficiencies projected by the Justice Administration Commission or the state courts in any specific appropriation provided for due process services.

Section 9. Provides that in order to implement the appropriation of funds in Special Categories-Risk Management Insurance of the 2006-2007 General Appropriations Act, and pursuant to the notice, review, and objection procedures of s. 216.177, F.S., the Executive Office of the Governor is authorized to transfer funds appropriated in the appropriation category "Special Categories-Risk Management Insurance" between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 10. Provides that in order to implement the appropriation of funds in Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract of the 2006-2007 General Appropriations Act, and pursuant to the notice, review, and objection procedures of s. 216.177, F.S., the Executive Office of the Governor is authorized to transfer funds appropriated in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resource management services.

Section 11. Amends s. 112.061, F.S., to remove the Class C travel reimbursement for state travelers during the 2006-2007 fiscal year. Class C travel is defined in s. 112.061, F.S., as "travel for short or day trips where the traveler is not away from his or her official headquarters overnight." Implements sections 2 through 7 of the 2006-2007 General Appropriations Act.

Section 12. Notwithstands s. 403.7095, F.S., to implement Specific Appropriation 1868, requiring the Department of Environmental Protection to award $6.5 million in solid waste management grants in equal amounts to small counties, $1.6 million in innovative grants, $1.5 million for the Florida Green Procurement Initiative, and $5.0 million for the Treasure Coast Regional Biosolids Management Facility.

Section 13. Implements Specific Appropriation 1847 by directing the Department of Environmental Protection to conduct a pilot program of the efficacy of expedited site evaluation and cleanup of existing public port and airport facility sites that have high redevelopment potential and that serve an immediate and demonstrated public purpose.

Section 14. Implements Specific Appropriation 1825 by creating the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council. The council shall review the operation and management of Lake Okeechobee and the associated discharges from the lake for the purpose of formulating specific recommendations. The council shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, a report with specific recommendations for implementation by the Legislature and the Governor that will mitigate ecological effects upon the Caloosahatchee—St. Lucie Rivers Corridor and stabilize the effect of high discharges from Lake Okeechobee upon the tourist economy of Southwest and Southeast Florida.

Section 15. Implement Specific Appropriation 1857A by creating the Fuel Distributors Emergency Power Assistance Grant Program within the Department of Community Affairs to provide assistance to fuel distributors in retrofitting their facilities to accommodate portable generators in preparation for major power outages.

Section 16. Amends s. 120.551, F.S., to allow Department of Environmental Protection and the Board of Trustees of the Internal Improvement Trust Fund to continue to publish notices on an internet website rather than publish the notices in the Florida Administrative Weekly. Implements Specific Appropriation 1790.

Section 17. Amends s. 502.015, F.S., to implement Specific Appropriation 1362-1546A to allow moneys in the General Inspection Trust Fund to be appropriated for programs operated by the Department of Agriculture and Consumer Services.

Section 18. Amends s. 11.151, F.S., to implement Specific Appropriation 2788 and 2789 authorizing is an increase in the legislative contingency fund for the President of the Senate and for the Speaker of the House of Representatives. These funds may be expended at the unrestricted discretion of the President of the Senate or the Speaker of the House of Representatives in carrying out their official duties.

Section 19. Amends s. 320.08058, F.S., to allow proceeds from the Professional Sports Development Trust Fund to be used for operational expenses of the Florida Sports Foundation and for the financial support of the Sunshine State Games. Implements Specific Appropriation 2688.

Section 20. Amends s. 253.034, F.S., to facilitate the change of real property between the Department of Highway Safety and Motor Vehicles and Palm Beach County. Implements section 32 of the 2006-2007 General Appropriations Act.

Section 21. Amends s. 402.3017, F.S., to allow the Agency for Workforce Innovation to administer and implement the Teacher Education and Compensation Helps (TEACH) scholarship program. The program provides educational scholarships to caregivers and administrators of early childhood programs, and family day care homes. Implements the proviso language in Specific Appropriation 2304.

Section 22. Amends s. 216.292, F.S., to implement Specific Appropriations 1594, 1596, 1598, and 1600, to authorize the Governor to recommend the initiation of fixed capital outlay projects funded by grants awarded by the Federal Emergency Management Agency for FEMA Disaster Declarations.

Section 23. Implements Specific Appropriations for salaries and benefits in the 2006-2007 General Appropriations Act by allowing agencies to use funds for cash awards to state employees who demonstrate satisfactory service in the agency or to the state, in appreciation and recognition of such service. Awards may not exceed $100 each and will be allocated from an agency's existing budget. By March 1, 2007, agencies that elect to make cash awards will report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives the dollar value and number of such awards given. If available, any additional information concerning employee satisfaction and feedback should be provided.

Section 24. Declares legislative determination that the authorization and issuance of debt for the 2006-2007 fiscal year is in the best interest of the state and should be implemented.

Section 25. Specifies that no section shall take effect if the appropriations and proviso to which it relates is vetoed.

Section 26. Provides for a permanent change made by another law to any of the same statutes amended by this bill to take precedence over the provision in this bill.

Section 27. Provides that agency performance measures and standards will be filed with the Clerk of the House of Representatives and incorporated by reference.

Section 28. Provides a severability clause.

Section 29. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Although the provisions of this bill allow specific budget decisions to be effective, actual funding changes are made in the General Appropriations Act.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act implementing the 2006-2007 General Appropriations
3 Act; providing legislative intent; providing for use of
4 specified calculations with respect to the Florida
5 Education Finance Program; amending s. 1004.065, F.S.;
6 providing a limitation on university and direct-support
7 organization financings; amending s. 287.057, F.S.;
8 authorizing the Department of Children and Family Services
9 to contract with a private provider for a sexually violent
10 predator facility; authorizing the Department of
11 Corrections and the Department of Juvenile Justice to make
12 certain expenditures to defray costs incurred by a
13 municipality or county as a result of opening or operating
14 a facility under authority of the respective department;
15 amending s. 216.262, F.S.; providing for additional
16 positions to operate additional prison bed capacity under
17 certain circumstances; authorizing transfer of certain
18 funds between the courts and the Justice Administrative
19 Commission to meet certain shortfalls in due process
20 services appropriations; providing for expenditure of
21 funds from unallocated general revenue to offset
22 deficiencies in due process services; authorizing the
23 Executive Office of the Governor to transfer funds between
24 departments for purposes of aligning amounts paid for risk
25 management premiums and for purposes of aligning amounts
26 paid for human resource management services; amending s.
27 112.061, F.S.; providing for computation of travel time
28 and reimbursement for public officers' and employees'
29 travel; directing the Department of Environmental

30 Protection to make specified awards of grant moneys for
31 pollution control purposes; directing the Department of
32 Environmental Protection to conduct a pilot program for
33 expedited site evaluation and cleanup of port and airport
34 facilities for redevelopment and expansion; providing
35 guidelines for such program; creating the Caloosahatchee-
36 St. Lucie Rivers Corridor Advisory Council; providing a
37 definition; providing for appointment of members, per diem
38 and travel expenses, staff, and duties of the advisory
39 council; exempting staff from pt. II of ch. 110, F.S.,
40 relating to the Career Service System; requiring
41 recommendations to the Legislature; requiring a report to
42 the Legislature and Governor by a specific date; providing
43 for expiration of the advisory council; creating the Fuel
44 Distributors Emergency Power Assistance Grant Program
45 within the Department of Community Affairs; amending s.
46 120.551, F.S.; continuing Internet publication of certain
47 notices of the Department of Environmental Protection and
48 the Board of Trustees of the Internal Improvement Trust
49 Fund; amending s. 502.015, F.S.; authorizing moneys in the
50 General Inspection Trust Fund to be appropriated for
51 certain programs operated by the Department of Agriculture
52 and Consumer Services; amending s. 11.151, F.S.;
53 increasing the contingency fund for the legislative
54 presiding officers; amending s. 320.08058, F.S.;
55 authorizing proceeds from the Professional Sports
56 Development Trust Fund to be used for operational expenses
57 of the Florida Sports Foundation and financial support of
58 the Sunshine State Games; amending s. 253.034, F.S.;

59 authorizing deposit of funds from the sale of property by
60 the Department of Highway Safety and Motor Vehicles
61 located in Palm Beach County; amending s. 402.3017, F.S.;
62 authorizing the Agency for Workforce Innovation to
63 administer Teacher Education and Compensation Helps
64 (TEACH) scholarship program; amending s. 216.292, F.S.;
65 authorizing the Governor to recommend fixed capital outlay
66 projects funded by Federal Emergency Management Agency
67 grants; providing for review by the Legislative Budget
68 Commission; authorizing state agencies to make cash awards
69 to state employees demonstrating satisfactory service to
70 the agency or the state; providing limits on such awards;
71 requiring a report with respect thereto; providing finding
72 of best interest of the state for authorization and
73 issuance of certain debt; providing effect of veto of
74 specific appropriation or proviso to which implementing
75 language refers; providing for future repeal or expiration
76 of various provisions; providing for reversion of certain
77 provisions; incorporating by reference specified
78 performance measures and standards directly linked to the
79 appropriations made in the 2006-2007 General
80 Appropriations Act, as required by the Government
81 Performance and Accountability Act of 1994; providing
82 severability; providing effective dates.
83
84 Be It Enacted by the Legislature of the State of Florida:
85
86 Section 1. <u>It is the intent of the Legislature that the</u>
87 <u>implementing and administering provisions of this act apply to</u>

88 the General Appropriations Act for fiscal year 2006-2007.
89 Section 2. In order to implement Specific Appropriations 7,
90 8, and 91-97 of the 2006-2007 General Appropriations Act, the
91 calculations of the Florida Education Finance Program for the
92 2006-2007 fiscal year in the document entitled "Public School
93 Funding The Florida Education Finance Program" dated March 31,
94 2006, and filed with the Clerk of the House of Representatives
95 are incorporated by reference for the purpose of displaying the
96 calculations used by the Legislature, consistent with the
97 requirements of the Florida Statutes, in making appropriations
98 for the Florida Education Finance Program.
99 Section 3. In order to implement section 11 of the 2006-
100 2007 General Appropriations Act, section 1004.065, Florida
101 Statutes, is amended to read:
102 1004.065 Limitation on university and direct-support
103 organization financings.--No project may be financed by or on
104 behalf of a university or a direct-support organization pursuant
105 to s. 1001.74(5), s. 1004.28(6), s. 1010.60(2), s. 1013.15, s.
106 1013.16, s. 1013.17, s. 1013.171, s. 1013.74, or s. 1013.78, or
107 through any financing mechanism, including, but not limited to,
108 revenue bonds, promissory notes, certificates of participation,
109 lease-purchase agreements, or any other form of indebtedness,
110 without prior approval of the project by the Legislature by an
111 act relating to appropriations or general law. This section
112 expires July 1, 2007 ~~2006~~.
113 Section 4. In order to implement Specific Appropriation
114 375-380 of the 2006-2007 General Appropriations Act, paragraph
115 (c) is added to subsection (14) of section 287.057, Florida
116 Statutes, to read:

117 287.057 Procurement of commodities or contractual
118 services.--
119 (14)
120 (c) Notwithstanding paragraph (a), the Department of
121 Children and Family Services may enter into agreements, not to
122 exceed 23 years, with a private contractor to finance, design,
123 and construct a secure facility, as described in s. 394.917, of
124 at least 600 beds and to operate all aspects of daily operations
125 within the secure facility. The contractor may sponsor the
126 issuance of tax-exempt certificates of participation or other
127 securities to finance the project, and the state may enter into a
128 lease-purchase agreement for the secure facility. The department
129 shall begin the implementation of this privatization initiative
130 by July 1, 2006. This section expires July 1, 2007.
131 Section 5. In order to fulfill legislative intent regarding
132 the use of funds contained in Specific Appropriations 720, 731,
133 741, and 1167 of the 2006-2007 General Appropriations Act, the
134 Department of Corrections and the Department of Juvenile Justice
135 may expend appropriated funds to assist in defraying the costs of
136 impacts that are incurred by a municipality or county and
137 associated with opening or operating a facility under the
138 authority of the respective department which is located within
139 that municipality or county. The amount that is to be paid under
140 this section for any facility may not exceed 1 percent of the
141 facility construction cost, less building impact fees imposed by
142 the municipality or by the county if the facility is located in
143 the unincorporated portion of the county. This section expires
144 July 1, 2007.
145 Section 6. In order to implement Specific Appropriations

146 710-805 of the 2006-2007 General Appropriations Act, subsection
147 (4) of section 216.262, Florida Statutes, is amended to read:
148 216.262 Authorized positions.--
149 (4) Notwithstanding the provisions of this chapter on
150 increasing the number of authorized positions, and for the 2006-
151 2007 ~~2005-2006~~ fiscal year only, if the actual inmate population
152 of the Department of Corrections exceeds the inmate population
153 projections of the March 21, 2006 ~~February 14, 2005~~, Criminal
154 Justice Estimating Conference by 1 percent for 2 consecutive
155 months or 2 percent for any month, the Executive Office of the
156 Governor, with the approval of the Legislative Budget Commission,
157 shall immediately notify the Criminal Justice Estimating
158 Conference, which shall convene as soon as possible to revise the
159 estimates. The Department of Corrections may then submit a budget
160 amendment requesting the establishment of positions in excess of
161 the number authorized by the Legislature and additional
162 appropriations from unallocated general revenue ~~the General~~
163 ~~Revenue Fund or the Working Capital Fund~~ sufficient to provide
164 for essential staff, fixed capital improvements, and other
165 resources to provide classification, security, food services,
166 health services, and other variable expenses within the
167 institutions to accommodate the estimated increase in the inmate
168 population. All actions taken pursuant to the authority granted
169 in this subsection shall be subject to review and approval by the
170 Legislative Budget Commission. This subsection expires July 1,
171 2007 ~~2006~~.
172 Section 7. In order to implement Specific Appropriations
173 880B, 3248, and 3248A of the 2006-2007 General Appropriations
174 Act, and pursuant to the notice, review, and objection procedures

175 of s. 216.177, Florida Statutes, funds in Specific Appropriations
176 880B, 3248, and 3248A of the 2006-2007 General Appropriations Act
177 may be transferred between the courts and the Justice
178 Administrative Commission in order to address unanticipated
179 shortfalls in due process services appropriations in excess of
180 the contingency fund provided in Specific Appropriations 880B,
181 3248, and 3248A of the 2006-2007 General Appropriations Act. This
182 section expires July 1, 2007.
183 Section 8. In order to implement Specific Appropriations
184 880B, 3248, and 3248A of the 2006-2007 General Appropriations
185 Act, if a deficit is projected by the Justice Administrative
186 Commission or the state courts in any specific appropriation
187 provided for due process services, the Governor or the Chief
188 Justice of the Supreme Court, respectively, may submit a budget
189 amendment for consideration by the Legislative Budget Commission
190 to authorize the expenditure of funds from unallocated general
191 revenue to offset such deficiency. Any budget amendment submitted
192 by the Governor to the Legislative Budget Commission shall
193 contain certification by the Justice Administrative Commission
194 that all actions required by s. 29.015, Florida Statutes, have
195 been completed and that no funds exist in any contingency fund
196 appropriation available to the entity projected to experience the
197 deficiency. Any budget amendment submitted by the Supreme Court
198 shall contain certification that the court has completed all
199 actions required by s. 29.016, Florida Statutes, and that no
200 funds exist in any contingency fund available to the state courts
201 system. This section expires July 1, 2007.
202 Section 9. In order to implement the appropriation of funds
203 in Special Categories-Risk Management Insurance of the 2006-2007

204 General Appropriations Act, and pursuant to the notice, review,
205 and objection procedures of s. 216.177, Florida Statutes, the
206 Executive Office of the Governor is authorized to transfer funds
207 appropriated in the appropriation category "Special Categories-
208 Risk Management Insurance" of the 2006-2007 General
209 Appropriations Act between departments in order to align the
210 budget authority granted with the premiums paid by each
211 department for risk management insurance. This section expires
212 July 1, 2007.
213 Section 10. In order to implement the appropriation of
214 funds in Special Categories-Transfer to Department of Management
215 Services-Human Resources Services Purchased Per Statewide
216 Contract of the 2006-2007 General Appropriations Act, and
217 pursuant to the notice, review, and objection procedures of s.
218 216.177, Florida Statutes, the Executive Office of the Governor
219 is authorized to transfer funds appropriated in the appropriation
220 category "Special Categories-Transfer to Department of Management
221 Services-Human Resources Services Purchased Per Statewide
222 Contract" of the 2006-2007 General Appropriations Act between
223 departments in order to align the budget authority granted with
224 the assessments that must be paid by each agency to the
225 Department of Management Services for human resource management
226 services. This section expires July 1, 2007.
227 Section 11. In order to implement sections 2-7 of the 2006-
228 2007 General Appropriations Act, paragraph (c) of subsection (5)
229 and paragraph (d) of subsection (6) of section 112.061, Florida
230 Statutes, are amended to read:
231 112.061 Per diem and travel expenses of public officers,
232 employees, and authorized persons.--

233 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
234 purposes of reimbursement and methods of calculating fractional
235 days of travel, the following principles are prescribed:
236 (c) For the 2006-2007 ~~2005-2006~~ fiscal year only and
237 notwithstanding the other provisions of this subsection, for
238 Class C travel, a state traveler shall not be reimbursed on a per
239 diem basis nor shall a traveler receive subsistence allowance.
240 This paragraph expires July 1, 2007 ~~2006~~.
241 (6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.--For
242 purposes of reimbursement rates and methods of calculation, per
243 diem and subsistence allowances are divided into the following
244 groups and rates:
245 (d) For the 2006-2007 ~~2005-2006~~ fiscal year only and
246 notwithstanding the other provisions of this subsection, for
247 Class C travel, a state traveler shall not be reimbursed on a per
248 diem basis nor shall a traveler receive subsistence allowance.
249 This paragraph expires July 1, 2007 ~~2006~~.
250 Section 12. Notwithstanding s. 403.7095, Florida Statutes,
251 in order to implement Specific Appropriation 1868 of the 2006-
252 2007 General Appropriations Act, the Department of Environmental
253 Protection shall award:
254 (1) $6,500,000 in grants equally to counties with
255 populations of fewer than 100,000 for waste tire, litter
256 prevention, recycling and education, and general solid waste
257 programs.
258 (2) $1,599,500 to be used for Innovative Grants.
259 (3) $1,500,000 to be used for the Florida Green Procurement
260 Initiative to assist state agencies in meeting s. 403.7065.
261 (4) $5,000,000 to be used for the Treasure Coast Regional

262 Biosolids Management Facility.
263
264 This section expires July 1, 2007.
265 Section 13. In order to implement Specific Appropriation
266 1847 of the 2006-2007 General Appropriations Act, and for the
267 2006-2007 fiscal year only, the Department of Environmental
268 Protection shall conduct a pilot program of the efficacy of
269 expedited site evaluation and cleanup of existing public port and
270 airport facility sites that have high redevelopment potential and
271 that serve an immediate and demonstrated public purpose. The
272 department shall conduct the pilot program at sites that will
273 serve as prototypes to evaluate the need for funding in
274 subsequent years.
275 (1) The pilot program sites selected must include:
276 (a) A port facility at which petroleum contamination is a
277 potential threat to marine and estuarine waters and is hindering
278 the tourism, trade, and economic development potential for the
279 facility and the surrounding area; and
280 (b) An airport adjacent to marine or estuarine waters where
281 redevelopment and expansion are likely to be hindered by
282 petroleum contamination issues.
283 (2) The pilot program should focus on:
284 (a) Rapid assessment of the scope of the contamination
285 issues;
286 (b) The effective use of existing site information;
287 (c) For larger, multiyear projects, the development of
288 project phases, schedules, and budget estimates, including
289 appropriate cost sharing components with affected entities;
290 (d) Commitment of one-time funds for petroleum

291 contamination assessment, free product removal, soil removal, and
292 restoration that will render site conditions suitable for
293 immediate redevelopment; and
294 (e) Preparation of an independent oversight report that
295 evaluates the cost-effectiveness of this funding approach with
296 emphasis on the timing of tax benefits that may accrue.
297 (3) The department is directed to implement this pilot
298 program as soon as possible and report its progress to the
299 Legislature by March 1, 2007.
300 (4) This section expires July 1, 2007.
301 Section 14. In order to implement Specific Appropriation
302 1825 of the 2006-2007 General Appropriations Act, and for the
303 2006-2007 fiscal year only, there is hereby created the
304 Caloosahatchee-St. Lucie Rivers Corridor Advisory Council.
305 (1) For purposes of this act, the hydrologic basins of the
306 Caloosahatchee River and its estuary and the St. Lucie River and
307 its estuary, including Lake Okeechobee, shall be known as the
308 "Caloosahatchee-St. Lucie Rivers Corridor."
309 (2) The Caloosahatchee—St. Lucie Rivers Corridor Advisory
310 Council is under the Department of Environmental Protection and
311 shall consist of 17 members who shall be appointed as follows:
312 (a) The Governor shall appoint:
313 1. One consumer member.
314 2. One member with hydrologic experience within the
315 Caloosahatchee-St. Lucie Rivers Corridor and expertise in
316 engineering.
317 3. One member from the agriculture industry.
318 4. One member from an environmental group.

319 5. One member from the business or tourism community in
320 Okeechobee County, Martin County, or Palm Beach County.
321 (b) The President of the Senate shall appoint:
322 1. One member representing local government in Lee County.
323 2. One member with hydrologic experience within the
324 Caloosahatchee-St. Lucie Rivers Corridor and expertise in
325 hydrology.
326 3. One member from the agriculture industry.
327 4. One member from an environmental group.
328 5. One member from the business or tourism community in Lee
329 County or Charlotte County.
330 6. One member from the Senate.
331 (c) The Speaker of the House of Representatives shall
332 appoint:
333 1. One member representing local government in Martin
334 County.
335 2. One member with hydrologic experience within the
336 Caloosahatchee-St. Lucie Rivers Corridor and expertise in
337 biology.
338 3. One member from the agriculture industry.
339 4. One member from an environmental group.
340 5. One member from the business or tourism community in
341 Hendry County or Glades County.
342 6. One member from the House of Representatives.
343 (d) The Governor shall appoint the chair of the advisory
344 council from among its members.
345 (e) Appointments to the advisory council shall be made no
346 later than 30 days after the effective date of this act.

347 (f) Each member of the advisory council may receive per
348 diem and travel expenses as provided in s. 112.061, Florida
349 Statutes, while carrying out the business of the advisory
350 council.
351 (g) The first meeting of the advisory council shall be held
352 no later than 60 days after the effective date of this act.
353 (h) The records and meetings of the advisory council are
354 subject to the provisions of chapter 119 and s. 286.011, Florida
355 Statutes.
356 (i) The advisory council shall be staffed by an executive
357 director and other personnel selected and hired by the Department
358 of Environmental Protection who shall be exempt from part II of
359 chapter 110, Florida Statutes, relating to the Career Service
360 System. The Department of Environmental Protection may employ
361 staff and consultants as necessary to assist the advisory council
362 in fulfilling its responsibilities. The South Florida Water
363 Management District and the Department of Environmental
364 Protection shall each appoint a liaison for the respective agency
365 to work directly with the executive director of the advisory
366 council and to provide expertise and assistance to the advisory
367 council.
368 (3) The duties of the Caloosahatchee—St. Lucie Rivers
369 Corridor Advisory Council are to:
370 (a) Meet at least five times after August 1, 2006.
371 (b) Hold a minimum of five public hearings within the
372 Caloosahatchee—St. Lucie Rivers Corridor for the purpose of
373 receiving public comments and information.
374 (c) Review the operation and management of Lake Okeechobee
375 and the associated discharges from the lake for the purpose of

376 formulating specific recommendations relating to, but not limited
377 to:
378 1. Scientifically viable, economically feasible projects,
379 programs, and regulations that address or mitigate the impacts of
380 high-level discharges from Lake Okeechobee upon the receiving
381 waters of the Caloosahatchee River and the St. Lucie Canal and
382 St. Lucie River and their respective estuaries.
383 2. Ongoing projects and plans authorized pursuant to the
384 Lake Okeechobee Protection Program and the Comprehensive
385 Everglades Restoration Plan under s. 373.4592, Florida Statutes.
386 3. Environmentally and economically feasible projects to
387 remove accumulated sedimentation from Lake Okeechobee.
388 4. Alternative treatment strategies, projects, best
389 management practices, and funding sources to manage more
390 effectively the hydrology of the corridor to minimize adverse
391 ecological effects upon the receiving waters from Lake Okeechobee
392 discharge.
393 5. Long-term funding for implementation of the projects and
394 programs identified in the report.
395 (4) The advisory council shall prepare and submit a report
396 and recommendations to the President of the Senate and the
397 Speaker of the House of Representatives prior to the 2007 Regular
398 Session of the Legislature for implementation of projects and
399 strategies to mitigate the present effects of high discharges
400 from Lake Okeechobee upon the described basins.
401 (5) The advisory council shall submit to the Governor, the
402 President of the Senate, and the Speaker of the House of
403 Representatives by March 1, 2007, a report with specific
404 recommendations for implementation by the Legislature and the

405 Governor that will mitigate ecological effects upon the
406 Caloosahatchee—St. Lucie Rivers Corridor and stabilize the effect
407 of high discharges from Lake Okeechobee upon the tourist economy
408 of Southwest and Southeast Florida.
409 (6) The advisory council shall expire on April 1, 2007, and
410 this section shall expire July 1, 2007.
411 Section 15. In order to implement Specific Appropriation
412 1857A of the 2006-2007 General Appropriations Act, there is
413 hereby created the Fuel Distributors Emergency Power Assistance
414 Grant Program within the Department of Community Affairs to
415 provide assistance to fuel distributors in retrofitting their
416 facilities to accommodate portable generators in preparation for
417 major power outages. This section expires July 1, 2007.
418 Section 16. In order to implement Specific Appropriation
419 1790 of the 2006-2007 General Appropriations Act, subsection (3)
420 of section 120.551, Florida Statutes, is amended to read:
421 120.551 Internet publication.--
422 (3) This section is repealed effective July 1, 2007 ~~2006~~,
423 unless reviewed and reenacted by the Legislature before that
424 date.
425 Section 17. In order to implement Specific Appropriations
426 1362-1546A of the 2006-2007 General Appropriations Act, section
427 502.015, Florida Statutes, is amended to read:
428 502.015 General Inspection Trust Fund.--
429 (1) Any moneys collected by the department pursuant to this
430 chapter shall be deposited in the General Inspection Trust Fund
431 and used solely for the programs in this chapter.
432 (2) For the 2006-2007 fiscal year only and notwithstanding
433 any other provision of law to the contrary, in addition to the

434 spending authorized in subsection (1), moneys in the General
435 Inspection Trust Fund may be appropriated for programs operated
436 by the department which are related to the programs authorized by
437 this chapter. This subsection expires July 1, 2007.
438 Section 18. In order to implement Specific Appropriations
439 2788 and 2789 of the 2006-2007 General Appropriations Act,
440 section 11.151, Florida Statutes, is amended to read:
441 11.151 Annual legislative appropriation to contingency fund
442 for use of Senate President and House Speaker.--
443 (1) There is established a legislative contingency fund
444 consisting of $10,000 for the President of the Senate and $10,000
445 for the Speaker of the House of Representatives, which amounts
446 shall be set aside annually from moneys appropriated for
447 legislative expense. These funds shall be disbursed by the Chief
448 Financial Officer upon receipt of vouchers authorized by the
449 President of the Senate or the Speaker of the House of
450 Representatives. Such funds may be expended at the unrestricted
451 discretion of the President of the Senate or the Speaker of the
452 House of Representatives in carrying out their official duties
453 during the entire period between the date of their election as
454 such officers at the organizational meeting held pursuant to s.
455 3(a), Art. III of the State Constitution and the next general
456 election.
457 (2) For the 2006-2007 ~~2005-2006~~ fiscal year only, the
458 contingency fund amounts in subsection (1) are increased to
459 $20,000. This subsection expires July 1, 2007 ~~2006~~.
460 Section 19. In order to implement Specific Appropriation
461 2688 of the 2006-2007 General Appropriations Act, paragraph (b)
462 of subsection (9) of section 320.08058, Florida Statutes, is

463 amended to read:
464 320.08058 Specialty license plates.--
465 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.--
466 (b) The license plate annual use fees are to be annually
467 distributed as follows:
468 1. Fifty-five percent of the proceeds from the Florida
469 Professional Sports Team plate must be deposited into the
470 Professional Sports Development Trust Fund within the Office of
471 Tourism, Trade, and Economic Development. These funds must be
472 used solely to attract and support major sports events in this
473 state. As used in this subparagraph, the term "major sports
474 events" means, but is not limited to, championship or all-star
475 contests of Major League Baseball, the National Basketball
476 Association, the National Football League, the National Hockey
477 League, the men's and women's National Collegiate Athletic
478 Association Final Four basketball championship, or a horseracing
479 or dogracing Breeders' Cup. All funds must be used to support and
480 promote major sporting events, and the uses must be approved by
481 the Florida Sports Foundation.
482 2. The remaining proceeds of the Florida Professional
483 Sports Team license plate must be allocated to the Florida Sports
484 Foundation, a direct-support organization of the Office of
485 Tourism, Trade, and Economic Development. These funds must be
486 deposited into the Professional Sports Development Trust Fund
487 within the Office of Tourism, Trade, and Economic Development.
488 These funds must be used by the Florida Sports Foundation to
489 promote the economic development of the sports industry; to
490 distribute licensing and royalty fees to participating
491 professional sports teams; to promote education programs in

492 Florida schools that provide an awareness of the benefits of
493 physical activity and nutrition standards; to partner with the
494 Department of Education and the Department of Health to develop a
495 program that recognizes schools whose students demonstrate
496 excellent physical fitness or fitness improvement; to institute a
497 grant program for communities bidding on minor sporting events
498 that create an economic impact for the state; to distribute funds
499 to Florida-based charities designated by the Florida Sports
500 Foundation and the participating professional sports teams; and
501 to fulfill the sports promotion responsibilities of the Office of
502 Tourism, Trade, and Economic Development.
503 3. The Florida Sports Foundation shall provide an annual
504 financial audit in accordance with s. 215.981 of its financial
505 accounts and records by an independent certified public
506 accountant pursuant to the contract established by the Office of
507 Tourism, Trade, and Economic Development as specified in s.
508 288.1229(5). The auditor shall submit the audit report to the
509 Office of Tourism, Trade, and Economic Development for review and
510 approval. If the audit report is approved, the office shall
511 certify the audit report to the Auditor General for review.
512 4. For the 2006-2007 ~~2005-2006~~ fiscal year only and
513 notwithstanding the provisions of subparagraphs 1. and 2.,
514 proceeds from the Professional Sports Development Trust Fund may
515 also be used for operational expenses of the Florida Sports
516 Foundation and financial support of the Sunshine State Games.
517 This subparagraph expires July 1, 2007 ~~2006~~.
518 Section 20. In order to implement section 32 of the 2006-
519 2007 General Appropriations Act, subsection (13) of section
520 253.034, Florida Statutes, is amended to read:

521 253.034 State-owned lands; uses.--
522 (13) Notwithstanding the provisions of this section, funds
523 from the sale of property by the Department of Highway Safety and
524 Motor Vehicles located in Palm Beach County are authorized to be
525 deposited into the Highway Safety Operating Trust Fund to
526 facilitate the exchange as provided in the General Appropriations
527 Act, provided that at the conclusion of both exchanges the values
528 are equalized. This subsection expires July 1, 2007 ~~2006~~.
529 Section 21. In order to implement proviso language in
530 Specific Appropriation 2304 of the 2006-2007 General
531 Appropriations Act, section 402.3017, Florida Statutes, is
532 amended to read:
533 402.3017 Teacher Education and Compensation Helps (TEACH)
534 scholarship program.--
535 (1) The Legislature finds that the level of early child
536 care teacher education and training is a key predictor for
537 determining program quality. The Legislature also finds that low
538 wages for child care workers prevent many from obtaining
539 increased training and education and contribute to high turnover
540 rates. The Legislature therefore intends to help fund a program
541 which links teacher training and education to compensation and
542 commitment to the field of early childhood education.
543 (2) The Department of Children and Family Services is
544 authorized to contract for the administration of the Teacher
545 Education and Compensation Helps (TEACH) scholarship program,
546 which provides educational scholarships to caregivers and
547 administrators of early childhood programs, family day care
548 homes, and large family child care homes.
549 (3) The department shall adopt rules as necessary to

550 implement this section.
551 (4) For the 2006-2007 ~~2005-2006~~ fiscal year only, the
552 Agency for Workforce Innovation may ~~shall~~ administer this
553 section. This subsection expires July 1, 2007 ~~2006~~.
554 Section 22. In order to implement Specific Appropriations
555 1594, 1596, 1598, and 1600 of the 2006-2007 General
556 Appropriations Act, subsection (5) of section 216.292, Florida
557 Statutes, is amended to read:
558 216.292 Appropriations nontransferable; exceptions.--
559 (5)(a) A transfer of funds may not result in the initiation
560 of a fixed capital outlay project that has not received a
561 specific legislative appropriation, except that federal funds for
562 fixed capital outlay projects for the Department of Military
563 Affairs, which do not carry a continuing commitment on future
564 appropriations by the Legislature, may be approved by the
565 Executive Office of the Governor for the purpose received,
566 subject to the notice, review, and objection procedures set forth
567 in s. 216.177.
568 (b) Notwithstanding paragraph (a), and for the 2006-2007
569 fiscal year only, the Governor may recommend the initiation of
570 fixed capital outlay projects funded by grants awarded by the
571 Federal Emergency Management Agency for FEMA Disaster
572 Declarations 1539-DR-FL, 1545-DR-FL, 1551-DR-FL, and 1561-DR-FL.
573 All actions taken pursuant to the authority granted in this
574 paragraph are subject to review and approval by the Legislative
575 Budget Commission. This paragraph expires July 1, 2007.
576 Section 23. In order to implement specific appropriations
577 for salaries and benefits in the 2006-2007 General Appropriations
578 Act, notwithstanding the provisions of s. 110.1245(4), Florida

579 Statutes, and for the 2006-2007 fiscal year only, agencies may
580 additionally use funds for cash awards to state employees who
581 demonstrate satisfactory service in the agency or to the state,
582 in appreciation and recognition of such service. Awards may not
583 exceed $100 each and will be allocated from an agency's existing
584 budget. By March 1, 2007, agencies that elect to make cash awards
585 will report to the Governor and Cabinet, the President of the
586 Senate, and the Speaker of the House of Representatives the
587 dollar value and number of such awards given. If available, any
588 additional information concerning employee satisfaction and
589 feedback should be provided. This section expires July 1, 2007.
590 Section 24. In order to implement the issuance of new debt
591 authorized in the 2006-2007 General Appropriations Act, and
592 pursuant to the requirements of s. 215.98, Florida Statutes, the
593 Legislature determines that the authorization and issuance of
594 debt for the 2006-2007 fiscal year is in the best interest of the
595 state and should be implemented.
596 Section 25. A section of this act that implements a
597 specific appropriation or specifically identified proviso
598 language in the 2006-2007 General Appropriations Act is void if
599 the specific appropriation or specifically identified proviso
600 language is vetoed. A section of this act that implements more
601 than one specific appropriation or more than one portion of
602 specifically identified proviso language in the 2006-2007 General
603 Appropriations Act is void if all the specific appropriations or
604 portions of specifically identified proviso language are vetoed.
605 Section 26. If any other act passed in 2006 contains a
606 provision that is substantively the same as a provision in this
607 act, but that removes or is otherwise not subject to the future

608 repeal applied to such provision by this act, the Legislature
609 intends that the provision in the other act shall take precedence
610 and shall continue to operate, notwithstanding the future repeal
611 provided by this act.
612 Section 27. The agency performance measures and standards
613 in the document entitled "Performance Measures and Standards
614 Approved by the Legislature for Fiscal Year 2006-2007" dated
615 March 31, 2006, and filed with the Clerk of the House of
616 Representatives are incorporated by reference. Such performance
617 measures and standards are directly linked to the appropriations
618 made in the General Appropriations Act for fiscal year 2006-2007,
619 as required by the Government Performance and Accountability Act
620 of 1994. State agencies are directed to revise their long-range
621 program plans required under s. 216.013, Florida Statutes, to be
622 consistent with these performance measures and standards.
623 Section 28. If any provision of this act or its application
624 to any person or circumstance is held invalid, the invalidity may
625 not affect other provisions or applications of the act which can
626 be given effect without the invalid provision or application, and
627 to this end the provisions of this act are declared severable.
628 Section 29. Except as otherwise expressly provided in this
629 act, this act shall take effect July 1, 2006; or, if this act
630 fails to become a law until after that date, it shall take effect
631 upon becoming a law and shall operate retroactively to July 1,
632 2006.

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: Fiscal Council
2 Representative(s) Ausley offered the following:
3
4 **Amendment**
5 Remove line(s) 543-552 and insert:
6
7 (2) The Department of Children and Family Services shall
8 ~~is authorized to~~ contract for the administration of the Teacher
9 Education and Compensation Helps (TEACH) scholarship program,
10 which provides educational scholarships to caregivers and
11 administrators of early childhood programs, family day care
12 homes, and large family child care homes.
13 (3) The department shall adopt rules as necessary to
14 implement this section.
15 (4) For the 2006-2007 ~~2005-2006~~ fiscal year only, the
16 Agency for Workforce Innovation shall administer this
17

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: Fiscal Council
2 Representative(s) Mayfield offered the following:
3
4 **Amendment**
5 Between lines 417 and 418 insert:
6 Section 16. In order to implement Specific Appropriation
7 1827 of the 2006-2007 General Appropriations Act, subsection (5)
8 is added to section 373.1961, Florida Statutes, to read:
9 373.1961 Water production; general powers and duties;
10 identification of needs; funding criteria; economic incentives;
11 reuse funding.--
12 (5) FUNDING FOR ALTERNATIVE WATER SUPPLY PROJECTS FOR THE
13 2006-2007 FISCAL YEAR.--For the 2006-2007 fiscal year only, and
14 notwithstanding any other provision of this section, the water
15 management districts shall fund the alternative water supply
16 projects listed in the 2006-2007 General Appropriations Act.
17 This subsection expires July 1, 2007.
18 Section 17. In order to implement Specific Appropriation
19 1820 of the 2006-2007 General Appropriations Act, subsection (6)
20 is added to section 373.459, Florida Statutes, to read:

21 373.459 Funds for surface water improvement and
22 management.--
23 (6) For the 2006-2007 fiscal year only, and
24 notwithstanding any other provision of ss. 373.451-373.459, the
25 water management districts shall fund the surface water
26 improvement projects listed in the 2006-2007 General
27 Appropriations Act. This subsection expires July 1, 2007.
28 Section 18. In order to implement Specific Appropriation
29 1820 of the 2006-2007 General Appropriations Act, paragraph (c)
30 of subsection (1) of section 403.890, Florida Statutes, is
31 amended to read:
32 403.890 Water Protection and Sustainability Program;
33 intent; goals; purposes.--
34 (1) Effective July 1, 2006, revenues transferred from the
35 Department of Revenue pursuant to s. 201.15(1)(d)2. shall be
36 deposited into the Water Protection and Sustainability Program
37 Trust Fund in the Department of Environmental Protection. These
38 revenues and any other additional revenues deposited into or
39 appropriated to the Water Protection and Sustainability Trust
40 Fund shall be distributed by the Department of Environmental
41 Protection in the following manner:
42 (c)1. Ten percent shall be disbursed for the purposes of
43 funding projects pursuant to ss. 373.451-373.459 or surface
44 water restoration activities in water-management-district-
45 designated priority water bodies. The Secretary of Environmental
46 Protection shall ensure that each water management district
47 receives the following percentage of funds annually:
48 a.~~1.~~ Thirty-five percent to the South Florida Water
49 Management District;

50 b.~~2.~~ Twenty-five percent to the Southwest Florida Water
51 Management District;
52 c.~~3.~~ Twenty-five percent to the St. Johns River Water
53 Management District;
54 d.~~4.~~ Seven and one-half percent to the Suwannee River
55 Water Management District; and
56 e.~~5.~~ Seven and one-half percent to the Northwest Florida
57 Water Management District.
58 2. For the 2006-2007 fiscal year only, and notwithstanding
59 subparagraph 1., the water management districts shall fund the
60 surface water improvement projects listed in the 2006-2007
61 General Appropriations Act. This subparagraph expires July 1,
62 2007.
63 Section 4. In order to implement Specific Appropriation
64 1826 of the 2006-2007 General Appropriations Act, subsection (4)
65 is added to section 403.1838, Florida Statutes, to read:
66 403.1838 Small Community Sewer Construction Assistance
67 Act.--
68 (4) For the 2006-2007 fiscal year only, and
69 notwithstanding any other provision of this section, the
70 department shall fund the wastewater projects listed in the
71 2006-2007 General Appropriations Act. This subsection expires
72 July 1, 2007.
73
74
75 ========== T I T L E A M E N D M E N T ==========
76 On line 45 after the semicolon insert:
77
78 amending s. 373.1961, F.S.; requiring the water management
79 districts to fund certain alternative water supply projects;

80 amending ss. 373.459 and 403.890, F.S.; requiring the water
81 management districts to fund certain surface water improvement
82 projects; amending s. 403.1838, F.S.; requiring the Department
83 of Environmental Protection to fund certain wastewater projects;
84

PCB FC 06-03

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-03 Education Funding
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Hamon	Kelly ck
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill extends implementation of the district level average class size calculations for class size reduction compliance for one year. Compliance calculations would remain at the district average level for Fiscal Year 2006-2007 and be calculated at the school level average in Fiscal Year 2007-2008.

The bill establishes two school construction programs, the Class Size Construction Completion Program and the Classroom Capacity Assistance Grant Program for the purpose of allocating capital outlay funds to school districts and adding classroom capacity to meet class size reduction requirements. The bill redirects the $105 million appropriated in section 201.15(1), F.S., for school districts with FTE student growth, from the Classroom for Kids Program and the High Growth County District Capital Outlay Assistance Grant Program to the Classroom Capacity Assistance Grant Program.

The bill increases the award for the Florida Medallion Scholars within the Bright Futures Program from 75% to 100% of tuition and fees for students enrolled in community colleges.

Within the Florida Education Finance Program, the bill codifies current practice by providing a single, fixed date for Department of Revenue certification of the final taxable value, which is September 1st. The bill also clarifies that assessment role changes are incorporated into the Florida Education Finance Program (FEFP) calculation after a final judicial decision has been reached. The bill authorizes funding at a weight of 1.0 for the Group 2 programs over the enrollment ceiling. The bill authorizes additional FTE funding for the Florida Virtual School.

The bill updates the maximum fixed cost per student station from the 2002 adjustment currently provided in law, to reflect increased costs in construction due partly to implementation of the class size constitutional amendment.

The bill specifies that slot machine tax revenue shall first be used to service bond debt, if necessary, before appropriated for other programs.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill extends by one year, the use of the district average in the compliance calculation for class size reduction requirements. The bill establishes two programs for school construction.

Empower Families – The bill increases the Florida Medallion Scholars award from 75% of tuition and fees to 100% for recipients enrolled in community colleges.

B. EFFECT OF PROPOSED CHANGES:

Slot Machine Tax Revenue

Current Situation

Section 24.121(2), Florida Statutes, requires that debt service payable on bonds issued by the state pursuant to sections 1013.68 (Classrooms First Program), 1013.70 (The 1997 School Capital Outlay Bond Program), or 1013.737 (The Class Size Reduction Lottery Revenue Bond Program), Florida Statutes, shall be payable from, and is secured by a first lien on, the first lottery revenues transferred to the Educational Enhancement Trust Fund each year. Bond covenants for existing Educational Enhancement Trust Fund bond issues under the Classrooms First Program require any new revenue to the Educational Enhancement Trust Fund to include a provision to cover bond debt service, if necessary.

Proposed Changes

The bill specifies that slot machine tax revenue is first used to fund bond indebtedness, if necessary, consistent with current practice.

Class Size Reduction

Constitutional Requirement

On November 5th, 2002, the electors of Florida approved an amendment to Art. IX, s.1 of the Florida Constitution relating to public education. The constitutional provision requires that the state legislature "shall make adequate provision to ensure that" there are a sufficient number of classrooms by the start of the 2010-11 school year so that a certain number of students is not exceeded in each classroom. The current constitutional provision sets forth the maximum class sizes as follows:

- Prekindergarten through grade 3 may not exceed 18;
- Grades 4 through 8 may not exceed 22; and
- Grades 9 through 12 may not exceed 25.

The constitutional provision further provides that beginning with the 2003-2004 fiscal year, the Legislature shall provide sufficient funds to reduce the average number of students in the classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirement in 2010-2011. The requirements do not apply to extracurricular classes and the costs specifically associated with reducing class size are the responsibility of the state and not the local school districts.

Compliance

The Legislature subsequently enacted Senate Bill 30A (2003) which amended section 1003.03, Florida Statutes, to implement the class size amendment. Section 1003.03(2)(a)(b), Florida Statutes, provides that beginning with the 2003-2004 fiscal year, each school district that is not in compliance with the maximum class size requirements is required to reduce the average number of students per classroom for each of the three grade groups by at least two students per year.[1] Determination of the average number of students per classroom for each of the three grade groups shall be as follows:[2]

- Fiscal years 2003-2004 through 2005-2006 shall be calculated at district level.
- Fiscal years 2006-2007 through 2007-2008 shall be calculated at the school level.
- Fiscal years 2008-2009, 2009-2010, and thereafter shall be calculated at the individual classroom level.

School districts must consider, but are not limited to, implementing the following options in order to meet the required maximum constitutional class size and the required two student per year reduction:[3]

- Encourage dual enrollment courses.
- Encourage courses from the Florida Virtual School.
- Require no more than 24 credits to graduate from high school.
- Allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.
- Use innovative methods to reduce the cost of school construction costs.
- Utilize joint-use facilities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones.
- Operate schools beyond the normal operating hours.
- Use a year-round school and other non-traditional calendars.
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.
- Use any other approach not prohibited by law.

The Department of Education (DOE) has interpreted the class size constitutional provision and the above-referenced implementing statute as prohibiting the use of co-teaching or team teaching as a means by which to meet the class-size amendment's requirements relating to number of students per classroom.

Implementation Schedule

Pursuant to section 1003.03(4)(a), Florida Statutes, beginning in the 2003-2004 fiscal year, the DOE reviews compliance with class size reduction and if it is determined that a district has not complied with the statutory requirements for that year, the DOE is required to calculate the amount from the class size reduction operating categorical which is proportionate to the amount of the district's failure to comply with class size reduction. That amount is transferred by the Governor's office from the district's class size reduction operating categorical allocation to the district's fixed capital outlay appropriation to be used to meet the class size reduction requirements. However, the Legislative Budget Commission may approve an alternate amount of funds to be transferred if the Commissioner and the State Board of Education determine that a district has been unable to meet class size reduction requirements despite appropriate efforts to do so.

Beginning in the 2005-2006 school year and each year thereafter, each district identified by the DOE

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[1] For purposes of determining the baseline from which each district's average class size must be reduced for the 2003-04 school year, the DOE is required to use data from the February 2003 student membership survey updated to include classroom identification numbers, pursuant to s. 1003.03(2)(c), F.S.

[2] Currently, the DOE is required to annually calculate each of these three average class size measures based on the October student membership survey.

[3] s. 1003.03(3), F.S.

that has not met the class size reduction requirements will be reported to the Legislature and will be required to implement one of the following policies in the subsequent school year: year-round schools; double sessions; rezoning; or maximizing use of instructional staff by changing teacher loads and scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct educators, operating school beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.[4]

Beginning in the 2006-2007 school year, the DOE, in addition to its enforcement authority in section 1008.32, Florida Statutes, must develop a compliance plan for each non-compliant district, that must include rezoning for maximum use of space while minimizing additional transportation costs.[5]

Appropriated Funds

As of the 2005-2006 school year, the Legislature has appropriated a total of $3,752,187,943 toward reduction of class sizes pursuant to the constitutional requirement. Facilities funding was $783,400,000 of that total while the remaining $2,968,787,943 has been allocated toward operating expenses. The chart below shows the amount of funding spent on operating and facilities relating to class size:

Year	2003-04	2004-05	2005-06
Operating funds	468,198,634	972,191,216	1,507,199,696
Facilities funds	600,000,000	100,000,000	83,400,000
Total	**1,068,198,634**	**1,072,191,216**	**1,590,599,696**

All of the capital outlay funds, except for $30 million in 2003-04, were allocated to districts based on the Classrooms for Kids Program, which includes lab schools.[6] The districts allocations are calculated according to the following formula;

- 25% based on a district's percentage of K-12 base capital outlay FTE,
- 65% based on a district's percentage of K-12 growth capital outlay FTE as specified in section 1013.64(1)(a), Florida Statutes, and
- 10% based on the age of the district's schools according to the formula in section 1013.64(1)(a), Florida Statutes.

The $30 million in the 2003-04 fiscal year was allocated based on the District Effort Recognition Program.[7] All school districts in which the voters through referendum have provided local funds for district capital outlay projects are eligible. The following sources of funds are available through referendum to all school districts: half-cent school capital outlay surtax authorized in section 212.055(6), Florida Statutes; participation in the levy of the local government infrastructure sales surtax authorized in section 212.055(2), Florida Statutes; and millage for capital outlay purposes as authorized in section 9, Article VII of the State Constitution. The program provides for calculating the district effort amount, and allocating / distributing funds.

A $30 million appropriation in the 2005-06 fiscal year, subsequently vetoed by the Governor, was allocated based on the High Growth District Capital Outlay Assistance Grant Program.[8] The district allocations are calculated according to the following formula;

- the district must have levied the full 2 mills of nonvoted discretionary capital outlay millage authorized in section 1011.71(2), Florida Statutes, and
- 50% of the revenue derived from the 2 mill nonvoted discretionary capital outlay millage for the past 4 fiscal years, when divided by the district's growth in capital outlay FTE students over this

[4] s. 1003.03(4)(b), F.S.
[5] s. 1003.03(4)(c), F.S.
[6] s. 1013.735, F.S.
[7] s. 1013.736, F.S.
[8] s. 1013.738, F.S.

period, produces a value that is less than the average cost per student station calculated pursuant to section 1013.72(2), Florida Statutes.
- Districts must have capital outlay FTE students greater than 15,000 students.

Seven districts qualified for the grant and ranked 2nd, 7th, 8th, 9th, 14th, 15th, and 17th statewide, respectively in growth in capital outlay FTE students. Of the top twenty growth districts, ten districts did not qualify due to the two mill revenue and average cost per student station requirement, two districts did not qualify due to not levying the full two mills, and one district did not qualify due to having less than 15,000 students.

District Compliance

The data listed below is taken from the DOE's class size compliance calculations and indicates that since 2002-2003, class size in grades preK-3 has declined from 23.07 to 18.16, in grades 4 through 8 from 24.16 to 20.48, and in grades 9 through 12 from 24.10 to 22.96.

STATEWIDE DISTRICT CLASS-SIZE AVERAGES			
Year	Grades PreK – 3	Grades 4 – 8	Grades 9 – 12
2002-03	23.07	24.16	24.10
2003-04	20.54	22.43	24.06
2004-05	18.98	21.32	23.73
2005-06	18.16	20.48	22.96
Change from 2002-03	(4.91)	(3.68)	(1.14)

Pursuant to section 1003.03(4)(a), Florida Statutes, districts not in compliance with class size reduction requirements are subject to a transfer of class size operating funds to a capital outlay category which is proportionate to the district's failure to comply with class size reduction. In the 2003-04 fiscal year, $1,479,948 was transferred for eight districts; in the 2004-05 fiscal year, $1,076,719 was transferred for nine districts; and in the 2005-06 fiscal year, $496,059 was transferred for one district. Noncompliance in fiscal year 2005-06 was limited to grades preK-3.

Proposed Changes

This bill revises the compliance calculation extending by one year the compliance calculation at the district level. The revised schedule is as follows:

- Fiscal years 2003-2004 through 2006-2007 shall be calculated at district level.
- Fiscal year 2007-2008 shall be calculated at the school level.
- Fiscal years 2008-2009, 2009-2010, and thereafter shall be calculated at the individual classroom level.

The bill creates section 1013.734, Florida Statutes, the Class Size Reduction Construction Completion Program, which provides for the allocation of capital outlay funds as appropriated in the General Appropriations Act to be used to provide educational facilities to meet class size reduction requirements by the 2010-2011 fiscal year pursuant to section 1003.03, Florida Statutes. A district school board shall expend the funds received pursuant to this section only to construct or remodel educational facilities. However, a district school board may expend such funds for renovations if it certifies to the Commissioner of Education that the primary purpose of the renovation is to increase capacity. A district school board that certifies to the commissioner that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years may expend the funds to construct, renovate, remodel, or repair educational facilities that do not result in additional capacity.

Each district school board's share of the annual appropriation for the Class Size Reduction Construction Completion Program must be calculated according to the following formula:

- 60% of the appropriation shall be prorated to the districts based on each district's percentage of K-12 prior year capital outlay full-time equivalent membership.
- 30% of the appropriation shall be based on each district's percentage of K-12 growth capital outlay full-time equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by section 1013.64(3), Florida Statutes.
- Ten percent of the appropriation shall be allocated based on facility age according to the allocation formula in section 1013.64(1)(a), Florida Statutes, excluding adult vocational technical facilities.

This program is based primarily on base FTE with all districts, except for lab schools, sharing in the appropriation due to the inclusion of base FTE and school building age. Lab schools are not included in the allocation due to the policy of controlled enrollment growth.

The bill creates the Classroom Capacity Assistance Grant Program and specifies that the $105 million appropriated for classroom construction in section 201.15(1), Florida Statutes, shall be allocated to this program instead of the Classrooms for Kids Program in section 1013.735, F.S., and the High Growth District Capital Outlay Assistance Grant Program in section 1013.78, Florida Statutes. The Classroom Capacity Assistance Grant Program allocations are calculated according to the following formula;

- 70% of the funds based on each district's percentage of K-12 growth capital outlay FTE as determined in section 1013.64(3), Florida Statutes,
- 25% based on each district's percentage of K-12 FTE prior year capital outlay FTE, and
- 5% allocated among the districts based on the age of facilities specified in section 1013.64(1)(a), Florida Statutes.

This program allocates a significant percentage of the appropriation based on growth with all districts qualifying due to the inclusion of base capital outlay FTE and the age of facilities. District size or the status of the capital outlay millage levy authorized in section 1011.71(2), Florida Statutes, are not eligibility criteria for this program. Lab schools are not included in the allocation due to the policy of controlled enrollment growth.

Educational Facilities – Cost per Student Station

Budget Requirements

Funding for educational facilities as addressed in section 1013.60(2), Florida Statutes, requires the Commissioner of Education to annually submit to the Governor and the Legislature an integrated, comprehensive budget request for educational facility construction and fixed capital outlay needs for school districts. In the budget request, items must be identified by priority.[9]

Each district school board is required to adopt a capital outlay budget for the upcoming year, as a part of the annual budget.[10] The board is prohibited from expending any funds on any project that is not included in the budget.[11] Prior to adoption of the capital outlay budget, each district school board is required to prepare its tentative district educational facilities plan.[12]

Section 1013.64, Florida Statutes, addresses funds for comprehensive educational plant needs, and provides for specific allocations from the Public Education Capital Outlay and Debt Service Trust Fund (PECO). The Legislature is required to give priority consideration to funds for remodeling, renovation,

[9] s. 1013.60(3)(a), F.S.
[10] s. 1013.61, F.S.
[11] Id.
[12] Id.

maintenance, repairs, and site improvement for existing satisfactory facilities for appropriations allocated to district school boards from the total amount of PECO.[13]

Prior to spending funds from PECO or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any ancillary plant or any other new construction, renovation, or remodeling of ancillary space, each district school board is required to meet all educational plant space needs of its elementary, middle, and high schools.[14] Section 1013.64(6)(b)1, Florida Statutes, limits district school boards to specified amounts when using funds from the following for any new construction of educational plant space:

- PECO;
- School District and Community College District Capital Outlay and Debt Service Trust Fund;
- Classrooms First Program funds;
- Effort Index Grant Funds;
- Non-voted 2-mill levy of ad valorem property taxes;
- Classrooms for Kids Infrastructure Program funds; or
- District Effort Recognition funds.

The total cost per student station, when using funds from these sources, are limited to the following:

- $12,755 for an elementary school;
- $14,624 for a middle school;
- $19,352 for a high school.

Although current law provides that these amounts are annually adjusted based on changes to the Consumer Price Index (CPI), these base amounts have not been adjusted since the year 2002.[15]

Construction Costs

According to the Department of Education, construction costs have increased dramatically for district schools. This is partially based on the constitutional class size amendment approved by the voters in 2002. The implementation of the class size amendment requires an increased number of classrooms to be built to accommodate the same number of students. Additionally, construction costs in general have accelerated rapidly in the last few years.

In the summer of 2005, the Department of Education collected data on public school construction over a multi-year period, and applied methodology to calculate the increase in costs due to inflation factors other than those included in the traditional CPI formula. The Department requested information from all school districts, and received data on the rate of overall inflation tied to costs of school construction from Brevard, Hillsborough, Sarasota, and Orange.

As provided in the table below, Brevard County and Hillsborough County reported about a 31% increase and a 23% increase, respectively, over a five-year period.

Sarasota County experienced approximately a 24% increase over two years, and Orange County showed an increase of 32% over three years.

County	Time Period in Years	Approximate Overall Percentage of Increase in Inflation
Brevard	5	31.60
Hillsborough	5	22.92
Sarasota	2	24.32

[13] s. 1013.64(1)(a), F.S.
[14] s. 1013.64(6)(a), F.S.
[15] Id.

Orange	3	32.26

As these figures reflect the total increase in inflation, including that already represented in the CPI, the Department adjusted these amounts down by the 13.23% credited to the CPI. The Department additionally weighted the average of the percent of classrooms needed, to reflect the accurate proportion of elementary to middle to high schools. In its final analysis, the Department recommended the following maximum amounts as the total cost per student station:

- Elementary School: $17,952;
- Middle School: $19,386; and
- High School: $25,181.

Proposed Changes

School construction costs have risen significantly in recent years and student station costs exceed, in most instances, those listed in statute. School Boards have provided the Department of Education justification for the increased costs. This bill updates the maximum fixed cost per student station from the 2002 adjustment currently provided in statute. Although the cost per student station is tied to the Consumer Price Index, this adjustment reflects the finding that the sudden increase in costs for construction materials in this state is not sufficiently captured in the CPI. Additionally, these figures account for the increased cost of construction due to the expected implementation of the class size amendment. This bill is expected to adjust cost per student station at a rate that keeps pace with the recent and significant increase in cost of construction.

Florida Medallion Scholars

The Florida Bright Futures Scholarship Program is a lottery-funded scholarship program created by the 1997 Legislature to reward Florida high school graduates who merit recognition of high academic achievement and enroll in a degree program, certificate program, or applied technology program at an eligible Florida postsecondary institution. A student must initiate use of his or her scholarship within three years of high school graduation and may receive the scholarship for seven years following high school graduation.

The Bright Futures Scholarship Program is an "umbrella" program providing three types of scholarships: the Florida Academic Scholarship, the Florida Medallion Scholarship, and the Florida Gold Seal Vocational Scholarship. General eligibility criteria, initial eligibility criteria, and renewal criteria are set forth in statute.

The award amount for a Bright Futures scholarship is prescribed in statute as a percent of tuition and fees at a public postsecondary institution. Recipients of the Florida Medallion Scholarship receive the equivalent of 75% of the cost of tuition and fees at a public postsecondary institution.

According to the Office of Student Financial Assistance End-of-Year Report for 2004-2005, a total of $176 million dollars was provided to 102,741 student recipients of a Florida Medallion Scholarship; the average award amount equaling $1,716 per student. From this total, $21.5 million dollars were awarded to the 21,970 community college students receiving a Florida Medallion Scholarship, for an average award amount of $980 per student.

Proposed Changes

The bill amends the award amount for Florida Medallion Scholars attending a community college to equal the amount required to pay 100 percent of tuition and fees for the college credit courses leading to an associate degree. The bill includes paying 100 percent of tuition and fees for Florida Medallion Scholars already enrolled in a community college. The projected cost per credit hour for community colleges and lower level universities courses is $67.66 and $107.23 respectively.

Since most students will have already committed to an institution at the time the bill becomes law, no change in behavior is expected the first year. The projected cost for the first year is a little over $9 million. If 15% of medallion scholarship recipients that would have gone to a university attend a community college instead, the cost would only be a little over $3 million. The House of Representatives Proposed General Appropriations Bill, PCB FC 06-01, includes $10 million for the additional cost. It is projected that over time more medallion scholarship recipients will attend a community college and the state will experience a cost savings in the due to this policy.

Florida Education Finance Program

Outline of Funding Formula

The Legislature enacted the Florida Education Finance Program (FEFP) in 1973. Part II of Chapter 1011, Florida Statutes, addresses funding for school districts. The purpose of the FEFP is to legislate school funding uniformity by providing each student in the public school system with those programs and services specific to his or her educational needs. The Legislature provides an FEFP formula that matches state dollars with local effort funding, as reflected in millage rates. To accomplish the goal of equity, the FEFP formula includes the following items:

- Local property tax bases;
- Education program costs;
- Costs of living; and
- Costs for equivalent educational programs due to sparsity and dispersion of student population.

The FEFP is the primary method used to calculate operating costs of public schools. The policy behind the FEFP is to base financial support for education upon the individual student participating in a particular educational program rather than upon the numbers of teachers or classrooms. FEFP funds are generated by multiplying the number of full-time equivalent (FTE) students in each of the funded educational programs by cost factors to obtain weighted FTEs. Weighted FTEs are then multiplied by a base student allocation and by a district cost differential in the major calculation to determine base funding from state and local FEFP funds.

The program cost factors serve to assure that each program receives its equitable share of funds in relation to its relative cost per student. Through the annual program cost report, districts have reported the expenditures for each FEFP program. The cost per FTE student of each FEFP program has been used to produce an index of relative costs with the cost per FTE of Basic, Grades 4-8, established as the 1.000 base. As of 2000-2001, exceptional students who previously would have been classified in Support Levels 1, 2, and 3 are funded at the appropriate Basic Program weight for their grade level. These students are reported separately in FTE surveys in the applicable Basic Program "with ESE services." Additional funding for these students is provided by the ESE Guaranteed Allocation component.

Multiplying the FTE students for a program by its cost factor produces "weighted FTE." This calculation "weights" the FTE to reflect the relative costs of the programs as represented by the program cost factors. Program cost factors established for use in 2005-06 are as follows:

	2005-06 Cost Factors
(1) Basic Programs	
• 101 - Kindergarten and Grades 1, 2, and 3	1.018
• 102 - Grades 4, 5, 6, 7, and 8	1.000
• 103 - Grades 9, 10, 11, and 12	1.113
(2) Programs for Exceptional Student Education	
• 111 - Kindergarten and Grades 1, 2, and 3 with ESE Services	1.018
• 112 - Grades 4, 5, 6, 7, and 8 with ESE Services	1.000

- 113 - Grades 9, 10, 11, and 12 with ESE Services 1.113
- 254 -Support Level 4 3.818
- 255 - Support Level 5 5.190

(3) 130 - English for Speakers of Other Languages 1.318

(4) 300 - Programs for Grades 9-12 Career Education 1.193

To provide for the planned use of FEFP funds, the Legislature has established the following combination of programs during the 180-day regular school year and summer school:

Group	Program Group Title
1	Basic Education Programs
2	Exceptional Education for Support Levels 4 and 5 English for Speakers of Other Languages Grades 9-12 Career Education Programs

Only Department of Juvenile Justice students and students who have completed credit through the Florida Virtual School are eligible for funding through summer school FTE reporting.[16]

Weighted FTE Cap

Program Group 2 has an enrollment ceiling (cap) that is established based on each district's estimates (as modified by legislative policy) of FTE in each FEFP program. District estimates are reviewed and approved by a state enrollment estimating conference. The appropriated FTE in each program is multiplied by the program's cost factor. The resulting weighted FTE, aggregated by program group, establishes the group cap. The cap is increased for weighted full-time equivalent student membership from the prior year for clients of the Department of Children and Family Services and the Department of Juvenile Justice. After actual FTE is reported, Group 2 FTE in excess of the cap are not eligible for funding. A cap of 416,649.10 weighted FTE was calculated for Group 2 for the 2005-06 FEFP third calculation, which resulted in 3,345.06 weighted FTE over the enrollment ceiling. When dividing by the basic cost factor, there are 2,106.09 unweighted FTE that are not eligible for funding. There is no enrollment ceiling for Group 1.

Besides the base funding allocation, other primary allocations are the Supplemental Academic Instruction Allocation and the Exceptional Student Education Guaranteed Allocation.[17]

Local Contribution

Local revenue for funding school operation within the FEFP is derived exclusively from property taxes. The procedure for determining each school district's share of the state total required local effort is set out in statute.[18] This process begins with the specification by the Legislature the local ad valorem revenue to be collected. The Department of Revenue certifies the taxable value to the Commissioner of Education in July. The district millage rates are generally determined by dividing the dollar amount of required local effort by 95% of the aggregated taxable value for school purposes of all districts. The millage rates among the districts vary due to the use of assessment ratios intended to equalize the effect on the FEFP of the differing levels of property appraisal in the counties. Individual district rates are then adjusted so that no district generates more than 90% of the revenue generated by the FEFP. Based on the 2005 tax roll provided by the Department, the Commissioner of Education certified the required millage of each district on July 13, 2005. Certifications for 59 of 67 districts varied

[16] s. 1011.62(1)(c)2., F.S.
[17] 2005-06 Funding for Florida School Districts, Statistical Report, Florida Department of Education (EIAS Series 2005-2006, p.1.)
[18] s. 1011.62, F.S.

from 5.501 mills to 4.876 mills due to the use of assessment ratios. The average for the state was 5.239 mills.[19]

A final tax roll, following certification by the Department of Revenue, is submitted no later than September 1st and is used in the final FEFP calculation for the fiscal year Adjustments to the final taxable value are authorized where a school receives an overallocation or underallocation due to assessment roll changes.

Florida Virtual School

Section 1002.37, Florida Statutes, establishes the Florida Virtual School and provides for its governance.
The Virtual School provides courses for students in grades 9 through 12 through electronic means. Public school students can take courses offered through the Virtual School concurrently with courses taken while enrolled in a public school. Section 1002.37(2), Florida Statutes, authorizes the Florida Virtual School to administer the local school funds derived from its activities, accrue supplemental revenue from supplemental support organizations, and establish franchise agreements with district school boards.

The Virtual School is funded in the Florida Education Finance Program with funding based on credit successfully completed. Section 1011.61(1)(c), Florida Statutes, provides that a Florida Virtual School full-time equivalent student shall consist of six full credit completions in specified courses and that credit completions can be a combination of either full or half credit.

Effect of Proposed Changes

The bill amends the Group 2 enrollment ceiling by funding all program FTE in excess of the group 2 cap at a weight of 1.000. The FTE in excess of the enrollment ceiling in the 2005-06 FEFP third calculation are 2,106.09 FTE. This excess FTE generates $7,689,617 in additional 2005-06 funds for 26 districts, when multiplying the FTE in excess of the cap by the Base Student Allocation of $3,742.42 and by the District Cost Differential.

The bill deletes obsolete language related to the establishment of a minimum enrollment ceiling for adult programs.

The bill amends section 1011.62(2), Florida Statutes, providing 0.114 bonus FTE for each FTE reported by the Florida Virtual School. The 2005-06 FTE reported by the Florida Virtual School is 4,565.32 FTE. The bonus adds $1,947,729 in 2005-06 funding (4,565.32 times .114 times the Base Student Allocation of $3,742.42 times the District Cost Differential of 1.000). For 2006-07, the projected FTE of 5,966.66 generate $2,545,594 in additional funds when using the same methodology.

The bill provides various changes in the calculation of the local effort portion required for the Florida Education Finance Program, to reflect current practice.

- The bill requires the Department of Revenue to certify to the Commissioner of Education the total of the prior year final taxable value for school purposes in each school district as well as the total for all school districts in the state, on September 1st of each year.
- The bill clarifies that the amount certified on September 1st is to be the final taxable value for school purposes for that year. Regarding a finding of an underallocation or overallocation due to an assessment roll change, this bill clarifies that an adjustment to correct the error is authorized only when the assessment roll change is required by final judicial decision. Therefore, a final judicial decision constitutes grounds for modification even after the September 1st deadline has passed.

[19] Florida Department of Education, supra note 1, at 2.

- In referring to a duty of the Commissioner of Education, section 1011.62(4)(a)2., Florida Statutes, incorrectly cross-references a section relating to a duty of the Department of Revenue. This bill corrects the cross-reference.

C. SECTION DIRECTORY:

Section 1. Amends section 201.15, F.S., specifying that the $105 million appropriation shall be distributed according to the Classroom Capacity Assistance Grant Program in lieu of $75 million based on the Classrooms for Kids Program and $30 million based on the High Growth County District Capital Outlay Assistance Grant Program.

Section 2. Amends section 201.15, F.S., effective July 1, 2007, specifying that the $105 million appropriation shall be distributed according to the Classroom Capacity Assistance Grant Program in lieu of $75 million based on the Classrooms for Kids Program and $30 million based on the High Growth County District Capital Outlay Assistance Grant Program.

Section 3. Amends section 201.15, F.S., specifying that slot machine tax revenue shall first be used to service bond debt, if necessary before being used to fund other programs.

Section 4. Amends section 1003.06, F.S., delaying by one year the implementation of the school level average class size calculations.

Section 5. Amends section 1009.535, F.S., increasing the Florida Medallion Scholars award within the Bright Futures Program from 75% to 100% of tuition and fees for students enrolled in community colleges.

Section 6. Amends section 1011.62, F.S., codifying current practice by providing a single fixed date for Department of Revenue certification of the final taxable value; clarifying that assessment role changes due to a final judicial decision are incorporated into the calculation of the Florida Education Finance Program; authorizing funding a weight of 1.00 the FTE over the Group 2 enrollment ceiling; and authorizing additional FTE for the Florida Virtual School.

Section 7. Amends section 1013.64, F.S., updating the fixed cost per student station and deleting the requirement that moneys distributed to the Public Education Capital Outlay and Debt Service Trust Fund pursuant to section 201.15(1)(d), F.S., to fund the Classrooms for Kids Program created in section 1013.735, F.S., and the High Growth County District Capital Outlay Assistance Grant Program created in section 1013.738, F.S., shall be distributed as provided in those programs.

Section 8. Creates section 1013.734, F.S., creating the Class Size Reduction Construction Completion Program, specifying a distribution methodology, specifying program requirements, and specifying the use of the funds.

Section 9. Amends section 1013.738, F.S., deleting from statute the requirement that the appropriation to the Public Education Capital Outlay and Debt Service Trust Fund, pursuant to section 201.15(1), F.S., and to the High Growth District Capital Outlay Assistance Grant Program be distributed as provided by the respective program.

Section 10. Creates section 1013.739, F.S., creating the Classroom Capacity Assistance Grant Program, specifying a distribution methodology, specifying program requirements, and specifying the use of the funds.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See "FISCAL IMPACT ON LOCAL GOVERNMENTS."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

3. Revenues:

   The Class Size Construction Completion Program allocation formula allocates 60% of the funds on base FTE, whereas the Classrooms for Kids allocation formula allocates 25% of the funds on base FTE and a larger portion on growth in capital outlay FTE. However, 2006-07 district allocations of the Class Size Construction Completion Program are not known at this time and will be calculated upon the availability of the 2005-06 capital outlay FTE, which will be late summer of 2006. The Florida House of Representatives Proposed General Appropriations Act, PCB FC 06-01, appropriates $1.1 billion for this program.

   The Classroom Capacity Completion Program allocation formula allocates 70% of the funds based on growth with the remaining funds allocated on base FTE and age of facilities. Because a portion of the funds are allocated on base FTE and age of facilities, all districts will receive an allocation. The 2006-07 district allocations for this program are not known at this time and will be calculated upon the availability of the 2005-06 capital outlay FTE, which will be late summer of 2006. The Florida House of Representatives Proposed General Appropriations Act, PCB FC 06-01, appropriates $105 million for this program.

   The bill increases the Florida Medallion Scholars award within Bright Futures from 75% to 100% for students enrolled in community colleges. This policy is expected to increase program costs by a little over $9 million in the 2006-07 fiscal year, assuming there is no shift in enrollment from the state university system to community colleges. The House of Representatives Proposed General Appropriations Bill, PCB FC 06-01, includes $10 million for this projected increase. However, it is probable that the policy will cause a shift in lower level enrollment from the state university system to community colleges. In the event 15% of lower level state university system students shift to community colleges, the projected cost decreases to a little over $3 million. A large shift in students in future years coupled with increased tuition, could result in a cost savings in state funds. The House of Representatives Proposed General Appropriations Bill, PCB FC 06-01, includes $10 million for this projected increase.

   The bill increases state funding for the 2005-06 Florida Education Finance Program by $9.6 million ($1.9 to the Florida Virtual School and $7.7 to twenty-six districts to fund over the Group 2 cap at 1.00). The $7.7 million will be paid from the $145 million excess 2005-06 FEFP funds. The future fiscal impact of this policy is unknown; however, it could be significant.

   The inclusion of an additional weight of 0.114 for each FTE reported by the Florida Virtual School is projected to provide the Florida Virtual School with $1.9 million in the 2005-06 fiscal year and $2.5 million in the 2006-07 fiscal year.

   School construction costs have risen significantly in recent years and student station costs exceed, in most instances, those listed in statute. School Boards have provided the Department of Education justification for the increased costs. This bill updates the maximum fixed cost per student station from the 2002 adjustment currently provided in statute. Because districts are constructing schools at the market cost, this bill does not impact the cost of school construction.

1. Expenditures:

See "FISCAL IMPACT ON LOCAL GOVERNMENTS."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill redirects the $105 million appropriated in section 201.15(1), F.S., for school districts with FTE student growth, from the Classroom for Kids Program and the High Growth County District Capital Outlay Assistance Grant Program to the Classroom Capacity Assistance Grant Program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to education funding; amending s. 201.15,
3 F.S.; revising the use of excise taxes on documents
4 distributed to the Public Education Capital Outlay and
5 Debt Service Trust Fund; amending s. 551.106, F.S.;
6 allowing slot machine tax revenue to be made available for
7 bond payments if necessary to comply with bond covenants;
8 amending s. 1003.03, F.S.; revising the schedule of the
9 implementation of class size compliance at the district
10 and school levels; amending s. 1009.535, F.S.; increasing
11 the award for Florida Medallion Scholars enrolled in
12 community college associate degree programs; amending s.
13 1011.62, F.S.; revising provisions relating to the funding
14 computation of special programs; authorizing additional
15 full-time equivalent membership for the Florida Virtual
16 School; revising provisions relating to the prior year
17 final taxable value; amending s. 1013.64, F.S.; revising
18 construction cost maximums for school district capital
19 outlay projects; conforming provisions; creating s.
20 1013.734, F.S.; establishing the Class Size Reduction
21 Construction Completion Program; providing for the
22 allocation of funds; providing requirements for district
23 participation in the program; providing for use of the
24 funds; amending s. 1013.738, F.S.; conforming provisions;
25 creating s. 1013.739, F.S.; establishing the Classroom
26 Capacity Assistance Grant Program; providing for the
27 allocation of funds; providing requirements for district
28 participation in the program; providing for use of the
29 funds; providing effective dates.

30
31 Be It Enacted by the Legislature of the State of Florida:
32
33 Section 1. Paragraph (d) of subsection (1) of section
34 201.15, Florida Statutes, is amended to read:
35 201.15 Distribution of taxes collected.--All taxes
36 collected under this chapter shall be distributed as follows and
37 shall be subject to the service charge imposed in s. 215.20(1),
38 except that such service charge shall not be levied against any
39 portion of taxes pledged to debt service on bonds to the extent
40 that the amount of the service charge is required to pay any
41 amounts relating to the bonds:
42 (1) Sixty-two and sixty-three hundredths percent of the
43 remaining taxes collected under this chapter shall be used for
44 the following purposes:
45 (d) The remainder of the moneys distributed under this
46 subsection, after the required payments under paragraphs (a),
47 (b), and (c), shall be paid into the State Treasury to the credit
48 of:
49 1. The State Transportation Trust Fund in the Department of
50 Transportation in the amount of $541.75 million in each fiscal
51 year, to be paid in quarterly installments and used for the
52 following specified purposes, notwithstanding any other law to
53 the contrary:
54 a. For the purposes of capital funding for the New Starts
55 Transit Program, authorized by Title 49, U.S.C. s. 5309 and
56 specified in s. 341.051, 10 percent of these funds;
57 b. For the purposes of the Small County Outreach Program
58 specified in s. 339.2818, 5 percent of these funds;

59 c. For the purposes of the Strategic Intermodal System
60 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
61 of these funds after allocating for the New Starts Transit
62 Program described in sub-subparagraph a. and the Small County
63 Outreach Program described in sub-subparagraph b.; and
64 d. For the purposes of the Transportation Regional
65 Incentive Program specified in s. 339.2819, 25 percent of these
66 funds after allocating for the New Starts Transit Program
67 described in sub-subparagraph a. and the Small County Outreach
68 Program described in sub-subparagraph b.
69 2. The Water Protection and Sustainability Program Trust
70 Fund in the Department of Environmental Protection in the amount
71 of $100 million in each fiscal year, to be paid in quarterly
72 installments and used as required by s. 403.890.
73 3. The Public Education Capital Outlay and Debt Service
74 Trust Fund in the Department of Education in the amount of $105
75 million in each fiscal year, to be paid in monthly installments
76 for the purpose of funding the Classroom Capacity Assistance
77 Grant Program established pursuant to s. 1013.739 ~~with $75~~
78 ~~million used to fund the Classrooms for Kids Program created in~~
79 ~~s. 1013.735, and $30 million to be used to fund the High Growth~~
80 ~~County District Capital Outlay Assistance Grant Program created~~
81 ~~in s. 1013.738. If required, new facilities constructed under the~~
82 ~~Classrooms for Kids Program must meet the requirements of s.~~
83 ~~1013.372~~.
84 4. The Grants and Donations Trust Fund in the Department of
85 Community Affairs in the amount of $3.25 million in each fiscal
86 year to be paid in monthly installments, with $3 million to be
87 used to fund technical assistance to local governments and school

88 boards on the requirements and implementation of this act and
89 $250,000 to be used to fund the Century Commission established in
90 s. 163.3247.
91
92 Moneys distributed pursuant to this paragraph may not be pledged
93 for debt service unless such pledge is approved by referendum of
94 the voters.
95 Section 2. Effective July 1, 2007, paragraph (d) of
96 subsection (1) of section 201.15, Florida Statutes, as amended by
97 chapter 2005-92, Laws of Florida, is amended to read:
98 201.15 Distribution of taxes collected.--All taxes
99 collected under this chapter shall be distributed as follows and
100 shall be subject to the service charge imposed in s. 215.20(1),
101 except that such service charge shall not be levied against any
102 portion of taxes pledged to debt service on bonds to the extent
103 that the amount of the service charge is required to pay any
104 amounts relating to the bonds:
105 (1) Sixty-two and sixty-three hundredths percent of the
106 remaining taxes collected under this chapter shall be used for
107 the following purposes:
108 (d) The remainder of the moneys distributed under this
109 subsection, after the required payments under paragraphs (a),
110 (b), and (c), shall be paid into the State Treasury to the credit
111 of:
112 1. The State Transportation Trust Fund in the Department of
113 Transportation in the amount of $541.75 million in each fiscal
114 year, to be paid in quarterly installments and used for the
115 following specified purposes, notwithstanding any other law to
116 the contrary:

117 a. For the purposes of capital funding for the New Starts
118 Transit Program, authorized by Title 49, U.S.C. s. 5309 and
119 specified in s. 341.051, 10 percent of these funds;
120 b. For the purposes of the Small County Outreach Program
121 specified in s. 339.2818, 5 percent of these funds;
122 c. For the purposes of the Strategic Intermodal System
123 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
124 of these funds after allocating for the New Starts Transit
125 Program described in sub-subparagraph a. and the Small County
126 Outreach Program described in sub-subparagraph b.; and
127 d. For the purposes of the Transportation Regional
128 Incentive Program specified in s. 339.2819, 25 percent of these
129 funds after allocating for the New Starts Transit Program
130 described in sub-subparagraph a. and the Small County Outreach
131 Program described in sub-subparagraph b.
132 2. The Water Protection and Sustainability Program Trust
133 Fund in the Department of Environmental Protection in the amount
134 of $100 million in each fiscal year, to be paid in quarterly
135 installments and used as required by s. 403.890.
136 3. The Public Education Capital Outlay and Debt Service
137 Trust Fund in the Department of Education in the amount of $105
138 million in each fiscal year, to be paid in monthly installments
139 <u>for the purpose of funding the Classroom Capacity Assistance</u>
140 <u>Grant Program established pursuant to s. 1013.739</u> ~~with $75~~
141 ~~million used to fund the Classrooms for Kids Program created in~~
142 ~~s. 1013.735, and $30 million to be used to fund the High Growth~~
143 ~~County District Capital Outlay Assistance Grant Program created~~
144 ~~in s. 1013.738. If required, new facilities constructed under the~~
145 ~~Classrooms for Kids Program must meet the requirements of s.~~

146 ~~1013.372~~.
147 4. The Grants and Donations Trust Fund in the Department of
148 Community Affairs in the amount of $3.25 million in each fiscal
149 year to be paid in monthly installments, with $3 million to be
150 used to fund technical assistance to local governments and school
151 boards on the requirements and implementation of this act and
152 $250,000 to be used to fund the Century Commission established in
153 s. 163.3247.
154
155 Moneys distributed pursuant to this paragraph may not be pledged
156 for debt service unless such pledge is approved by referendum of
157 the voters.
158 Section 3. Paragraph (c) of subsection (2) of section
159 551.106, Florida Statutes, is amended to read:
160 551.106 License fee; tax rate; penalties.--
161 (2) TAX ON SLOT MACHINE REVENUES.--
162 (c)1. Funds transferred to the Educational Enhancement
163 Trust Fund under paragraph (b) shall be used to supplement public
164 education funding statewide and shall not be used for recurring
165 appropriations.
166 2. If necessary to comply with any covenant established
167 pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3),
168 funds transferred to the Educational Enhancement Trust Fund under
169 paragraph (b) shall first be available to pay debt service on
170 lottery bonds issued to fund school construction in the event
171 lottery revenues are insufficient for such purpose or to satisfy
172 debt service reserve requirements established in connection with
173 lottery bonds. Moneys available pursuant to this subparagraph are
174 subject to annual appropriation by the Legislature.

175 Section 4. Paragraph (b) of subsection (2) of section
176 1003.03, Florida Statutes, is amended to read:
177 1003.03 Maximum class size.--
178 (2) IMPLEMENTATION.--
179 (b) Determination of the number of students per classroom
180 in paragraph (a) shall be calculated as follows:
181 1. For fiscal years 2003-2004 through 2006-2007 ~~2005-2006~~,
182 the calculation for compliance for each of the 3 grade groupings
183 shall be the average at the district level.
184 2. For fiscal year ~~years 2006-2007 through~~ 2007-2008, the
185 calculation for compliance for each of the 3 grade groupings
186 shall be the average at the school level.
187 3. For fiscal years 2008-2009, 2009-2010, and thereafter,
188 the calculation for compliance shall be at the individual
189 classroom level.
190 Section 5. Subsection (2) of section 1009.535, Florida
191 Statutes, is amended to read:
192 1009.535 Florida Medallion Scholars award.--
193 (2) A Florida Medallion Scholar is eligible for an award
194 equal to the amount required to pay 75 percent of tuition and
195 fees, if the student is enrolled in a state university or a
196 baccalaureate degree program authorized pursuant to s. 1007.33. A
197 Florida Medallion Scholar is eligible for an award equal to the
198 amount required to pay 100 percent of tuition and fees for
199 college credit courses leading to an associate degree if the
200 student is enrolled in a community college ~~public postsecondary~~
201 ~~education institution~~. A student who is enrolled in a nonpublic
202 postsecondary education institution is eligible for an award
203 equal to the amount that would be required to pay 75 percent of

204 the tuition and fees of a public postsecondary education
205 institution at the comparable level.
206 Section 6. Effective June 1, 2006, or if this act fails to
207 become a law until after that date, effective upon this act
208 becoming a law and operating retroactively to June 1, 2006,
209 paragraph (d) of subsection (1), paragraphs (a) and (b) of
210 subsection (4), and paragraph (b) of subsection (9) of section
211 1011.62, Florida Statutes, are amended, paragraphs (o), (p), (q),
212 and (r) of subsection (1) are redesignated as paragraphs (p),
213 (q), (r), and (s), respectively, and a new paragraph (o) is added
214 to that subsection, to read:
215 1011.62 Funds for operation of schools.--If the annual
216 allocation from the Florida Education Finance Program to each
217 district for operation of schools is not determined in the annual
218 appropriations act or the substantive bill implementing the
219 annual appropriations act, it shall be determined as follows:
220 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
221 OPERATION.--The following procedure shall be followed in
222 determining the annual allocation to each district for operation:
223 (d) Annual allocation calculation.--
224 1. The Department of Education is authorized and directed
225 to review all district programs and enrollment projections and
226 calculate a maximum total weighted full-time equivalent student
227 enrollment for each district for the K-12 FEFP.
228 2. Maximum enrollments calculated by the department shall
229 be derived from enrollment estimates used by the Legislature to
230 calculate the FEFP. If two or more districts enter into an
231 agreement under the provisions of s. 1001.42(4)(d), after the
232 final enrollment estimate is agreed upon, the amount of FTE

233 specified in the agreement, not to exceed the estimate for the
234 specific program as identified in paragraph (c), may be
235 transferred from the participating districts to the district
236 providing the program.
237 3. As part of its calculation of each district's maximum
238 total weighted full-time equivalent student enrollment, the
239 department shall establish separate enrollment ceilings for each
240 of two program groups. Group 1 shall be composed of basic
241 programs for grades K-3, grades 4-8, and grades 9-12. Group 2
242 shall be composed of students in exceptional student education
243 programs support levels IV and V, English for Speakers of Other
244 Languages programs, and all career programs in grades 9-12 ~~7-12~~.
245 a. For any calculation of the FEFP, the enrollment ceiling
246 for group 1 shall be calculated by multiplying the actual
247 enrollment for each program in the program group by its
248 appropriate program weight.
249 b.~~a.~~ The weighted enrollment ceiling for group 2 programs
250 shall be calculated by multiplying the ~~final~~ enrollment
251 ~~conference estimate~~ for each program by the appropriate program
252 weight as provided in the General Appropriations Act. The
253 weighted enrollment ceiling for program group 2 shall be the sum
254 of the weighted enrollment ceilings for each program in the
255 program group, plus the increase in weighted full-time equivalent
256 student membership from the prior year for clients of the
257 Department of Children and Family Services and the Department of
258 Juvenile Justice.
259 c.~~b.~~ If, for any calculation of the FEFP, the weighted
260 enrollment for program group 2, derived by multiplying actual
261 enrollments by appropriate program weights, exceeds the

262 enrollment ceiling for that group, the following procedure shall
263 be followed to reduce the weighted enrollment for that group to
264 equal the enrollment ceiling:
265 (I) The weighted enrollment ceiling for each program in the
266 program group shall be subtracted from the weighted enrollment
267 for that program derived from actual enrollments.
268 (II) If the difference calculated under sub-sub-
269 subparagraph (I) is greater than zero for any program, a
270 reduction proportion shall be computed for the program by
271 dividing the absolute value of the difference by the total amount
272 by which the weighted enrollment for the program group exceeds
273 the weighted enrollment ceiling for the program group.
274 (III) The reduction proportion calculated under sub-sub-
275 subparagraph (II) shall be multiplied by the total amount of the
276 program group's enrollment over the ceiling as calculated under
277 sub-sub-subparagraph (I).
278 (IV) The prorated reduction amount calculated under sub-
279 sub-subparagraph (III) shall be subtracted from the program's
280 weighted enrollment to produce a revised program weighted
281 enrollment. ~~For any calculation of the FEFP, the enrollment~~
282 ~~ceiling for group 1 shall be calculated by multiplying the actual~~
283 ~~enrollment for each program in the program group by its~~
284 ~~appropriate program weight.~~
285 (V) The prorated reduction amount calculated under sub-sub-
286 subparagraph (III) shall be divided by the appropriate program
287 weight and the result shall be added to the revised program
288 weighted enrollment computed in sub-sub-subparagraph (IV).
289 ~~c. For program group 2, the weighted enrollment ceiling~~
290 ~~shall be a number not less than the sum obtained by:~~

291 ~~(I) Multiplying the sum of reported FTE for all programs in~~
292 ~~the program group that have a cost factor of 1.0 or more by 1.0,~~
293 ~~and~~
294 ~~(II) By adding this number to the sum obtained by~~
295 ~~multiplying the projected FTE for all programs with a cost factor~~
296 ~~less than 1.0 by the actual cost factor.~~
297 ~~4. Following completion of the weighted enrollment ceiling~~
298 ~~calculation as provided in subparagraph 3., a supplemental~~
299 ~~capping calculation shall be employed for those districts that~~
300 ~~are over their weighted enrollment ceiling. For each such~~
301 ~~district, the total reported unweighted FTE enrollment for group~~
302 ~~2 programs shall be compared with the total appropriated~~
303 ~~unweighted FTE enrollment for group 2 programs. If the total~~
304 ~~reported unweighted FTE for group 2 is greater than the~~
305 ~~appropriated unweighted FTE, then the excess unweighted FTE up to~~
306 ~~the unweighted FTE transferred from group 2 to group 1 for each~~
307 ~~district by the Public School FTE Estimating Conference shall be~~
308 ~~funded at a weight of 1.0 and added to the funded weighted FTE~~
309 ~~computed in subparagraph 3.~~
310 (o) Calculation of additional full-time equivalent
311 membership for the Florida Virtual School.--The total reported
312 full-time equivalent student membership for the Florida Virtual
313 School shall be multiplied by 0.114 and such value shall be added
314 to the total full-time equivalent student membership.
315 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.--The
316 Legislature shall prescribe the aggregate required local effort
317 for all school districts collectively as an item in the General
318 Appropriations Act for each fiscal year. The amount that each
319 district shall provide annually toward the cost of the Florida

320 Education Finance Program for kindergarten through grade 12
321 programs shall be calculated as follows:
322 (a) Estimated taxable value calculations.--
323 1.a. Not later than 2 working days prior to July 19, the
324 Department of Revenue shall certify to the Commissioner of
325 Education its most recent estimate of the taxable value for
326 school purposes in each school district and the total for all
327 school districts in the state for the current calendar year based
328 on the latest available data obtained from the local property
329 appraisers. Not later than July 19, the Commissioner of Education
330 shall compute a millage rate, rounded to the next highest one
331 one-thousandth of a mill, which, when applied to 95 percent of
332 the estimated state total taxable value for school purposes,
333 would generate the prescribed aggregate required local effort for
334 that year for all districts. The Commissioner of Education shall
335 certify to each district school board the millage rate, computed
336 as prescribed in this subparagraph, as the minimum millage rate
337 necessary to provide the district required local effort for that
338 year.
339 b. The General Appropriations Act shall direct the
340 computation of the statewide adjusted aggregate amount for
341 required local effort for all school districts collectively from
342 ad valorem taxes to ensure that no school district's revenue from
343 required local effort millage will produce more than 90 percent
344 of the district's total Florida Education Finance Program
345 calculation, and the adjustment of the required local effort
346 millage rate of each district that produces more than 90 percent
347 of its total Florida Education Finance Program entitlement to a

348 level that will produce only 90 percent of its total Florida
349 Education Finance Program entitlement in the July calculation.
350 2. As revised data are received from property appraisers,
351 the Department of Revenue shall amend the certification of the
352 estimate of the taxable value for school purposes. ~~The~~
353 ~~Commissioner of Education, in administering the provisions of~~
354 ~~subparagraph (9)(a)2., shall use the most recent taxable value~~
355 ~~for the appropriate year.~~
356 (b) Final calculation.--
357 1. On September 1 of each year, the Department of Revenue
358 shall~~, upon receipt of the official final assessed value of~~
359 ~~property from each of the property appraisers,~~ certify to the
360 Commissioner of Education the total of the prior year final
361 taxable value ~~total~~ for school purposes in each school district
362 and the total for all school districts in the state~~, subject to~~
363 ~~the provisions of paragraph (d)~~. The commissioner shall use the
364 ~~official~~ final taxable value certified on September 1 for school
365 purposes for each school district in the final calculation of the
366 annual Florida Education Finance Program allocations.
367 2. For ~~the~~ purposes of this paragraph, the official final
368 taxable value for school purposes shall be the taxable value for
369 school purposes on which the tax bills are computed and mailed to
370 the taxpayers, adjusted to reflect final administrative actions
371 of value adjustment boards and judicial decisions pursuant to
372 ~~part I of~~ chapter 194. ~~By September 1 of each year, the~~
373 ~~Department of Revenue shall certify to the commissioner the~~
374 ~~official prior year final taxable value for school purposes.~~ For
375 each county that has not submitted a revised tax roll reflecting
376 final value adjustment board actions and final judicial

377 decisions, the Department of Revenue shall certify the most
378 recent revision of the official taxable value for school
379 purposes. The ~~certified~~ value certified on September 1 shall be
380 the final taxable value for school purposes for that year, and no
381 further adjustments shall be made, except those made pursuant to
382 paragraph (9)(b) ~~subparagraph (9)(a)2~~.
383 (9) TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR
384 CURRENT OPERATION.--The total annual state allocation to each
385 district for current operation for the FEFP shall be distributed
386 periodically in the manner prescribed in the General
387 Appropriations Act.
388 (b) The amount thus obtained shall be the net annual
389 allocation to each school district. However, if it is determined
390 that any school district received an underallocation or
391 overallocation for any prior year because of an arithmetical
392 error, assessment roll change required by final judicial
393 decision, full-time equivalent student membership error, or any
394 allocation error revealed in an audit report, the allocation to
395 that district shall be appropriately adjusted. Beginning with
396 audits for the 2001-2002 fiscal year, if the adjustment is the
397 result of an audit finding in which group 2 FTE are reclassified
398 to the basic program and the district weighted FTE are over the
399 weighted enrollment ceiling for group 2 programs, the adjustment
400 shall not result in a gain of state funds to the district. If the
401 Department of Education audit adjustment recommendation is based
402 upon controverted findings of fact, the Commissioner of Education
403 is authorized to establish the amount of the adjustment based on
404 the best interests of the state.
405 Section 7. Paragraph (b) of subsection (6) and subsection

406 (7) of section 1013.64, Florida Statutes, are amended to read:
407 1013.64 Funds for comprehensive educational plant needs;
408 construction cost maximums for school district capital
409 projects.--Allocations from the Public Education Capital Outlay
410 and Debt Service Trust Fund to the various boards for capital
411 outlay projects shall be determined as follows:
412 (6)
413 (b)1. A district school board, including a district school
414 board of an academic performance-based charter school district,
415 must not use funds from the following sources: Public Education
416 Capital Outlay and Debt Service Trust Fund; School District and
417 Community College District Capital Outlay and Debt Service Trust
418 Fund; Classrooms First Program funds provided in s. 1013.68;
419 effort index grant funds provided in s. 1013.73; nonvoted 2-mill
420 levy of ad valorem property taxes provided in s. 1011.71(2);
421 Classrooms for Kids ~~Infrastructure~~ Program funds provided in s.
422 1013.735; or District Effort Recognition Program funds provided
423 in s. 1013.736 for any new construction of educational plant
424 space with a total cost per student station, including change
425 orders, that equals more than:
426 a. $17,952 ~~$12,755~~ for an elementary school,
427 b. $19,386 ~~$14,624~~ for a middle school, or
428 c. $25,181 ~~$19,352~~ for a high school,
429
430 (January 2006 ~~2002~~) as adjusted annually to reflect increases or
431 decreases in the Consumer Price Index.
432 2. A district school board must not use funds from the
433 Public Education Capital Outlay and Debt Service Trust Fund or
434 the School District and Community College District Capital Outlay

435 and Debt Service Trust Fund for any new construction of an
436 ancillary plant that exceeds 70 percent of the average cost per
437 square foot of new construction for all schools.
438 ~~(7) Moneys distributed to the Public Education Capital~~
439 ~~Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d) to~~
440 ~~fund the Classrooms for Kids Program created in s. 1013.735 and~~
441 ~~the High Growth County District Capital Outlay Assistance Grant~~
442 ~~Program created in s. 1013.738 shall be distributed as provided~~
443 ~~by those sections.~~
444 Section 8. Section 1013.734, Florida Statutes, is created
445 to read:
446 1013.734 Class Size Reduction Construction Completion
447 Program.--
448 (1) ALLOCATION.--The department shall allocate funds
449 appropriated to school districts excluding lab schools for the
450 Class Size Reduction Construction Completion Program, which is
451 hereby established. It is the intent of the Legislature that this
452 program be administered as nearly as practicable in the same
453 manner as the capital outlay program authorized under s. 9(a),
454 Art. XII of the State Constitution. Each district school board's
455 share of the annual appropriation for the Class Size Reduction
456 Construction Completion Program must be calculated according to
457 the following formula:
458 (a) Sixty percent of the appropriation shall be prorated to
459 the districts based on each district's percentage of K-12 prior
460 year capital outlay full-time equivalent membership.
461 (b) Thirty percent of the appropriation shall be based on
462 each district's percentage of K-12 growth capital outlay full-
463 time equivalent membership as specified for the allocation of

464 funds from the Public Education Capital Outlay and Debt Service
465 Trust Fund by s. 1013.64(3).
466 (c) Ten percent of the appropriation shall be allocated
467 among the districts according to the allocation formula in s.
468 1013.64(1)(a), excluding adult vocational technical facilities.
469 (2) DISTRICT PARTICIPATION.--In order to participate in the
470 Class Size Reduction Construction Completion Program, a district
471 school board shall:
472 (a) Enter into an interlocal agreement pursuant to s.
473 1013.33.
474 (b) Certify that the district's inventory of facilities
475 listed in the Florida Inventory of School Houses is accurate and
476 up to date pursuant to s. 1013.31.
477 (3) USE OF FUNDS.--In order to provide additional capacity
478 to meet class size reduction requirements by the 2010-2011 fiscal
479 year pursuant to s. 1003.03, a district school board shall expend
480 the funds received pursuant to this section only to construct or
481 remodel educational facilities. However, a district school board
482 may expend such funds for renovations if it certifies to the
483 Commissioner of Education that the primary purpose of the
484 renovation is to increase capacity. A district school board that
485 certifies to the commissioner that all of the district's
486 instructional space needs for the next 5 years can be met from
487 capital outlay sources that the district reasonably expects to
488 receive during the next 5 years may expend the funds to
489 construct, renovate, remodel, or repair educational facilities
490 that do not result in additional capacity.
491 Section 9. Subsection (4) of section 1013.738, Florida
492 Statutes, is amended to read:

493 1013.738 High Growth District Capital Outlay Assistance
494 Grant Program.--
495 ~~(4) Moneys distributed to the Public Education Capital~~
496 ~~Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d)~~
497 ~~for the High Growth District Capital Outlay Assistance Grant~~
498 ~~Program created in this section shall be distributed as provided~~
499 ~~by this section.~~
500 Section 10. Section 1013.739, Florida Statutes, is created
501 to read:
502 1013.739 Classroom Capacity Assistance Grant Program.--
503 (1) ALLOCATION.--The department shall allocate funds
504 appropriated to school districts excluding lab schools for the
505 Classroom Capacity Assistance Grant Program, which is hereby
506 established. It is the intent of the Legislature that this
507 program be administered as nearly as practicable in the same
508 manner as the capital outlay program authorized under s. 9(a),
509 Art. XII of the State Constitution. Each district school board's
510 share of the annual appropriation for the Classroom Capacity
511 Assistance Grant Program must be calculated according to the
512 following formula:
513 (a) Twenty-five percent of the appropriation shall be
514 prorated to the districts based on each district's percentage of
515 K-12 prior year capital outlay full-time equivalent membership.
516 (b) Seventy percent of the appropriation shall be based on
517 each district's percentage of K-12 growth capital outlay full-
518 time equivalent membership as specified for the allocation of
519 funds from the Public Education Capital Outlay and Debt Service
520 Trust Fund by s. 1013.64(3).

521 (c) Five percent of the appropriation shall be allocated
522 among the districts according to the allocation formula in s.
523 1013.64(1)(a), excluding adult vocational technical facilities.
524 (2) DISTRICT PARTICIPATION.--In order to participate in the
525 Classroom Capacity Assistance Grant Program, a district school
526 board shall:
527 (a) Enter into an interlocal agreement pursuant to s.
528 1013.33.
529 (b) Certify that the district's inventory of facilities
530 listed in the Florida Inventory of School Houses is accurate and
531 up to date pursuant to s. 1013.31.
532 (3) USE OF FUNDS.--In order to provide additional capacity
533 to meet class size reduction requirements by the 2010-2011 fiscal
534 year pursuant to s. 1003.03, a district school board shall expend
535 the funds received pursuant to this section only to construct or
536 remodel educational facilities. However, a district school board
537 may expend such funds for renovations if it certifies to the
538 Commissioner of Education that the primary purpose of the
539 renovation is to increase capacity.
540 Section 11. Except as otherwise expressly provided in this
541 act, this act shall take effect July 1, 2006.

Amendment No. (for drafter's use only)

Bill No. **PCB FC 06-03**

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: Fiscal Council
2 Representative Pickens offered the following:
3
4 **Amendment**
5 Between lines 174 and 175 insert:
6
7 Section 4. Paragraph (a) of subsection (2) of section
8 1001.451, Florida Statutes, is amended to read:
9
10 1001.451. Regional consortium service organizations.
11 (2)
12 (a) Each regional consortium service organization that
13 consists of four or more school districts is eligible to
14 receive, through the Department of Education, an incentive grant
15 of $50,000 per school district and eligible member to be used
16 for the delivery of services within the participating school
17 districts. <u>The determination of services and use of such funds</u>
18 <u>shall be established by the board of directors of the regional</u>
19 <u>consortium service organization. The funds shall be distributed</u>
20 <u>to each regional consortium service organization no later than</u>

21 30 days following the release of the funds to the Department of
22 Education.
23
24 ========== T I T L E A M E N D M E N T ==========
25 Insert between lines 7 and 8:
26
27 amending s. 1001.451, F.S.; authorizing regional consortium
28 service organizations to determine the use of funds; specifying
29 the time period for distribution of funds to regional consortium
30 service organizations;
31
32
33
34
35
36

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-04 Health Care
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 390

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Speir	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB FC 06-04 makes a number of changes to the Medicaid Program. These statutory changes are necessary to implement the Medicaid funding decisions included in the House version of the General Appropriations Act. Specifically, the bill does the following:

- Repeals implementation of a nursing home staffing increase.
- Provides adult partial-denture benefits.
- Provides adult vision benefits.
- Increases the Managed Care/MediPass assignment ratio from 60/40 to 65/35.
- Amends the Disproportionate Share program.
- Removes a requirement that the hospitalist program replace existing utilization review.
- Changes the enrollment effective date for provider applications.
- Replaces emergency room co-payment for non-emergency visits with a co-insurance not to exceed $15.
- Allows managed care rates to be adjusted for health status.
- Requires the Florida Healthy Kids Corporation to refund unspent local match.

The bill allows the state to implement $16.3 billion in Medicaid funding.

This bill has an effective date of July 1, 2006.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill enables the Medicaid program to provide $16.3 billion in services to 2.3 million recipients.

Promote Personal Responsibility—This bill provides adult Medicaid recipients with vision and partial denture services.

B. EFFECT OF PROPOSED CHANGES:

Repeal of Nursing Home Staffing Increase

In 2000, the Legislature created the Task Force on Availability and Affordability of Long-Term Care to evaluate issues related to quality, liability insurance, and reimbursement in long-term care. The task force heard public testimony and research findings in its deliberations. Although consensus was not reached, recommendations were drafted as a staff report of information discussed by and presented to the task force. Much of the staff report served as a basis for chapter 2001-45, Laws of Florida. The legislation had a multi-prong approach incorporating reforms in tort liability, quality of care and enforcement, and corresponding reimbursement. Adequacy of staffing was central to the quality reforms.

In recognition of the fact that the majority of nursing home care is paid by Medicaid, the Legislature acknowledged that staffing increases should be supported by an additional Medicaid appropriation to pay for the additional staff required. It was also understood that to obtain a desired level of 2.9 certified nursing assistant hours per resident per day would require additional staff recruitment efforts. Therefore, a gradual increase to 2.9 was enacted in s. 400.23, F. S., specifying the nursing assistant ratio increases to 2.3 effective January 1, 2002; 2.6 effective January 1, 2003; and 2.9 effective January 1, 2004. Additional Medicaid funding for reimbursement of the increased staffing was authorized for each year. Staffing was also enhanced by increased training and documentation requirements in nursing homes.

The Legislature has delayed the effective date of the increase to 2.9 hours certified nursing assistant hours per resident per day during the last three regular sessions. Current law has July 1, 2006, as the effective date of the increase. This bill will repeal the increase.

Family Planning Waiver

The current family planning waiver began on December 1, 2003, and will expire on November 30, 2006. All women who lose Medicaid and have had a pregnancy related service during the two years prior to losing Medicaid are eligible as long as the family income is 185 percent or less of the federal poverty level. The women are eligible for up to two years. They must actively seek enrollment in the program through a county health department, as well as re-enrollment for the second year.

Because of changes in federal requirements, changes in the Florida Family Planning Waiver Program are required. The required change to Florida statutes would allow for a woman living in a family and who would otherwise be exiting Medicaid to be eligible to enroll in the family planning waiver for up to two years if their income remains under 185 percent of the federal poverty level. Previously, only those who had had a pregnancy-related service in the prior two years were eligible.

Adult Partial-Dentures

Medicaid provides full dentures for recipients, but not partial dentures. This policy requires the removal of all a recipient's teeth, which Medicaid reimburses, before a recipient may receive dentures. This bill would allow recipients to receive partial dentures.

Adult Vision Benefits

The Adult Dental, Visual and Hearing services program was eliminated, effective July 1, 2002, in the 2001 Special Session "C" (chapter 2001-377, Laws of Florida). The 2002E Legislature restored the hearing and vision services with non-recurring funds prior to the elimination of the services on July 1, 2002. The 2003 Legislature did not continue the funding for adult vision services, so they were eliminated effective July 1, 2003.

Florida's Medicaid Program currently provides, under optional Medicaid services, reimbursement for visual services rendered by licensed, Medicaid participating ophthalmologists, optometrists and opticians. Medicaid reimbursable services include visual examinations, refractions, eyeglasses and eyeglass repairs for children less than 21 years of age. Services for recipients age 21 and older are limited to prosthetic eyes and specialized contact lenses. There is a $2 recipient co-payment for optometric services per provider per day unless the recipient is exempt.

This bill amends s. 409.906, F. S., to provide adult vision services to approximately 675,000 adult Medicaid recipients. Services will include one pair of eyeglasses per recipient every two years, as well as necessary eyeglass repairs. Contact lenses are provided to recipients who have unilateral aphakia or bilateral aphakia.

Managed Care/MediPass Assignment Ratio

Section 409.9122, F.S., governs Medicaid enrollment procedures. Recipients are allowed to choose between a managed care plan and a MediPass provider at the time of enrollment recipients, with certain exceptions. When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency assigns 60 percent of the Medicaid recipients to a managed care plan and 40 percent to a MediPass provider.

The Agency for Health Care Administration (AHCA) indicates that the managed care plans provide services to recipients at 91 percent of the cost of MediPass. This bill amends s. 409.9122, F. S., to allow for the diversion of all undecided Medicaid recipients into managed care until a ratio of 65 percent managed care and 35 percent MediPass is achieved. AHCA estimates this ratio will not be reached during Fiscal Year 2006-2007.

Disproportionate Share Program

Each year the Medicaid Disproportionate Share Council makes recommendations to the Legislature on the funding of the Disproportionate Share Program, which provides special Medicaid payments to hospitals. This bill amends the Florida Statutes to implement the current recommendations of the Medicaid Disproportionate Share Council.

Section 409.911, F. S., is amended to delete obsolete provisions related to the data used in determining the charity care and Medicaid days for purposes of calculating disproportionate share payments. Section 409.9113, F. S., is amended to direct that the funds for statutory teaching hospitals be distributed in the same proportion as funds were distributed under the teaching hospital disproportionate share program during the 2003-04 fiscal year and requiring the funds for family practice teaching hospitals to be distributed equally.

Hospitalist Program Replacement of Existing Utilization Review

The 2004 Legislature created paragraph (d) of subsection (5) of s. 409.905, F. S., to implement a Medicaid hospitalist program. One of the policy decisions required the hospitalist program to replace existing hospital utilization review program. The federal government informed AHCA that this policy violates federal law (*See 42 U.S.C. 1396(a)(30)).* This bill amends the statute to comply with federal law by deleting the requirement.

Effective Date of Provider Applications

Section 409.907, F. S., states that the effective date of a provider's enrollment as a Medicaid provider is "no earlier than the effective date of the approval of the provider application." Exceptions are made for providers who were recently granted a change of ownership and those who primarily provide emergency medical services transportation or emergency services and care pursuant to s. 395.1041 or s. 401.45, F. S., or services provided by federally qualified health centers, and out-of-state providers. Their effective date is the date of their application. This bill would grant every applicant the earlier effective date contingent upon the state being able to perform certain audits.

Emergency Room Co-Insurance

Subsection (1) of s. 409.9081, F. S., requires Medicaid recipients to pay a $15 co-payment when they seek non-emergency care at an emergency room. Federal law limits co-payments to a nominal amount, which is not defined by federal law. This bill would amend the statute to make the recipient's share of cost a 5 percent co-insurance that would not exceed $15, which complies with 42 C.F.R. 447.54. Pregnant women and children are exempt from all share of cost requirements.

Adjustment of Managed Care Rates

Medicaid reform is predicated on the agency being able to adjust managed care rates based on a recipient's health status. This bill amends s. 409.9122, F. S., to allow the adjustment of managed care rates based on a recipient's health status.

Florida Healthy Kids Corporation Unspent Local Match

Florida Healthy Kids Corporation collects local match to help subsidize health coverage for legal aliens that do not qualify for the State Children's Health Insurance Program. The caseload for these children has dropped below estimates in the current fiscal year. As a result, Florida Healthy Kids Corporation collected more match than was necessary. There is no direction in statute, however, for refunding unspent local match. This bill directs that local match shall be returned based on a methodology developed by the Florida Healthy Kids Corporation.

C. SECTION DIRECTORY:

Section 1. Amends s. 400.23, F.S., repealing the requirement of 2.9 hours of direct care.

Section 2. Amends s. 409.904(5), F.S., making the family planning waiver comply with federal law.

Section 3. Amends s. 409.905(5)(d), F.S., deleting the requirement that the hospitalist program replace existing hospital utilization review.

Section 4. Amends ss. 409.906(1) and (23), F.S., providing adult Medicaid recipients with partial denture and vision services.

Section 5. Amends s. 409.907(9), F.S., making the application date the enrollment effective date for Medicaid providers.

Section 6. Amends s. 409.9081(1), F.S., changing the share of cost for non-emergency use of emergency room services from a co-payment to a co-insurance, not to exceed $15.

Section 7. Amends s. 409.911(2), (3), and (4), F.S., implementing the Disproportionate Share Program changes for Fiscal Year 2006-2007.

Section 8. Amends s. 409.9113, F.S., implementing the Disproportionate Share Program changes for Fiscal Year 2006-2007.

Section 9. Amends s. 409.9117, F.S., implementing the Disproportionate Share Program changes for Fiscal Year 2006-2007.

Section 10. Amends s. 409.912 (44), F.S., allowing managed care rates to be adjusted for health status.

Section 11. Amends s. 409.9122 (2), F.S., changing the ratio of undecided individuals placed in managed care instead of MediPass from 60/40 to 65/35.

Section 12. Amends s. 624.91(5), F.S., requiring Florida Healthy Kids Corporation to refund unspent local match.

Section 13. Provides that the bill will take effect on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

	FY 2006-07	FY 2007-08
Repeal of Nursing Home Staffing Increase		
General Revenue Fund	($26,184,622)	($26,184,622)
Medical Care Trust Fund	($37,324,040)	($37,324,040)
Managed Care/MediPass Assignment Ratio		
General Revenue Fund	($1,583,952)	($1,583,952)
Medical Care Trust Fund	($2,257,794)	($2,257,794)
Adult Partial-Dentures		
General Revenue Fund	$2,868,173	$2,868,173
Medical Care Trust Fund	$4,137,955	$4,137,955
Adult Vision Benefits		
General Revenue Fund	$3,817,002	$3,817,002
Medical Care Trust Fund	$5,748,410	$5,748,410
Total		
General Revenue Fund	(21,083,399)	(21,083,399)
Medical Care Trust Fund	(29,695,469)	(29,695,469)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The diversion of more recipients to managed care plans will result in more income for health maintenance organizations, exclusive provider organizations, provider service networks, minority physician networks, Children's Medical Services Network, and pediatric emergency department diversion programs.

New adult vision and partial denture benefits will result in more income for the providers of these services.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to health care; amending s. 400.23, F.S.;
3 revising minimum staffing requirements for nursing homes;
4 amending s. 409.904, F.S.; revising requirements relating
5 to eligibility of certain women for family planning
6 services; amending s. 409.905, F.S.; revising requirements
7 for the hospitalist program; removing a provision
8 authorizing the Agency for Health Care Administration to
9 seek certain waivers to implement the program; amending s.
10 409.906, F.S.; revising provisions relating to optional
11 adult dental and visual services covered by Medicaid;
12 amending s. 409.907, F.S.; revising the enrollment
13 effective date for Medicaid providers; providing
14 procedures for payment for certain claims for services;
15 amending s. 409.9081, F.S.; revising the limitation on
16 Medicaid recipient copayments for emergency room services;
17 amending s. 409.911, F.S., relating to the hospital
18 disproportionate share program; revising the method for
19 calculating disproportionate share payments to hospitals;
20 deleting obsolete provisions; amending s. 409.9113, F.S.;
21 providing guidelines for distribution of disproportionate
22 share funds to certain teaching hospitals; amending s.
23 409.9117, F.S., relating to the primary care
24 disproportionate share program; revising the time period
25 during which the agency shall not distribute certain
26 moneys; amending s. 409.912, F.S.; providing that
27 adjustments for health status be considered in agency
28 evaluations of the cost-effectiveness of Medicaid managed
29 care plans; amending s. 409.9122, F.S.; revising

30 enrollment limits for Medicaid recipients who are subject
31 to mandatory assignment to managed care plans and
32 MediPass; amending s. 624.91, F.S.; requiring the Florida
33 Healthy Kids Corporation to return certain unspent funds
34 based on a formula developed by the corporation; providing
35 an effective date.
36
37 Be It Enacted by the Legislature of the State of Florida:
38
39 Section 1. Paragraph (a) of subsection (3) of section
40 400.23, Florida Statutes, is amended to read:
41 400.23 Rules; evaluation and deficiencies; licensure
42 status.--
43 (3)(a) The agency shall adopt rules providing minimum
44 staffing requirements for nursing homes. These requirements shall
45 include, for each nursing home facility, a minimum certified
46 nursing assistant staffing of 2.3 hours of direct care per
47 resident per day beginning January 1, 2002, increasing to 2.6
48 hours of direct care per resident per day beginning January 1,
49 2003~~, and increasing to 2.9 hours of direct care per resident per~~
50 ~~day beginning July 1, 2006~~. Beginning January 1, 2002, no
51 facility shall staff below one certified nursing assistant per 20
52 residents, and a minimum licensed nursing staffing of 1.0 hour of
53 direct resident care per resident per day but never below one
54 licensed nurse per 40 residents. Nursing assistants employed
55 under s. 400.211(2) may be included in computing the staffing
56 ratio for certified nursing assistants only if they provide
57 nursing assistance services to residents on a full-time basis.
58 Each nursing home must document compliance with staffing

59 standards as required under this paragraph and post daily the
60 names of staff on duty for the benefit of facility residents and
61 the public. The agency shall recognize the use of licensed nurses
62 for compliance with minimum staffing requirements for certified
63 nursing assistants, provided that the facility otherwise meets
64 the minimum staffing requirements for licensed nurses and that
65 the licensed nurses are performing the duties of a certified
66 nursing assistant. Unless otherwise approved by the agency,
67 licensed nurses counted toward the minimum staffing requirements
68 for certified nursing assistants must exclusively perform the
69 duties of a certified nursing assistant for the entire shift and
70 not also be counted toward the minimum staffing requirements for
71 licensed nurses. If the agency approved a facility's request to
72 use a licensed nurse to perform both licensed nursing and
73 certified nursing assistant duties, the facility must allocate
74 the amount of staff time specifically spent on certified nursing
75 assistant duties for the purpose of documenting compliance with
76 minimum staffing requirements for certified and licensed nursing
77 staff. In no event may the hours of a licensed nurse with dual
78 job responsibilities be counted twice.
79 Section 2. Subsection (5) of section 409.904, Florida
80 Statutes, is amended to read:
81 409.904 Optional payments for eligible persons.--The agency
82 may make payments for medical assistance and related services on
83 behalf of the following persons who are determined to be eligible
84 subject to the income, assets, and categorical eligibility tests
85 set forth in federal and state law. Payment on behalf of these
86 Medicaid eligible persons is subject to the availability of

87 moneys and any limitations established by the General
88 Appropriations Act or chapter 216.
89 (5) Subject to specific federal authorization, a ~~postpartum~~
90 woman living in a family that has an income that is at or below
91 185 percent of the most current federal poverty level is eligible
92 for family planning services as specified in s. 409.905(3) for a
93 period of up to 24 months following a loss of Medicaid benefits
94 ~~pregnancy for which Medicaid paid for pregnancy-related services~~.
95 Section 3. Paragraph (d) of subsection (5) of section
96 409.905, Florida Statutes, is amended to read:
97 409.905 Mandatory Medicaid services.--The agency may make
98 payments for the following services, which are required of the
99 state by Title XIX of the Social Security Act, furnished by
100 Medicaid providers to recipients who are determined to be
101 eligible on the dates on which the services were provided. Any
102 service under this section shall be provided only when medically
103 necessary and in accordance with state and federal law. Mandatory
104 services rendered by providers in mobile units to Medicaid
105 recipients may be restricted by the agency. Nothing in this
106 section shall be construed to prevent or limit the agency from
107 adjusting fees, reimbursement rates, lengths of stay, number of
108 visits, number of services, or any other adjustments necessary to
109 comply with the availability of moneys and any limitations or
110 directions provided for in the General Appropriations Act or
111 chapter 216.
112 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay for
113 all covered services provided for the medical care and treatment
114 of a recipient who is admitted as an inpatient by a licensed
115 physician or dentist to a hospital licensed under part I of

116 chapter 395. However, the agency shall limit the payment for
117 inpatient hospital services for a Medicaid recipient 21 years of
118 age or older to 45 days or the number of days necessary to comply
119 with the General Appropriations Act.
120 (d) The agency shall implement a hospitalist program in
121 certain high-volume participating hospitals, select counties, or
122 statewide. The program shall require hospitalists to ~~authorize~~
123 ~~and~~ manage Medicaid recipients' hospital admissions and lengths
124 of stay. Individuals who are dually eligible for Medicare and
125 Medicaid are exempted from this requirement. Medicaid
126 participating physicians and other practitioners with hospital
127 admitting privileges shall coordinate and review admissions of
128 Medicaid recipients with the hospitalist. The agency may
129 competitively bid a contract for selection of a qualified
130 organization to provide hospitalist services. The qualified
131 organization shall employ board certified physicians who are
132 full-time dedicated employees of the contractor and have no
133 outside practice. ~~Where used, the hospitalist program shall~~
134 ~~replace the existing hospital utilization review program. The~~
135 ~~agency is authorized to seek federal waivers to implement this~~
136 ~~program.~~
137 Section 4. Paragraph (b) of subsection (1) and subsection
138 (23) of section 409.906, Florida Statutes, are amended to read:
139 409.906 Optional Medicaid services.--Subject to specific
140 appropriations, the agency may make payments for services which
141 are optional to the state under Title XIX of the Social Security
142 Act and are furnished by Medicaid providers to recipients who are
143 determined to be eligible on the dates on which the services were
144 provided. Any optional service that is provided shall be provided

145 only when medically necessary and in accordance with state and
146 federal law. Optional services rendered by providers in mobile
147 units to Medicaid recipients may be restricted or prohibited by
148 the agency. Nothing in this section shall be construed to prevent
149 or limit the agency from adjusting fees, reimbursement rates,
150 lengths of stay, number of visits, or number of services, or
151 making any other adjustments necessary to comply with the
152 availability of moneys and any limitations or directions provided
153 for in the General Appropriations Act or chapter 216. If
154 necessary to safeguard the state's systems of providing services
155 to elderly and disabled persons and subject to the notice and
156 review provisions of s. 216.177, the Governor may direct the
157 Agency for Health Care Administration to amend the Medicaid state
158 plan to delete the optional Medicaid service known as
159 "Intermediate Care Facilities for the Developmentally Disabled."
160 Optional services may include:
161 (1) ADULT DENTAL SERVICES.--
162 (b) Beginning January 1, 2005, the agency may pay for
163 partial dentures and full dentures, the procedures required to
164 seat dentures, and the repair and reline of dentures, provided by
165 or under the direction of a licensed dentist, for a recipient who
166 is 21 years of age or older.
167 (23) ~~CHILDREN'S~~ VISUAL SERVICES.--The agency may pay for
168 visual examinations, eyeglasses, and eyeglass repairs for a
169 recipient ~~younger than 21 years of age,~~ if they are prescribed by
170 a licensed physician specializing in diseases of the eye or by a
171 licensed optometrist. Eyeglasses for adult recipients shall be
172 limited to one pair every 2 years.

173 Section 5. Paragraph (a) of subsection (9) of section
174 409.907, Florida Statutes, is amended to read:
175 409.907 Medicaid provider agreements.--The agency may make
176 payments for medical assistance and related services rendered to
177 Medicaid recipients only to an individual or entity who has a
178 provider agreement in effect with the agency, who is performing
179 services or supplying goods in accordance with federal, state,
180 and local law, and who agrees that no person shall, on the
181 grounds of handicap, race, color, or national origin, or for any
182 other reason, be subjected to discrimination under any program or
183 activity for which the provider receives payment from the agency.
184 (9) Upon receipt of a completed, signed, and dated
185 application, and completion of any necessary background
186 investigation and criminal history record check, the agency must
187 either:
188 (a) Enroll the applicant as a Medicaid provider ~~no earlier~~
189 ~~than the effective date of the approval of the provider~~
190 ~~application. With respect to providers who were recently granted~~
191 ~~a change of ownership and those who primarily provide emergency~~
192 ~~medical services transportation or emergency services and care~~
193 ~~pursuant to s. 395.1041 or s. 401.45, or services provided by~~
194 ~~entities under s. 409.91255, and out-of-state providers,~~ upon
195 approval of the provider application.~~,~~ The enrollment effective
196 date shall be ~~of approval is considered to be~~ the date the agency
197 receives the provider application. Payment for any claims for
198 services provided to Medicaid recipients between the date of
199 receipt of the application and the date of approval is contingent
200 on applying any and all applicable audits and edits contained in

201 the agency's claims adjudication and payment processing systems;
202 or
203 Section 6. Paragraph (c) of subsection (1) of section
204 409.9081, Florida Statutes, is amended to read:
205 409.9081 Copayments.--
206 (1) The agency shall require, subject to federal
207 regulations and limitations, each Medicaid recipient to pay at
208 the time of service a nominal copayment for the following
209 Medicaid services:
210 (c) Hospital emergency department visits for nonemergency
211 care: 5 percent of up to the first $300 of the Medicaid payment
212 for emergency room services, not to exceed $15 ~~for each emergency~~
213 ~~department visit~~.
214 Section 7. Subsections (2), (3), and (4) of section
215 409.911, Florida Statutes, are amended to read:
216 409.911 Disproportionate share program.--Subject to
217 specific allocations established within the General
218 Appropriations Act and any limitations established pursuant to
219 chapter 216, the agency shall distribute, pursuant to this
220 section, moneys to hospitals providing a disproportionate share
221 of Medicaid or charity care services by making quarterly Medicaid
222 payments as required. Notwithstanding the provisions of s.
223 409.915, counties are exempt from contributing toward the cost of
224 this special reimbursement for hospitals serving a
225 disproportionate share of low-income patients.
226 (2) The Agency for Health Care Administration shall use the
227 following actual audited data to determine the Medicaid days and
228 charity care to be used in calculating the disproportionate share
229 payment:

230 (a) The average of the ~~1998, 1999, and~~ 2000, 2001, and 2002
231 audited disproportionate share data to determine each hospital's
232 Medicaid days and charity care for the 2006-2007 ~~2004-2005~~ state
233 fiscal year ~~and the average of the 1999, 2000, and 2001 audited~~
234 ~~disproportionate share data to determine the Medicaid days and~~
235 ~~charity care for the 2005-2006 state fiscal year~~.
236 (b) If the Agency for Health Care Administration does not
237 have the prescribed 3 years of audited disproportionate share
238 data as noted in paragraph (a) for a hospital, the agency shall
239 use the average of the years of the audited disproportionate
240 share data as noted in paragraph (a) which is available.
241 (c) In accordance with s. 1923(b) of the Social Security
242 Act, a hospital with a Medicaid inpatient utilization rate
243 greater than one standard deviation above the statewide mean or a
244 hospital with a low-income utilization rate of 25 percent or
245 greater shall qualify for reimbursement.
246 (3) Hospitals that qualify for a disproportionate share
247 payment solely under paragraph (2)(c) shall have their payment
248 calculated in accordance with the following formulas:
249
250 DSHP = (HMD/TMSD) x $1 million
251
252 Where:
253 DSHP = disproportionate share hospital payment.
254 HMD = hospital Medicaid days.
255 TSD = total state Medicaid days.
256
257 Any funds not allocated to hospitals qualifying under this
258 section shall be redistributed to the non-state government owned

259 or operated hospitals with greater than 3,100 ~~3,300~~ Medicaid
260 days.
261 (4) The following formulas shall be used to pay
262 disproportionate share dollars to public hospitals:
263 (a) For state mental health hospitals:
264
265 DSHP = (HMD/TMDMH) x TAAMH
266
267 shall be the difference between the federal cap for Institutions
268 for Mental Diseases and the amounts paid under the mental health
269 disproportionate share program.
270
271 Where:
272 DSHP = disproportionate share hospital payment.
273 HMD = hospital Medicaid days.
274 TMDHH = total Medicaid days for state mental health
275 hospitals.
276 TAAMH = total amount available for mental health hospitals.
277 (b) For non-state government owned or operated hospitals
278 with 3,100 ~~3,300~~ or more Medicaid days:
279
280 DSHP = [(.82 x HCCD/TCCD) + (.18 x HMD/TMD)]
281 x TAAPH
282 TAAPH = TAA - TAAMH
283
284 Where:
285 TAA = total available appropriation.
286 TAAPH = total amount available for public hospitals.
287 DSHP = disproportionate share hospital payments.

288 HMD = hospital Medicaid days.
289 TMD = total state Medicaid days for public hospitals.
290 HCCD = hospital charity care dollars.
291 TCCD = total state charity care dollars for public non-state
292 hospitals.
293
294 ~~1. For the 2005-2006 state fiscal year only, the DSHP for~~
295 ~~the public nonstate hospitals shall be computed using a weighted~~
296 ~~average of the disproportionate share payments for the 2004-2005~~
297 ~~state fiscal year which uses an average of the 1998, 1999, and~~
298 ~~2000 audited disproportionate share data and the disproportionate~~
299 ~~share payments for the 2005-2006 state fiscal year as computed~~
300 ~~using the formula above and using the average of the 1999, 2000,~~
301 ~~and 2001 audited disproportionate share data. The final DSHP for~~
302 ~~the public nonstate hospitals shall be computed as an average~~
303 ~~using the calculated payments for the 2005-2006 state fiscal year~~
304 ~~weighted at 65 percent and the disproportionate share payments~~
305 ~~for the 2004-2005 state fiscal year weighted at 35 percent.~~
306 ~~2.~~ The TAAPH shall be reduced by $6,365,257 before
307 computing the DSHP for each public hospital. The $6,365,257 shall
308 be distributed equally between the public hospitals that are also
309 designated statutory teaching hospitals.
310 (c) For non-state government owned or operated hospitals
311 with less than 3,100 ~~3,300~~ Medicaid days, a total of $750,000
312 shall be distributed equally among these hospitals.
313 Section 8. Section 409.9113, Florida Statutes, is amended
314 to read:
315 409.9113 Disproportionate share program for teaching
316 hospitals.--In addition to the payments made under ss. 409.911

317 and 409.9112, the Agency for Health Care Administration shall
318 make disproportionate share payments to statutorily defined
319 teaching hospitals for their increased costs associated with
320 medical education programs and for tertiary health care services
321 provided to the indigent. This system of payments shall conform
322 with federal requirements and shall distribute funds in each
323 fiscal year for which an appropriation is made by making
324 quarterly Medicaid payments. Notwithstanding s. 409.915, counties
325 are exempt from contributing toward the cost of this special
326 reimbursement for hospitals serving a disproportionate share of
327 low-income patients. For the state fiscal year 2006-2007 ~~2005-~~
328 ~~2006~~, the agency shall ~~not~~ distribute the moneys provided in the
329 General Appropriations Act to statutorily defined teaching
330 hospitals and family practice teaching hospitals under the
331 teaching hospital disproportionate share program. The funds
332 provided for statutorily defined teaching hospitals shall be
333 distributed in the same proportion as the state fiscal year 2003-
334 2004 teaching hospital disproportionate share funds were
335 distributed. The funds provided for family practice teaching
336 hospitals shall be distributed equally among family practice
337 teaching hospitals.
338 (1) On or before September 15 of each year, the Agency for
339 Health Care Administration shall calculate an allocation fraction
340 to be used for distributing funds to state statutory teaching
341 hospitals. Subsequent to the end of each quarter of the state
342 fiscal year, the agency shall distribute to each statutory
343 teaching hospital, as defined in s. 408.07, an amount determined
344 by multiplying one-fourth of the funds appropriated for this
345 purpose by the Legislature times such hospital's allocation

346 fraction. The allocation fraction for each such hospital shall be
347 determined by the sum of three primary factors, divided by three.
348 The primary factors are:
349 (a) The number of nationally accredited graduate medical
350 education programs offered by the hospital, including programs
351 accredited by the Accreditation Council for Graduate Medical
352 Education and the combined Internal Medicine and Pediatrics
353 programs acceptable to both the American Board of Internal
354 Medicine and the American Board of Pediatrics at the beginning of
355 the state fiscal year preceding the date on which the allocation
356 fraction is calculated. The numerical value of this factor is the
357 fraction that the hospital represents of the total number of
358 programs, where the total is computed for all state statutory
359 teaching hospitals.
360 (b) The number of full-time equivalent trainees in the
361 hospital, which comprises two components:
362 1. The number of trainees enrolled in nationally accredited
363 graduate medical education programs, as defined in paragraph (a).
364 Full-time equivalents are computed using the fraction of the year
365 during which each trainee is primarily assigned to the given
366 institution, over the state fiscal year preceding the date on
367 which the allocation fraction is calculated. The numerical value
368 of this factor is the fraction that the hospital represents of
369 the total number of full-time equivalent trainees enrolled in
370 accredited graduate programs, where the total is computed for all
371 state statutory teaching hospitals.
372 2. The number of medical students enrolled in accredited
373 colleges of medicine and engaged in clinical activities,
374 including required clinical clerkships and clinical electives.

375 Full-time equivalents are computed using the fraction of the year
376 during which each trainee is primarily assigned to the given
377 institution, over the course of the state fiscal year preceding
378 the date on which the allocation fraction is calculated. The
379 numerical value of this factor is the fraction that the given
380 hospital represents of the total number of full-time equivalent
381 students enrolled in accredited colleges of medicine, where the
382 total is computed for all state statutory teaching hospitals.
383
384 The primary factor for full-time equivalent trainees is computed
385 as the sum of these two components, divided by two.
386 (c) A service index that comprises three components:
387 1. The Agency for Health Care Administration Service Index,
388 computed by applying the standard Service Inventory Scores
389 established by the Agency for Health Care Administration to
390 services offered by the given hospital, as reported on Worksheet
391 A-2 for the last fiscal year reported to the agency before the
392 date on which the allocation fraction is calculated. The
393 numerical value of this factor is the fraction that the given
394 hospital represents of the total Agency for Health Care
395 Administration Service Index values, where the total is computed
396 for all state statutory teaching hospitals.
397 2. A volume-weighted service index, computed by applying
398 the standard Service Inventory Scores established by the Agency
399 for Health Care Administration to the volume of each service,
400 expressed in terms of the standard units of measure reported on
401 Worksheet A-2 for the last fiscal year reported to the agency
402 before the date on which the allocation factor is calculated. The
403 numerical value of this factor is the fraction that the given

404 hospital represents of the total volume-weighted service index
405 values, where the total is computed for all state statutory
406 teaching hospitals.
407 3. Total Medicaid payments to each hospital for direct
408 inpatient and outpatient services during the fiscal year
409 preceding the date on which the allocation factor is calculated.
410 This includes payments made to each hospital for such services by
411 Medicaid prepaid health plans, whether the plan was administered
412 by the hospital or not. The numerical value of this factor is the
413 fraction that each hospital represents of the total of such
414 Medicaid payments, where the total is computed for all state
415 statutory teaching hospitals.
416
417 The primary factor for the service index is computed as the sum
418 of these three components, divided by three.
419 (2) By October 1 of each year, the agency shall use the
420 following formula to calculate the maximum additional
421 disproportionate share payment for statutorily defined teaching
422 hospitals:
423
424 TAP = THAF x A
425
426 Where:
427 TAP = total additional payment.
428 THAF = teaching hospital allocation factor.
429 A = amount appropriated for a teaching hospital
430 disproportionate share program.
431 Section 9. Section 409.9117, Florida Statutes, is amended
432 to read:

433 409.9117 Primary care disproportionate share program.--For
434 the state fiscal year 2006-2007 ~~2005-2006~~, the agency shall not
435 distribute moneys under the primary care disproportionate share
436 program.
437 (1) If federal funds are available for disproportionate
438 share programs in addition to those otherwise provided by law,
439 there shall be created a primary care disproportionate share
440 program.
441 (2) The following formula shall be used by the agency to
442 calculate the total amount earned for hospitals that participate
443 in the primary care disproportionate share program:
444
445 TAE = HDSP/THDSP
446
447 Where:
448 TAE = total amount earned by a hospital participating in the
449 primary care disproportionate share program.
450 HDSP = the prior state fiscal year primary care
451 disproportionate share payment to the individual hospital.
452 THDSP = the prior state fiscal year total primary care
453 disproportionate share payments to all hospitals.
454 (3) The total additional payment for hospitals that
455 participate in the primary care disproportionate share program
456 shall be calculated by the agency as follows:
457
458 TAP = TAE x TA
459
460 Where:
461 TAP = total additional payment for a primary care hospital.

462 TAE = total amount earned by a primary care hospital.
463 TA = total appropriation for the primary care
464 disproportionate share program.
465 (4) In the establishment and funding of this program, the
466 agency shall use the following criteria in addition to those
467 specified in s. 409.911, payments may not be made to a hospital
468 unless the hospital agrees to:
469 (a) Cooperate with a Medicaid prepaid health plan, if one
470 exists in the community.
471 (b) Ensure the availability of primary and specialty care
472 physicians to Medicaid recipients who are not enrolled in a
473 prepaid capitated arrangement and who are in need of access to
474 such physicians.
475 (c) Coordinate and provide primary care services free of
476 charge, except copayments, to all persons with incomes up to 100
477 percent of the federal poverty level who are not otherwise
478 covered by Medicaid or another program administered by a
479 governmental entity, and to provide such services based on a
480 sliding fee scale to all persons with incomes up to 200 percent
481 of the federal poverty level who are not otherwise covered by
482 Medicaid or another program administered by a governmental
483 entity, except that eligibility may be limited to persons who
484 reside within a more limited area, as agreed to by the agency and
485 the hospital.
486 (d) Contract with any federally qualified health center, if
487 one exists within the agreed geopolitical boundaries, concerning
488 the provision of primary care services, in order to guarantee
489 delivery of services in a nonduplicative fashion, and to provide
490 for referral arrangements, privileges, and admissions, as

491 appropriate. The hospital shall agree to provide at an onsite or
492 offsite facility primary care services within 24 hours to which
493 all Medicaid recipients and persons eligible under this paragraph
494 who do not require emergency room services are referred during
495 normal daylight hours.
496 (e) Cooperate with the agency, the county, and other
497 entities to ensure the provision of certain public health
498 services, case management, referral and acceptance of patients,
499 and sharing of epidemiological data, as the agency and the
500 hospital find mutually necessary and desirable to promote and
501 protect the public health within the agreed geopolitical
502 boundaries.
503 (f) In cooperation with the county in which the hospital
504 resides, develop a low-cost, outpatient, prepaid health care
505 program to persons who are not eligible for the Medicaid program,
506 and who reside within the area.
507 (g) Provide inpatient services to residents within the area
508 who are not eligible for Medicaid or Medicare, and who do not
509 have private health insurance, regardless of ability to pay, on
510 the basis of available space, except that nothing shall prevent
511 the hospital from establishing bill collection programs based on
512 ability to pay.
513 (h) Work with the Florida Healthy Kids Corporation, the
514 Florida Health Care Purchasing Cooperative, and business health
515 coalitions, as appropriate, to develop a feasibility study and
516 plan to provide a low-cost comprehensive health insurance plan to
517 persons who reside within the area and who do not have access to
518 such a plan.

519 (i) Work with public health officials and other experts to
520 provide community health education and prevention activities
521 designed to promote healthy lifestyles and appropriate use of
522 health services.
523 (j) Work with the local health council to develop a plan
524 for promoting access to affordable health care services for all
525 persons who reside within the area, including, but not limited
526 to, public health services, primary care services, inpatient
527 services, and affordable health insurance generally.
528
529 Any hospital that fails to comply with any of the provisions of
530 this subsection, or any other contractual condition, may not
531 receive payments under this section until full compliance is
532 achieved.
533 Section 10. Subsection (44) of section 409.912, Florida
534 Statutes, is amended to read:
535 409.912 Cost-effective purchasing of health care.--The
536 agency shall purchase goods and services for Medicaid recipients
537 in the most cost-effective manner consistent with the delivery of
538 quality medical care. To ensure that medical services are
539 effectively utilized, the agency may, in any case, require a
540 confirmation or second physician's opinion of the correct
541 diagnosis for purposes of authorizing future services under the
542 Medicaid program. This section does not restrict access to
543 emergency services or poststabilization care services as defined
544 in 42 C.F.R. part 438.114. Such confirmation or second opinion
545 shall be rendered in a manner approved by the agency. The agency
546 shall maximize the use of prepaid per capita and prepaid
547 aggregate fixed-sum basis services when appropriate and other

548 alternative service delivery and reimbursement methodologies,
549 including competitive bidding pursuant to s. 287.057, designed to
550 facilitate the cost-effective purchase of a case-managed
551 continuum of care. The agency shall also require providers to
552 minimize the exposure of recipients to the need for acute
553 inpatient, custodial, and other institutional care and the
554 inappropriate or unnecessary use of high-cost services. The
555 agency shall contract with a vendor to monitor and evaluate the
556 clinical practice patterns of providers in order to identify
557 trends that are outside the normal practice patterns of a
558 provider's professional peers or the national guidelines of a
559 provider's professional association. The vendor must be able to
560 provide information and counseling to a provider whose practice
561 patterns are outside the norms, in consultation with the agency,
562 to improve patient care and reduce inappropriate utilization. The
563 agency may mandate prior authorization, drug therapy management,
564 or disease management participation for certain populations of
565 Medicaid beneficiaries, certain drug classes, or particular drugs
566 to prevent fraud, abuse, overuse, and possible dangerous drug
567 interactions. The Pharmaceutical and Therapeutics Committee shall
568 make recommendations to the agency on drugs for which prior
569 authorization is required. The agency shall inform the
570 Pharmaceutical and Therapeutics Committee of its decisions
571 regarding drugs subject to prior authorization. The agency is
572 authorized to limit the entities it contracts with or enrolls as
573 Medicaid providers by developing a provider network through
574 provider credentialing. The agency may competitively bid single-
575 source-provider contracts if procurement of goods or services
576 results in demonstrated cost savings to the state without

577 limiting access to care. The agency may limit its network based
578 on the assessment of beneficiary access to care, provider
579 availability, provider quality standards, time and distance
580 standards for access to care, the cultural competence of the
581 provider network, demographic characteristics of Medicaid
582 beneficiaries, practice and provider-to-beneficiary standards,
583 appointment wait times, beneficiary use of services, provider
584 turnover, provider profiling, provider licensure history,
585 previous program integrity investigations and findings, peer
586 review, provider Medicaid policy and billing compliance records,
587 clinical and medical record audits, and other factors. Providers
588 shall not be entitled to enrollment in the Medicaid provider
589 network. The agency shall determine instances in which allowing
590 Medicaid beneficiaries to purchase durable medical equipment and
591 other goods is less expensive to the Medicaid program than long-
592 term rental of the equipment or goods. The agency may establish
593 rules to facilitate purchases in lieu of long-term rentals in
594 order to protect against fraud and abuse in the Medicaid program
595 as defined in s. 409.913. The agency may seek federal waivers
596 necessary to administer these policies.
597 (44) The Agency for Health Care Administration shall ensure
598 that any Medicaid managed care plan as defined in s.
599 409.9122(2)(f)~~(h)~~, whether paid on a capitated basis or a shared
600 savings basis, is cost-effective. For purposes of this
601 subsection, the term "cost-effective" means that a network's per-
602 member, per-month costs to the state, including, but not limited
603 to, fee-for-service costs, administrative costs, and case-
604 management fees, if any, must be no greater than the state's
605 costs associated with contracts for Medicaid services established

606 under subsection (3), which may ~~shall~~ be ~~actuarially~~ adjusted for
607 health status ~~case mix, model, and service area~~. The agency shall
608 conduct actuarially sound adjustments for health status ~~audits~~
609 ~~adjusted for case mix and model~~ in order to ensure such cost-
610 effectiveness and shall publish the ~~audit~~ results on its Internet
611 website and submit the ~~audit~~ results annually to the Governor,
612 the President of the Senate, and the Speaker of the House of
613 Representatives no later than December 31 of each year. Contracts
614 established pursuant to this subsection which are not cost-
615 effective may not be renewed.
616 Section 11. Paragraphs (f) and (k) of subsection (2) of
617 section 409.9122, Florida Statutes, are amended to read:
618 409.9122 Mandatory Medicaid managed care enrollment;
619 programs and procedures.--
620 (2)
621 (f) When a Medicaid recipient does not choose a managed
622 care plan or MediPass provider, the agency shall assign the
623 Medicaid recipient to a managed care plan or MediPass provider.
624 Medicaid recipients who are subject to mandatory assignment but
625 who fail to make a choice shall be assigned to managed care plans
626 until an enrollment of 35 ~~40~~ percent in MediPass and 65 ~~60~~
627 percent in managed care plans is achieved. Once this enrollment
628 is achieved, the assignments shall be divided in order to
629 maintain an enrollment in MediPass and managed care plans which
630 is in a 35 ~~40~~ percent and 65 ~~60~~ percent proportion, respectively.
631 Thereafter, assignment of Medicaid recipients who fail to make a
632 choice shall be based proportionally on the preferences of
633 recipients who have made a choice in the previous period. Such
634 proportions shall be revised at least quarterly to reflect an

635 update of the preferences of Medicaid recipients. The agency
636 shall disproportionately assign Medicaid-eligible recipients who
637 are required to but have failed to make a choice of managed care
638 plan or MediPass, including children, and who are to be assigned
639 to the MediPass program to children's networks as described in s.
640 409.912(4)(g), Children's Medical Services Network as defined in
641 s. 391.021, exclusive provider organizations, provider service
642 networks, minority physician networks, and pediatric emergency
643 department diversion programs authorized by this chapter or the
644 General Appropriations Act, in such manner as the agency deems
645 appropriate, until the agency has determined that the networks
646 and programs have sufficient numbers to be economically operated.
647 For purposes of this paragraph, when referring to assignment, the
648 term "managed care plans" includes health maintenance
649 organizations, exclusive provider organizations, provider service
650 networks, minority physician networks, Children's Medical
651 Services Network, and pediatric emergency department diversion
652 programs authorized by this chapter or the General Appropriations
653 Act. When making assignments, the agency shall take into account
654 the following criteria:
655 1. A managed care plan has sufficient network capacity to
656 meet the need of members.
657 2. The managed care plan or MediPass has previously
658 enrolled the recipient as a member, or one of the managed care
659 plan's primary care providers or MediPass providers has
660 previously provided health care to the recipient.
661 3. The agency has knowledge that the member has previously
662 expressed a preference for a particular managed care plan or

663 MediPass provider as indicated by Medicaid fee-for-service claims
664 data, but has failed to make a choice.
665 4. The managed care plan's or MediPass primary care
666 providers are geographically accessible to the recipient's
667 residence.
668 (k) When a Medicaid recipient does not choose a managed
669 care plan or MediPass provider, the agency shall assign the
670 Medicaid recipient to a managed care plan, except in those
671 counties in which there are fewer than two managed care plans
672 accepting Medicaid enrollees, in which case assignment shall be
673 to a managed care plan or a MediPass provider. Medicaid
674 recipients in counties with fewer than two managed care plans
675 accepting Medicaid enrollees who are subject to mandatory
676 assignment but who fail to make a choice shall be assigned to
677 managed care plans until an enrollment of 35 ~~40~~ percent in
678 MediPass and 65 ~~60~~ percent in managed care plans is achieved.
679 Once that enrollment is achieved, the assignments shall be
680 divided in order to maintain an enrollment in MediPass and
681 managed care plans which is in a 35 ~~40~~ percent and 65 ~~60~~ percent
682 proportion, respectively. In service areas 1 and 6 of the Agency
683 for Health Care Administration where the agency is contracting
684 for the provision of comprehensive behavioral health services
685 through a capitated prepaid arrangement, recipients who fail to
686 make a choice shall be assigned equally to MediPass or a managed
687 care plan. For purposes of this paragraph, when referring to
688 assignment, the term "managed care plans" includes exclusive
689 provider organizations, provider service networks, Children's
690 Medical Services Network, minority physician networks, and
691 pediatric emergency department diversion programs authorized by

692 this chapter or the General Appropriations Act. When making
693 assignments, the agency shall take into account the following
694 criteria:
695 1. A managed care plan has sufficient network capacity to
696 meet the need of members.
697 2. The managed care plan or MediPass has previously
698 enrolled the recipient as a member, or one of the managed care
699 plan's primary care providers or MediPass providers has
700 previously provided health care to the recipient.
701 3. The agency has knowledge that the member has previously
702 expressed a preference for a particular managed care plan or
703 MediPass provider as indicated by Medicaid fee-for-service claims
704 data, but has failed to make a choice.
705 4. The managed care plan's or MediPass primary care
706 providers are geographically accessible to the recipient's
707 residence.
708 5. The agency has authority to make mandatory assignments
709 based on quality of service and performance of managed care
710 plans.
711 Section 12. Paragraph (b) of subsection (5) of section
712 624.91, Florida Statutes, is amended to read:
713 624.91 The Florida Healthy Kids Corporation Act.--
714 (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.--
715 (b) The Florida Healthy Kids Corporation shall:
716 1. Arrange for the collection of any family, local
717 contributions, or employer payment or premium, in an amount to be
718 determined by the board of directors, to provide for payment of
719 premiums for comprehensive insurance coverage and for the actual
720 or estimated administrative expenses.

721 2. Arrange for the collection of any voluntary
722 contributions to provide for payment of premiums for children who
723 are not eligible for medical assistance under Title XXI of the
724 Social Security Act. Each fiscal year, the corporation shall
725 establish a local match policy for the enrollment of non-Title-
726 XXI-eligible children in the Healthy Kids program. By May 1 of
727 each year, the corporation shall provide written notification of
728 the amount to be remitted to the corporation for the following
729 fiscal year under that policy. Local match sources may include,
730 but are not limited to, funds provided by municipalities,
731 counties, school boards, hospitals, health care providers,
732 charitable organizations, special taxing districts, and private
733 organizations. The minimum local match cash contributions
734 required each fiscal year and local match credits shall be
735 determined by the General Appropriations Act. The corporation
736 shall calculate a county's local match rate based upon that
737 county's percentage of the state's total non-Title-XXI
738 expenditures as reported in the corporation's most recently
739 audited financial statement. In awarding the local match credits,
740 the corporation may consider factors including, but not limited
741 to, population density, per capita income, and existing child-
742 health-related expenditures and services. <u>If local match amounts</u>
743 <u>collected exceed expenditures during any fiscal year, including</u>
744 <u>the 2005-2006 fiscal year, the corporation shall return unspent</u>
745 <u>local funds collected based on a formula developed by the</u>
746 <u>corporation.</u>
747 3. Subject to the provisions of s. 409.8134, accept
748 voluntary supplemental local match contributions that comply with
749 the requirements of Title XXI of the Social Security Act for the

750 purpose of providing additional coverage in contributing counties
751 under Title XXI.
752 4. Establish the administrative and accounting procedures
753 for the operation of the corporation.
754 5. Establish, with consultation from appropriate
755 professional organizations, standards for preventive health
756 services and providers and comprehensive insurance benefits
757 appropriate to children, provided that such standards for rural
758 areas shall not limit primary care providers to board-certified
759 pediatricians.
760 6. Determine eligibility for children seeking to
761 participate in the Title XXI-funded components of the Florida
762 KidCare program consistent with the requirements specified in s.
763 409.814, as well as the non-Title-XXI-eligible children as
764 provided in subsection (3).
765 7. Establish procedures under which providers of local
766 match to, applicants to and participants in the program may have
767 grievances reviewed by an impartial body and reported to the
768 board of directors of the corporation.
769 8. Establish participation criteria and, if appropriate,
770 contract with an authorized insurer, health maintenance
771 organization, or third-party administrator to provide
772 administrative services to the corporation.
773 9. Establish enrollment criteria which shall include
774 penalties or waiting periods of not fewer than 60 days for
775 reinstatement of coverage upon voluntary cancellation for
776 nonpayment of family premiums.
777 10. Contract with authorized insurers or any provider of
778 health care services, meeting standards established by the

779 corporation, for the provision of comprehensive insurance
780 coverage to participants. Such standards shall include criteria
781 under which the corporation may contract with more than one
782 provider of health care services in program sites. Health plans
783 shall be selected through a competitive bid process. The Florida
784 Healthy Kids Corporation shall purchase goods and services in the
785 most cost-effective manner consistent with the delivery of
786 quality medical care. The maximum administrative cost for a
787 Florida Healthy Kids Corporation contract shall be 15 percent.
788 For health care contracts, the minimum medical loss ratio for a
789 Florida Healthy Kids Corporation contract shall be 85 percent.
790 For dental contracts, the remaining compensation to be paid to
791 the authorized insurer or provider under a Florida Healthy Kids
792 Corporation contract shall be no less than an amount which is 85
793 percent of premium; to the extent any contract provision does not
794 provide for this minimum compensation, this section shall
795 prevail. The health plan selection criteria and scoring system,
796 and the scoring results, shall be available upon request for
797 inspection after the bids have been awarded.
798 11. Establish disenrollment criteria in the event local
799 matching funds are insufficient to cover enrollments.
800 12. Develop and implement a plan to publicize the Florida
801 Healthy Kids Corporation, the eligibility requirements of the
802 program, and the procedures for enrollment in the program and to
803 maintain public awareness of the corporation and the program.
804 13. Secure staff necessary to properly administer the
805 corporation. Staff costs shall be funded from state and local
806 matching funds and such other private or public funds as become

807 available. The board of directors shall determine the number of
808 staff members necessary to administer the corporation.
809 14. Provide a report annually to the Governor, Chief
810 Financial Officer, Commissioner of Education, Senate President,
811 Speaker of the House of Representatives, and Minority Leaders of
812 the Senate and the House of Representatives.
813 15. Establish benefit packages which conform to the
814 provisions of the Florida KidCare program, as created in ss.
815 409.810-409.820.
816 Section 13. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **PCB FC 06-04**

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: Fiscal Council
2 Representative Berfield offered the following:
3
4 **Amendment**
5 On lines 627 and 678, after the word "plans"
6 insert:
7 , of all those eligible to choose managed care,
8

000000

Amendment No. (for drafter's use only)

Bill No. **PCB FC 06-04**

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: Fiscal Council
2 Representative(s) Benson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between lines 815 and 816 insert:
6 Section 13. Subsection (4) of section 430.705, Florida
7 Statutes, is amended to read:
8 430.705 Implementation of the long-term care community
9 diversion pilot projects.--
10 (4) Pursuant to 42 C.F.R. s. 438.6(c), the agency, in
11 consultation with the department, shall annually reevaluate and
12 recertify the capitation rates for the diversion pilot projects.
13 The agency, in consultation with the department, shall secure
14 the utilization and cost data for Medicaid and Medicare
15 beneficiaries served by the program which shall be used in
16 developing rates for the diversion pilot projects. The
17 capitation rates shall be risk adjusted by plan and reflect
18 members' level of chronic illness, functional limitations and
19 risk of institutional placement, as determined by expenditures
20 for a comparable fee-for-service population. Payments for
21 Medicaid home and community based services shall be at least

22 actuarially equivalent to and shall be trended from the greater
23 of fee-for-service levels or plan experience to reflect the
24 increased services required to maintain people in community
25 settings under managed care.
26

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: Fiscal Council
2 Representative(s) Benson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between line(s) 615 and 616 and insert:
6
7 (53) In accordance with s. 430.705 and 42 C.F.R. s. 438,
8 Medicaid capitation payments for managed long term care programs
9 shall be risk adjusted by plan and reflect members' level of
10 chronic illness, functional limitations and risk of
11 institutional placement, as determined by expenditures for a
12 comparable fee-for-service population. Payments for Medicaid
13 home and community based services shall be at least actuarially
14 equivalent to and shall be trended from the greater of fee-for-
15 service levels or plan experience to reflect the increased
16 services required to maintain people in community settings under
17 managed care.
18
19 ========== D I R E C T O R Y A M E N D M E N T ==========
20 Remove line(s) 534 and insert:
21

22 Statutes is amended to read and subsection (53) is created to
23 read:
24

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-05 Substance Abuse/Mental Health Funding
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Ekholm LE	Kelly ck
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Chapter 394, F. S., among other provisions, specifies the financing and distribution of funding for mental health and substance abuse services in the state.

This bill amends section 394.457, F. S., deleting provisions authorizing a reimbursement rate of up to 100 percent by the Department of Children and Family Services for certain services provided under the Baker Act. The bill also amends section 394.908, Florida Statutes, to modify the allocation methodology of substance abuse and mental health funding.

For a more complete discussion of the fiscal impact to the state, counties and private sector, see section II. Fiscal Analysis & Economic Impact Statement in this analysis.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill permanently reduces the percentage of funds the state contributes to the provision of certain Baker Act services.

B. EFFECT OF PROPOSED CHANGES:

Local Contribution for Baker Act Services

Prior to the current fiscal year, s. 394.457(3), F. S., allowed the state to reimburse service contracts for Baker Act services, including screening, crisis stabilization, inpatient and short-term residential treatment, at a rate up to 100 percent. Other mental health and substance abuse services required local participation on a 75-to-25 state-to-local ratio.

Chapter 2005-71, Laws of Florida, the implementing bill to the Fiscal Year 2005-2006 General Appropriations Act, temporarily removed this conflict for Baker Act services, and required the 25 percent local participation. This bill permanently removes this conflict by eliminating state reimbursement allowance up to 100 percent in s. 394.457, F. S.

Substance Abuse and Mental Health Funding Equity

The current provisions of s. 394.908, F. S., specify the methodology by which substance abuse and mental health dollars are required to be distributed. Any funding beyond the 1996-1997 fiscal year base appropriation for alcohol, drug abuse, and mental health services is to be allocated as follows: 75 percent based on epidemiological estimates of disabilities that apply to the respective target populations and a pro rata share distribution that ensures districts below the statewide average funding level per person in each target population of "persons in need" receive funding necessary to achieve equity. The remaining 25 percent is to be allocated based on the number of persons in need of substance abuse and mental health services per district without regard to current funding levels. The law also specifies that additional funding after July 1, 1998 is required to be performance-based.

The bill modifies the methodology to require that all additional funding beyond the 2005-2006 fiscal year base appropriation shall be allocated based on the epidemiological estimates of disabilities that apply to the respective target populations and a pro rata share distribution that ensures districts below the statewide average funding level per person in each target population of "persons in need" receive funding necessary to achieve equity. No funds are to be allocated based on number of persons in need of services without regard to current funding levels. The bill also deletes the provision regarding additional funding being performance-based.

C. SECTION DIRECTORY:

Section 1. Amends s. 394.457, F.S., regarding the reimbursement rate by the Department of Children and Family Services for contracted Baker Act services.

Section 2. Amends s. 394.908, F.S., revising substance abuse and mental health funding allocation methodology.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Local Match
   Chapter 2005-71, Laws of Florida, the implementing bill to the Fiscal Year 2005-2006 General Appropriations Act, temporarily requires a 25 percent local participation for Baker Act services. This bill permanently changes the requirement by eliminating state reimbursement allowance up to 100 percent in s. 394.457, F. S.

   Allocation Methodology
   With the change in the substance abuse and mental health allocation methodology provisions in this bill, additional funds provided by the Legislature will be distributed based on epidemiological estimates of disabilities that apply to the respective target populations, and a pro rata share distribution that ensures district below the statewide average funding level per person in each target population of "persons in need" receive funding necessary to achieve equity. No funding will be allocated based on the number of persons in need of substance abuses and mental health services per district without regard to current funding levels.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill describes the allocation process for substance abuse and mental health funding beyond the 2005-2006 fiscal year and does not affect current base funding.

   See D. Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   See D. Fiscal Comments.

D. FISCAL COMMENTS:

   According to the Department of Children and Family Services, in their administrative rules, the provider is responsible for match, since that is the entity that has the state funds that need to be matched. The provider can get match from a variety of sources, including county government. Match can be cash or in-kind. For Baker Act services, the provider usually gets cash match specific to Baker Act from the county. If the county does not provide that match, the provider must get it elsewhere.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The 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. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Children and Family Services has sufficient rulemaking authority to carry out the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to substance abuse and mental health services funding; amending s. 394.457, F.S.; deleting provisions authorizing a reimbursement rate of 100 percent by the Department of Children and Family Services for certain services provided under the Baker Act; amending s. 394.908, F.S.; revising the funding allocation methodology; providing an effective date.

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

Section 1. Subsection (3) of section 394.457, Florida Statutes, is amended to read:

394.457 Operation and administration.--

(3) POWER TO CONTRACT.--The department may contract to provide, and be provided with, services and facilities in order to carry out its responsibilities under this part with the following agencies: public and private hospitals; receiving and treatment facilities; clinics; laboratories; departments, divisions, and other units of state government; the state colleges and universities; the community colleges; private colleges and universities; counties, municipalities, and any other governmental unit, including facilities of the United States Government; and any other public or private entity which provides or needs facilities or services. Baker Act funds for community inpatient, crisis stabilization, short-term residential treatment, and screening services must be allocated to each county pursuant to the department's funding allocation methodology. Notwithstanding the provisions of s. 287.057(5)(f),

30 contracts for community-based Baker Act services for inpatient,
31 crisis stabilization, short-term residential treatment, and
32 screening provided under this part, other than those with other
33 units of government, to be provided for the department must be
34 awarded using competitive sealed bids when the county commission
35 of the county receiving the services makes a request to the
36 department's district office by January 15 of the contracting
37 year. The district shall not enter into a competitively bid
38 contract under this provision if such action will result in
39 increases of state or local expenditures for Baker Act services
40 within the district. Contracts for these Baker Act services using
41 competitive sealed bids will be effective for 3 years. ~~Services~~
42 ~~contracted for by the department may be reimbursed by the state~~
43 ~~at a rate up to 100 percent.~~ The department shall adopt rules
44 establishing minimum standards for such contracted services and
45 facilities and shall make periodic audits and inspections to
46 assure that the contracted services are provided and meet the
47 standards of the department.
48 Section 2. Section 394.908, Florida Statutes, is amended to
49 read:
50 394.908 Substance abuse and mental health funding equity;
51 distribution of appropriations.--In recognition of the historical
52 inequity ~~among service districts of the former Department of~~
53 ~~Health and Rehabilitative Services~~ in the funding of substance
54 abuse and mental health services <u>for the department's districts</u>
55 <u>and regions</u>~~,~~ and ~~in order~~ to rectify this inequity and provide
56 for equitable funding in the future throughout the state, the
57 following funding process shall be <u>used</u> ~~adhered to~~:

58 (1) Funding thresholds for substance abuse and mental
59 health services in each of the current districts, statewide,
60 shall be established based on the current number of persons in
61 need per district of substance abuse and mental health services,
62 respectively.
63 (2) "Persons in need" means those persons who fit the
64 profile of the respective target populations and require mental
65 health or substance abuse services.
66 (3) ~~Seventy-five percent of~~ Any additional funding beyond
67 the 2005-2006 ~~1996-1997~~ fiscal year base appropriation for
68 alcohol, drug abuse, and mental health services shall be
69 allocated to districts for substance abuse and mental health
70 services based on:
71 (a) Epidemiological estimates of disabilities that ~~which~~
72 apply to the respective target populations.
73 (b) A pro rata share distribution that ensures districts
74 below the statewide average funding level per person in each
75 target population of "persons in need" receive funding necessary
76 to achieve equity.
77 ~~(4) The remaining 25 percent shall be allocated based on~~
78 ~~the number of persons in need of substance abuse and mental~~
79 ~~health services per district without regard to current funding~~
80 ~~levels.~~
81 (4) ~~(5)~~ Target populations for persons in need shall be
82 displayed for each district and distributed concurrently with the
83 approved operating budget. The display by target population shall
84 show: The annual number of persons served based on prior year
85 actual numbers, the annual cost per person served, ~~the number of~~

86 ~~persons served by service cost center,~~ and the estimated number
87 of the total target population for persons in need.
88 (5) ~~(6)~~ The annual cost per person served shall be defined
89 as the total actual funding for each target population divided by
90 the number of persons served in the target population for that
91 year.
92 ~~(7) Commencing on July 1, 1998, all additional funding~~
93 ~~pursuant to this section shall be performance-based.~~
94 ~~(8) For fiscal year 2004-2005 only, and notwithstanding the~~
95 ~~provisions of this section, all new funds received in excess of~~
96 ~~fiscal year 2003-2004 recurring appropriations shall be allocated~~
97 ~~in accordance with the provisions of the General Appropriations~~
98 ~~Act; however, no district shall receive an allocation of~~
99 ~~recurring funds less than its initial approved operating budget,~~
100 ~~plus any distributions of lump sum appropriations or reductions~~
101 ~~in unfunded budget, for fiscal year 2003-2004. This subsection~~
102 ~~expires July 1, 2005.~~
103 Section 3. This act shall take effect July 1, 2006.

PCB FC 06-06

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-06 Foster Care and Related Services
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Ekholm LE	Kelly ck
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Section 409.1671(7), F. S., describes the process by which a plan is to be developed by the Florida Coalition for Children, Inc., for a statewide community-based care risk pool for the protection of eligible lead community-based providers and other providers who contract directly with the department.

This bill changes the section to require that the department develop the plan in consultation with the Florida Coalition for Children, Inc., to modify the content of the plan and the approval process, and to authorize the department to expend funds from the risk pool pursuant to the provisions of the plan after approval by the Legislative Budget Commission.

The bill also makes changes to the manner in which the risk pool is funded, operated, and managed. Finally, the bill authorizes the department to issue an interest-free loan to the Florida Coalition for Children, Inc., for the purpose of creating a self-insurance program.

The effective date is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill changes the statewide community-based care risk pool from a loan to a grant.

B. EFFECT OF PROPOSED CHANGES:

Section 409.1671(7), F. S., contains provisions outlining the requirements of a plan regarding the long-term use and structure of a statewide community based care risk pool for the protection of eligible lead community-based providers, their subcontractors, and providers of other social services who contract directly with the department. The bill modifies current law to require the Department of Children and Family Services to prepare the plan in consultation with the Florida Coalition for Children and specifies the plan be submitted to the Legislative Budget Commission. The bill makes changes to the contents of the plan, including the elimination of the provision that excess federal earnings being allocated to the risk pool. Once the plan is approved, the department is authorized to expend funds from the risk pool. Provisions in the current law that direct the department, upon approval of the plan, to issue an interest free loan that is secured by revenue of the community-based care risk pool membership are deleted from the law.

The bill makes further changes to section 409.1671, F. S., eliminating the provision that subsequent funding of the risk pool be supported by premiums assessed to members of the community-based care risk pool. The bill also eliminates language stating the pool shall be managed by the Florida Coalition for Children, Inc.

Additionally, the bill adds language to the existing law that authorizes the department to issue an interest-free loan to the Florida Coalition for Children, Inc. for the purpose of creating a self-insurance program. The loan is to be secured by the cumulative contractual revenue of the community-based care lead agencies participating in the self-insurance program. The amount of the loan shall be in an amount equal to the amount appropriated by the Legislature for this purpose.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.1671(7), F. S., regarding a statewide community-based care risk pool and authorizing DCF to issue an interest-free loan to the Florida Coalition for Children, Inc., to create a self-insurance program.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

This bill provides a process for development and operation of a community-based care risk pool for providers of child welfare services and authorizes a loan for the creation of a self insurance program for community-based care lead agencies. There is no appropriation contained in this bill, as appropriations for these purposes are in the General Appropriations Act.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The 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. The 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

A bill to be entitled

An act relating to foster care and related services; amending s. 409.1671, F.S.; requiring the Department of Children and Family Services to develop a statewide plan for outsourcing foster care and related services; removing certain plan requirements; removing an obsolete date; authorizing the expenditure of certain funds; removing a requirement to issue certain loans; removing certain provisions relative to the sources of future funding; making conforming changes; removing authority of the Florida Coalition for Children, Inc., or its subcontractors to manage certain risk pool funds; authorizing the department to issue an interest-free loan to the Florida Coalition for Children, Inc., to establish a self-insurance program based on certain appropriations; providing an effective date.

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

Section 1. Subsection (7) of section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; outsourcing.--

(7) The ~~Florida Coalition for Children, Inc., in consultation with the~~ department~~,~~ shall develop a plan, in consultation with the Florida Coalition for Children, Inc., ~~based on an independent actuarial study~~ regarding the long-term use and structure of a statewide community-based care risk pool for the protection of eligible lead community-based providers, their subcontractors, and providers of other social services who

30 contract directly with the department. ~~The plan must also outline~~
31 ~~strategies to maximize federal earnings as they relate to the~~
32 ~~community-based care risk pool. At a minimum, the plan must allow~~
33 ~~for the use of federal earnings received from child welfare~~
34 ~~programs to be allocated to the community-based care risk pool by~~
35 ~~the department, which earnings are determined by the department~~
36 ~~to be in excess of the amount appropriated in the General~~
37 ~~Appropriations Act.~~ The plan must specify the necessary steps to
38 ensure the financial integrity ~~and industry-standard risk~~
39 ~~management practices of the community-based care risk pool~~ and
40 ~~the~~ continued availability of funding from federal, state, and
41 local sources. ~~The plan must also include recommendations that~~
42 ~~permit the program to be available to entities of the department~~
43 ~~providing child welfare services until full conversion to~~
44 ~~community-based care takes place.~~ The final plan shall be
45 submitted to the ~~department and then to the~~ Executive Office of
46 the Governor and the Legislative Budget Commission ~~for formal~~
47 ~~adoption before January 1, 2005~~. Upon approval of the plan ~~by all~~
48 ~~parties~~, the department is authorized to expend funds from the
49 community-based care risk pool pursuant to the provisions of the
50 plan ~~shall issue an interest-free loan that is secured by the~~
51 ~~cumulative contractual revenue of the community-based care risk~~
52 ~~pool membership, and the amount of the loan shall equal the~~
53 ~~amount appropriated by the Legislature for this purpose. The plan~~
54 ~~shall provide for a governance structure that assures the~~
55 ~~department the ability to oversee the operation of the community-~~
56 ~~based care risk pool at least until this loan is repaid in full~~.
57 (a) The purposes for which the community-based care risk
58 pool shall be used include, but are not limited to:

59 1. Significant changes in the number or composition of
60 clients eligible to receive services.
61 2. Significant changes in the services that are eligible
62 for reimbursement.
63 3. Scheduled or unanticipated, but necessary, advances to
64 providers or other cash-flow issues.
65 4. Proposals to participate in optional Medicaid services
66 or other federal grant opportunities.
67 5. Appropriate incentive structures.
68 6. Continuity of care in the event of failure,
69 discontinuance of service, or financial misconduct by a lead
70 agency.
71 7. Payment for time-limited technical assistance and
72 consultation to lead agencies in the event of serious performance
73 or management problems.
74 8. Payment for meeting all traditional and nontraditional
75 insurance needs of eligible members.
76 9. Significant changes in the mix of available funds.
77 (b) After approval of the plan in the 2004-2005 fiscal year
78 and annually thereafter, the department may also request in its
79 annual legislative budget request, and the Governor may
80 recommend, that the funding necessary to carry out paragraph (a)
81 be appropriated to the department. ~~Subsequent funding of the~~
82 ~~community-based care risk pool shall be supported by premiums~~
83 ~~assessed to members of the community-based care risk pool on a~~
84 ~~recurring basis. The community-based care risk pool may invest~~
85 ~~and retain interest earned on these funds.~~ In addition, the
86 department may transfer funds to the community-based care risk
87 pool as available in order to ensure an adequate funding level if

88 the fund is declared to be insolvent and approval is granted by
89 the Legislative Budget Commission. ~~Such payments for insolvency~~
90 ~~shall be made only after a determination is made by the~~
91 ~~department or its actuary that all participants in the community-~~
92 ~~based care risk pool are current in their payments of premiums~~
93 ~~and that assessments have been made at an actuarially sound~~
94 ~~level. Such payments by participants in the community-based care~~
95 ~~risk pool may not exceed reasonable industry standards, as~~
96 ~~determined by the actuary.~~ Money from this fund may be used to
97 match available federal dollars. ~~Dividends or other payments,~~
98 ~~with the exception of legitimate claims, may not be paid to~~
99 ~~members of the community-based care risk pool until the loan~~
100 ~~issued by the department is repaid in full. Dividends or other~~
101 ~~payments, with the exception of legitimate claims and other~~
102 ~~purposes contained in the approved plan, may not be paid to~~
103 ~~members of the community-based care risk pool unless, at the time~~
104 ~~of distribution, the community-based care risk pool is deemed~~
105 ~~actuarially sound and solvent. Solvency shall be determined by an~~
106 ~~independent actuary contracted by the department. The plan shall~~
107 ~~be developed in consultation with the Office of Insurance~~
108 ~~Regulation.~~
109 1. Such funds shall constitute partial security for
110 contract performance by lead agencies and shall be used to offset
111 the need for a performance bond. ~~Subject to the approval of the~~
112 ~~plan, the community-based care risk pool shall be managed by the~~
113 ~~Florida Coalition for Children, Inc., or the designated~~
114 ~~contractors of the Florida Coalition for Children, Inc.~~
115 ~~Nonmembers of the community-based care risk pool may continue to~~
116 ~~contract with the department but must provide a letter of credit~~

117 ~~equal to one-twelfth of the annual contract amount in lieu of~~
118 ~~membership in the community-based care risk pool.~~
119 2. The department may separately require a bond to mitigate
120 the financial consequences of potential acts of malfeasance,
121 misfeasance, or criminal violations by the provider.
122 (c) The department may issue an interest-free loan to the
123 Florida Coalition for Children, Inc., for the purpose of creating
124 a self-insurance program. The loan shall be secured by the
125 cumulative contractual revenue of the community-based care lead
126 agencies participating in the self-insurance program. The amount
127 of the loan shall be in an amount equal to the amount
128 appropriated by the Legislature for this purpose.
129 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-07 Client Services Fee Collections
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Ekholm LE	Kelly ck
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Section 402.33(10)(a), F. S., contains provisions regarding fee collections in the Department of Children and Family Services and the Department of Health in excess of fee-supported appropriations. The law states that, unless otherwise specified by the Legislature, such excess fees may be used in conformance with the provisions of chapter 216, F. S., to fund non-recurring expenditures for direct client services and to fund administrative costs of improving the fee collections.

The 2004 and 2005 implementing bills for the General Appropriations Act suspended the provisions of s. 402.33(10)(a), F.S. The bill permanently repeals s. 402.33(10)(a). Any excess fees collected by either the Department of Children and Family Services or the Department of Health would be appropriated through the General Appropriations Act or the budget amendment process pursuant to Chapter 216, F. S.

The bill is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes—This bill does not modify the level of fee collections in the Department of Children and Family Services and the Department of Health. Fees would remain the same and be subject to appropriation by the Legislature or the budget amendment process pursuant to Chapter 216, F. S.

B. EFFECT OF PROPOSED CHANGES:

Section 402.33(10)(a), F. S., contains provisions regarding fee collections in the Department of Children and Family Services and the Department of Health in excess of fee-supported appropriations. The law states that, unless otherwise specified by the Legislature, such excess fees may be used in conformance with the provisions of Chapter 216, F. S., to fund nonrecurring expenditures for direct client services and to fund administrative costs of improving the fee collections.

The law limits the amount of the collections that can be used for improvements in the fee collections programs, provides for priority consideration for the expenditure of excess collections, and specifies the a plan for the use of excess collections not spent in the fiscal year in which collected. Such collections shall be subject to approval by the Executive Office of the Governor within 90 days for the end of the state fiscal year in which the excess occurs.

The 2004 and 2005 implementing bills[1] for the General Appropriations Act suspended the provisions of s. 402.33(10)(a), F.S. The bill permanently repeals s. 402.33(10)(a). Any excess fees collected by either the Department of Children and Family Services or the Department of Health would be appropriated through the General Appropriations Act or the budget amendment process pursuant to Chapter 216, F. S.

C. SECTION DIRECTORY:

Section 1. Repeals s. 402.33(10), F. S., regarding excess fee collections in the Department of Children and Family Services and the Department of Health.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[1] Chapter 2004-269, LOF and Chapter 2005-71, LOF.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If the Department of Children and Family Services or the Department of Health collect any fees in excess of fee-supported appropriations, these funds would need to be appropriated through the General Appropriations Act or through a budget amendment pursuant the Chapter 216, F. S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to client services fee collections; amending s. 402.33, F.S.; eliminating certain authority of the Department of Children and Family Services and the Department of Health to use fee collections in excess of fee-supported appropriations for certain purposes; providing an effective date.

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

Section 1. Subsection (10) of section 402.33, Florida Statutes, is amended to read:

402.33 Department authority to charge fees for services provided.--

~~(10)(a) Unless otherwise specified by the Legislature, fee collections, including third-party reimbursements, in excess of fee-supported appropriations may be used in conformance with the provisions of chapter 216 to fund nonrecurring expenditures for direct client services and to fund administrative costs of improving the fee collection program of the department. No more than one-sixth of the amount of collections in excess of the amount of appropriations may be used to fund such improvements to the program. Priority consideration for the expenditure of excess collections shall be given to those districts and programs most responsible for the excess. A plan for the use of excess collections not spent in the fiscal year in which collected shall be subject to approval by the Executive Office of the Governor within 90 days from the end of the state fiscal year in which the excess occurs.~~

30 ~~(b) For the 2005-2006 fiscal year only, the provisions of~~
31 ~~paragraph (a) shall not apply. This paragraph expires July 1,~~
32 ~~2006.~~
33 Section 2. This act shall take effect July 1, 2006.

PCB FC 06-08

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-08 Social Services
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Ekholm LE	Kelly CK
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Section 393.0661, F. S., addresses the home and community-based services delivery system of the Agency for Persons with Disabilities. Section 393.0661(4), F. S., specifies that nothing in this section or in any administrative rule shall be construed to prevent or limit the Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, from adjusting fees, reimbursement rates, the number of services, or other adjustments to ensure that the Agency for Persons with Disabilities stays within its appropriated budget.

This bill modifies this section of the law to clarify that if at any time the cost of home and community-based services is expected to exceed the appropriated amount, based on current rates as implemented on November 1, 2003, the Agency for Persons with Disabilities may implement any adjustment necessary to remain within the appropriation.

The bill also requires the Agency for Persons with Disabilities to provide quarterly reports regarding the financial status of the Developmental Disabilities Services and the Supported Living home and community based services waivers.

Finally, the bill makes permanent a provision in s. 440.02, F. S., relating to an exemption from coverage under workers' compensation law for certain clients enrolled in the Medicaid program served by Adult Day training Services.

The bill is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill exempts providers of adult day training services under certain Medicaid waivers from providing for worker's compensation coverage to Medicaid recipients who earn less than the minimum wage in sheltered workshops.

B. EFFECT OF PROPOSED CHANGES:

Section 393.0661(4), F. S., specifies that nothing in this section of statute or in any administrative rule shall be construed to prevent or limit the Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or from limiting enrollment, or making other adjustments to ensure that the Agency for Persons with Disabilities stays within its appropriated budget.

The bill modifies this section of the law to specify that the Agency for Persons with Disabilities may implement any adjustment necessary to remain within the appropriation if at any time the cost of home and community-based services is expected to exceed the appropriated amount. This portion of the bill changes the statute consistent with provisions contained in s. 11 of Chapter 2005-071, Laws of Florida for Fiscal Year 2005-2006. The bill also requires the Agency for Persons with Disabilities to provide quarterly reports regarding the financial status of the Developmental Disabilities Services and the Supported Living home and community based services waivers.

Finally, the bill makes permanent a provision in s. 440.02, F. S., relating to an exemption from coverage under workers' compensation law for certain clients enrolled in the Medicaid program served by Adult Day training Services.

C. SECTION DIRECTORY:

Section 1. Amends s. 393.0661(4), F. S., requiring the Agency for Persons with Disabilities to submit quarterly financial status reports and specifying its authority to make adjustments to stay within appropriated budget.

Section 2. Amends s 440.02(15)(d), F. S., regarding the definition of who is not an employee for the purposes of worker's compensation coverage.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

If the Agency for Persons with Disabilities determines that projected expenditures will exceed its appropriated budget, the agency may reduce its expenditures through a variety of mechanisms, including provider rate reductions from the current levels implemented November 1, 2003.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes the Agency Persons with Disabilities to make provider rate reductions based on current rates as implemented November 1, 2003 in the Developmental Disabilities Services and Supported Living home and community-based waivers to ensure the Agency for Persons with Disabilities stays within its appropriated budget.

The bill also exempts providers of adult day training services under certain Medicaid waivers from providing for worker's compensation coverage to Medicaid recipients who earn less than the minimum wage in sheltered workshops.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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. The 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

A bill to be entitled

An act relating to social services; amending s. 393.0661, F.S.; deleting provisions requiring the Agency for Health Care Administration to make certain adjustments with respect to home and community-based services; requiring that the Agency for Persons with Disabilities report to the Governor and Legislature the financial status of home and community-based services provided under a federally approved waiver; requiring that the agency adjust the rates for such services in order to remain within the amount appropriated; amending s. 440.02, F.S.; deleting provisions providing for the expiration of an exemption from coverage under workers' compensation law for certain clients enrolled in the Medicaid program who are served by Adult Day Training Services; providing an effective date.

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

Section 1. Subsection (4) of section 393.0661, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

393.0661 Home and community-based services delivery system; comprehensive redesign.--The Legislature finds that the home and community-based services delivery system for persons with developmental disabilities and the availability of appropriated funds are two of the critical elements in making services available. Therefore, it is the intent of the Legislature that the Agency for Persons with Disabilities shall develop and implement a comprehensive redesign of the system.

30 (4) Nothing in this section or in any administrative rule
31 shall be construed to prevent or limit the Agency for Health Care
32 Administration, in consultation with the Agency for Persons with
33 Disabilities, from adjusting fees, reimbursement rates, lengths
34 of stay, number of visits, or number of services, or from
35 limiting enrollment, or making any other adjustment necessary to
36 comply with the availability of moneys and any limitations or
37 directions provided for in the General Appropriations Act. ~~If at~~
38 ~~any time, based upon an analysis by the Agency for Health Care~~
39 ~~Administration in consultation with the Agency for Persons with~~
40 ~~Disabilities, the cost of home and community-based waiver~~
41 ~~services are expected to exceed the appropriated amount, the~~
42 ~~Agency for Health Care Administration may implement any~~
43 ~~adjustment, including provider rate reductions, within 30 days in~~
44 ~~order to remain within the appropriation.~~
45 (5) The Agency for Persons with Disabilities shall submit
46 quarterly status reports to the Executive Office of the Governor,
47 the chair of the Senate Ways and Means Committee, and the chair
48 of the House Fiscal Council regarding the financial status of
49 home and community-based services provided under the federally
50 approved waiver, including, but not limited to, the number of
51 clients currently being served through the program and
52 information concerning the actual and projected costs as compared
53 to the amount of the appropriation available to the program. If
54 at any time an analysis by the agency finds that the cost of
55 services is expected to exceed the amount appropriated, based on
56 the current rates as implemented on November 1, 2003, the agency
57 shall implement any adjustment that is necessary under subsection
58 (4) in order to remain within the appropriation.

59 Section 2. Paragraph (d) of subsection (15) of section
60 440.02, Florida Statutes, is amended to read:
61 440.02 Definitions.--When used in this chapter, unless the
62 context clearly requires otherwise, the following terms shall
63 have the following meanings:
64 (15)
65 (d) "Employee" does not include:
66 1. An independent contractor who is not engaged in the
67 construction industry.
68 a. In order to meet the definition of independent
69 contractor, at least four of the following criteria must be met:
70 (I) The independent contractor maintains a separate
71 business with his or her own work facility, truck, equipment,
72 materials, or similar accommodations;
73 (II) The independent contractor holds or has applied for a
74 federal employer identification number, unless the independent
75 contractor is a sole proprietor who is not required to obtain a
76 federal employer identification number under state or federal
77 regulations;
78 (III) The independent contractor receives compensation for
79 services rendered or work performed and such compensation is paid
80 to a business rather than to an individual;
81 (IV) The independent contractor holds one or more bank
82 accounts in the name of the business entity for purposes of
83 paying business expenses or other expenses related to services
84 rendered or work performed for compensation;
85 (V) The independent contractor performs work or is able to
86 perform work for any entity in addition to or besides the
87 employer at his or her own election without the necessity of

88 completing an employment application or process; or
89 (VI) The independent contractor receives compensation for
90 work or services rendered on a competitive-bid basis or
91 completion of a task or a set of tasks as defined by a
92 contractual agreement, unless such contractual agreement
93 expressly states that an employment relationship exists.
94 b. If four of the criteria listed in sub-subparagraph a. do
95 not exist, an individual may still be presumed to be an
96 independent contractor and not an employee based on full
97 consideration of the nature of the individual situation with
98 regard to satisfying any of the following conditions:
99 (I) The independent contractor performs or agrees to
100 perform specific services or work for a specific amount of money
101 and controls the means of performing the services or work.
102 (II) The independent contractor incurs the principal
103 expenses related to the service or work that he or she performs
104 or agrees to perform.
105 (III) The independent contractor is responsible for the
106 satisfactory completion of the work or services that he or she
107 performs or agrees to perform.
108 (IV) The independent contractor receives compensation for
109 work or services performed for a commission or on a per-job basis
110 and not on any other basis.
111 (V) The independent contractor may realize a profit or
112 suffer a loss in connection with performing work or services.
113 (VI) The independent contractor has continuing or recurring
114 business liabilities or obligations.
115 (VII) The success or failure of the independent
116 contractor's business depends on the relationship of business

117 receipts to expenditures.
118 c. Notwithstanding anything to the contrary in this
119 subparagraph, an individual claiming to be an independent
120 contractor has the burden of proving that he or she is an
121 independent contractor for purposes of this chapter.
122 2. A real estate licensee, if that person agrees, in
123 writing, to perform for remuneration solely by way of commission.
124 3. Bands, orchestras, and musical and theatrical
125 performers, including disk jockeys, performing in licensed
126 premises as defined in chapter 562, if a written contract
127 evidencing an independent contractor relationship is entered into
128 before the commencement of such entertainment.
129 4. An owner-operator of a motor vehicle who transports
130 property under a written contract with a motor carrier which
131 evidences a relationship by which the owner-operator assumes the
132 responsibility of an employer for the performance of the
133 contract, if the owner-operator is required to furnish motor
134 vehicle equipment as identified in the written contract and the
135 principal costs incidental to the performance of the contract,
136 including, but not limited to, fuel and repairs, provided a motor
137 carrier's advance of costs to the owner-operator when a written
138 contract evidences the owner-operator's obligation to reimburse
139 such advance shall be treated as the owner-operator furnishing
140 such cost and the owner-operator is not paid by the hour or on
141 some other time-measured basis.
142 5. A person whose employment is both casual and not in the
143 course of the trade, business, profession, or occupation of the
144 employer.
145 6. A volunteer, except a volunteer worker for the state or

146 a county, municipality, or other governmental entity. A person
147 who does not receive monetary remuneration for services is
148 presumed to be a volunteer unless there is substantial evidence
149 that a valuable consideration was intended by both employer and
150 employee. For purposes of this chapter, the term "volunteer"
151 includes, but is not limited to:
152 a. Persons who serve in private nonprofit agencies and who
153 receive no compensation other than expenses in an amount less
154 than or equivalent to the standard mileage and per diem expenses
155 provided to salaried employees in the same agency or, if such
156 agency does not have salaried employees who receive mileage and
157 per diem, then such volunteers who receive no compensation other
158 than expenses in an amount less than or equivalent to the
159 customary mileage and per diem paid to salaried workers in the
160 community as determined by the department; and
161 b. Volunteers participating in federal programs established
162 under Pub. L. No. 93-113.
163 7. Unless otherwise prohibited by this chapter, any officer
164 of a corporation who elects to be exempt from this chapter. Such
165 officer is not an employee for any reason under this chapter
166 until the notice of revocation of election filed pursuant to s.
167 440.05 is effective.
168 8. An officer of a corporation that is engaged in the
169 construction industry who elects to be exempt from the provisions
170 of this chapter, as otherwise permitted by this chapter. Such
171 officer is not an employee for any reason until the notice of
172 revocation of election filed pursuant to s. 440.05 is effective.
173 9. An exercise rider who does not work for a single horse
174 farm or breeder, and who is compensated for riding on a case-by-

175 case basis, provided a written contract is entered into prior to
176 the commencement of such activity which evidences that an
177 employee/employer relationship does not exist.
178 10. A taxicab, limousine, or other passenger vehicle-for-
179 hire driver who operates said vehicles pursuant to a written
180 agreement with a company which provides any dispatch, marketing,
181 insurance, communications, or other services under which the
182 driver and any fees or charges paid by the driver to the company
183 for such services are not conditioned upon, or expressed as a
184 proportion of, fare revenues.
185 11. A person who performs services as a sports official for
186 an entity sponsoring an interscholastic sports event or for a
187 public entity or private, nonprofit organization that sponsors an
188 amateur sports event. For purposes of this subparagraph, such a
189 person is an independent contractor. For purposes of this
190 subparagraph, the term "sports official" means any person who is
191 a neutral participant in a sports event, including, but not
192 limited to, umpires, referees, judges, linespersons,
193 scorekeepers, or timekeepers. This subparagraph does not apply to
194 any person employed by a district school board who serves as a
195 sports official as required by the employing school board or who
196 serves as a sports official as part of his or her
197 responsibilities during normal school hours.
198 12. Medicaid-enrolled clients under chapter 393 who are
199 excluded from the definition of employment under s.
200 443.1216(4)(d) and served by Adult Day Training Services under
201 the Home and Community-Based or the Family and Supported Living
202 Medicaid Waiver program in a sheltered workshop setting licensed
203 by the United States Department of Labor for the purpose of

204 training and earning less than the federal hourly minimum wage.
205 13. Medicaid-enrolled clients under chapter 393 who are
206 excluded from the definition of employment under s.
207 443.1216(4)(d) and served by Adult Day Training Services under
208 the Family and Supported Living Medicaid Waiver program in a
209 sheltered workshop setting licensed by the United States
210 Department of Labor for the purpose of training and earning less
211 than the federal hourly minimum wage. ~~This subparagraph expires~~
212 ~~July 1, 2006.~~
213 Section 3. This act shall take effect upon becoming a law.

PCB FC 06-09

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-09 Corrections
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Sneed	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill:

- abolishes the Florida Corrections Commission;
- eliminates probation and restitution centers as a sentencing option and eliminates the Department of Corrections probation and restitution centers;
- eliminates the Department of Corrections pretrial intervention program and provides counties with the authority to supervise pretrial intervention offenders;
- abolishes the Parole Commission; provides for the creation of regional parole boards for the purpose of conducting parole hearings, granting or denying parole to eligible inmates, and setting conditions of parole; requires the Department of Legal Affairs/Office of Attorney General to administratively house and support the boards; grants control over the administrative and investigative functions related to clemency to the Executive Office of the Governor; grants the sentencing court authority over revocation, and setting conditional control and addiction recovery release terms; and
- revises the membership and reporting requirements of the Prison Per-Diem Workgroup.

The House version of the General Appropriations Act deletes $3,172,964 in recurring general revenue appropriations for probation and restitution centers and deletes 76 positions, 2,882,556 of salary rate and $4,368,916 in recurring general revenue funding for the pretrial intervention program in the Department of Corrections. The bill also transfers one-half of the funding for the 2006-2007 fiscal year for the Parole Commission to a lump sum appropriation category to be distributed to other governmental entities. The positions and the budget authority for the Florida Corrections Commission were eliminated in the 2004-2005 and 2005-2006 fiscal years.

The Governor's Recommended Budget proposes the elimination of the DOC probation and restitution centers and pretrial intervention program, determining that both programs are not critical to the mission of the agency.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government –

This bill abolishes the Parole Commission and the Florida Corrections Commission and eliminates the Department of Corrections (DOC) pretrial intervention program and probation and restitution centers.

B. EFFECT OF PROPOSED CHANGES:

This is a conforming bill to the House version of the General Appropriations Act. It amends various statutes relating to correctional programs. This bill eliminates the Florida Corrections Commission and the Florida Parole Commission. This bill also eliminates two programs within the DOC: Pretrial Intervention and Probation and Restitution Centers. In addition, this bill revises the membership and reporting requirements of the Prison Per-Diem Workgroup.

FLORIDA CORRECTIONS COMMISSION

Background:

The Florida Corrections Commission (commission) was established in Chapter 93-404, Laws of Florida, during a special session of the Legislature in 1993. Its specific membership, responsibilities and powers are defined in s. 20.315(6), F.S. The commission's primary role is to oversee Florida's correctional system, which includes reviewing the effectiveness and efficiency of the state's correctional efforts, recommending policies, and evaluating the implementation of approved policies.

The commission is administratively housed in the DOC. Although organizationally located in the department, the commission functions as an independent entity in carrying out its mission.

The commission consists of 9 members, appointed by the Governor with confirmation by the Senate. The commissioners are unpaid volunteers representing all geographic areas of the state and have diverse backgrounds in law, construction, education, health care, information technology, business, food service, and inmate rehabilitation.

The primary functions of the commission include the following:

1. recommend major correctional policies for the Governor's approval, and assure that approved policies and revisions are properly executed;
2. periodically review the status of the state correctional system and recommend improvements to the Governor and the Legislature;
3. annually review community-based intermediate sanctions and recommend to the Governor and the Legislature approaches for planning and implementing such sanctions and programs;
4. evaluate the DOC's annual legislative budget request, the comprehensive correctional master plan and the tentative construction program, determining compliance with all applicable laws and departmental policies and determining that the DOC's goals will be achieved in an effective, efficient and businesslike manner;
5. routinely monitor the financial status of the DOC, assuring that the department is managing revenue and any applicable bond proceeds responsibly and in accordance with law;
6. regularly evaluate the efficiency, productivity, and management of the DOC using performance and production standards;
7. provide public education on corrections and criminal justice issues;

8. report to the Senate President and the Speaker of the House every November 1; and
9. resolve disputes between the DOC and contractors for the private correctional facilities entered into under chapter 957, F.S., when a contractor proposes to waive a rule, policy, or procedure concerning operating standards.

Impact of Bill:

The commission has not been a functioning body since Fiscal Year 2004-2005. Staff support positions and funding for the commission were eliminated in the 2004-2005 and 2005-2006 fiscal years. This bill eliminates all references to the commission in the statutes.

PROBATION AND RESTITUTION CENTERS

Background:

Chapter 944, F.S., includes a list of terms of probation or community control which may be imposed by a sentencing court. Probation is a court-ordered term of community supervision under specified conditions for a specific period of time that cannot exceed the maximum sentence for the offense. The probationer is required to abide by all conditions ordered by the court. Violation of these conditions may result in revocation by the court and imposition of any sentence, which it might have imposed when originally placing the offender on probation. The probationer is generally required to pay the cost of supervision to the state of Florida, and may have additional conditions requiring payment of restitution, court costs and fines, public service and various types of treatment.

Section 944.026, F.S., requires the DOC to develop, provide or contract for a statewide system of probation and restitution facilities, or centers, whereby probationers, drug offender probationers, and community controllees who have violated their terms or conditions, and whose presumptive sentence exceeds 22 months, may be required to reside while working, receiving treatment, or attending school, or for persons on probation, drug offender probation, or community control who may be required to attend outpatient substance abuse counseling and whereby inmates may be placed who are nearing their date of release from a correctional institution or a community correctional center, who are in need of placement in a substance abuse transition housing program, and who are considered eligible for such placement by the department. The purpose of these facilities and services is to provide the court with an alternative to committing offenders to more secure state correctional institutions. The probation and restitution centers provide a highly structured community-based environment. They often assist offenders who struggle with unemployment, limited educational and vocational skills, or lack structure, self-discipline and a sense of personal responsibility. The DOC probation and restitution center program has 2 components: a 4 to 6-month residential phase followed by a 3 to 6-month non-residential support and follow-up services phase.

Offenders enrolled in the 2003-04 and 2004-2005 fiscal years totaled 392 and 342, respectively. In Fiscal Year 2004-2005 enrollees included 135 violators of felony probation, 105 violators of community control, and 28 violators of drug offender probation. Today, the DOC contracts with two vendors to provide 3 probation and restitution centers, located in Pensacola, Orlando, and Jacksonville. As of February 2006, approximately 370 offenders were enrolled in the program.

Impact of Bill:

This bill amends section 944.026, F.S., by eliminating probation and restitution centers as a sentencing option and eliminating the Department of Corrections probation and restitution centers. The House version of the General Appropriations Act eliminates funding for this program.

PRETRIAL INTERVENTION PROGRAM

Background:

The criminal justice system diverts some of the least serious offenders into the DOC pretrial intervention program. The program has conditions similar to probation, including fees, restitution, public service, and counseling to prevent a return to criminal behavior. If the participant successfully completes the conditions of the program the state dismisses the charges and the defendant avoids a criminal record related to that offense. Failure to successfully complete the program results in normal prosecution of the case.

Section 948.08, F.S., states that any first offender, or any person previously convicted of not more than one nonviolent misdemeanor, who is charged with any misdemeanor or felony of a third degree, is eligible for release to the pretrial intervention program. Approval for eligibility must first be obtained from the administrator of the program, and consent must also be obtained from the victim, the state attorney, and the judge who presided at the initial appearance hearing of the offender. The criminal charges against an offender admitted to the program shall be continued without final disposition for a period of 90 days after the date the offender was released to the program, if the offender's participation in the program is satisfactory, and for an additional 90 days upon the request of the program administrator and consent of the state attorney, if the offender's participation in the program is satisfactory.

Any person charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, F.S., or who has committed prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud, and who has not been charged with a crime involving violence and who has not previously been convicted of a felony, nor previously been admitted to a pretrial program, is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than one year. At the end of the pretrial intervention period, the court will make a decision as to the disposition of the pending charges. The court will determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. Failure to successfully complete the program results in the continued prosecution of the case by the state attorney's office.

In addition to the approximately 87,000 inmates currently in state prisons, there are another 143,000 offenders that are serving some form of community supervision. As of January 2006, 8,486 offenders, or 5.9 percent of the total community supervision population, were enrolled in pre-trial intervention programs (3,193 drug offenders and 5,293 other offenders). Recommitment data published for the 2004-2005 fiscal year indicates that during a 2-year follow-up period, 66% of enrollees had successfully completed their sentence or were still under supervision.

Impact of Bill:

This bill amends chapter 948, F.S., by eliminating the Department of Corrections pretrial intervention program and providing counties with the authority to supervise pretrial intervention offenders if they elect to do so. The House version of the General Appropriations Act eliminates funding for pretrial intervention supervision by the department.

PAROLE COMMISSION

Background:

Article IV, Section 8, of the Florida Constitution provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles. Chapter 947, F.S., provides the duties and responsibilities of the Florida Parole Commission. The commission performs two roles: (1) it determines the suitability of releasing certain offenders from incarceration and sets the terms and conditions of supervision for post prison releasees and (2) it acts as an investigative body that supports the Board of Executive Clemency in considering petitions for clemency. According to the

commission, clemency activities take up approximately 49 percent of staff time. The commission consists of 3 commissioners and 148 staff positions.

The Parole Commission is responsible for administering parole, conditional release, conditional medical release, control release, and addiction recovery supervision to eligible criminal offenders.

Parole. One of the basic functions of the commission is determining when inmates should be paroled from prison. An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by correctional probation officers of the Department of Corrections. On June 30, 2005, there were 2,161 parolees in Florida (625 Florida cases and 1,536 other state cases). Although Florida no longer has parole except for those offenders sentenced for offenses committed prior to October 1, 1983, caseloads continue to increase due to parole-eligible offenders whose supervision is transferred from another state.

Parole is not available for most crimes that were committed on or after October 1, 1983. The exceptions are for capital felony murders committed prior to October 1,1994, and capital felony sexual battery prior to October 1, 1995. There is no parole eligibility for any crime committed on or after October 1, 1995. As of September 2005 there were 5,178 inmates eligible for parole consideration.

The parole process begins with the setting of a presumptive parole release date by the commission after a parole examiner reviews the inmate's file and makes an initial recommendation. Subsequent reviews of the presumptive parole release date are held every 2 to 5 years in hearings open to the public. At these hearings, commissioners review the inmate's institutional adjustment, noting prison progress reports, program participation, disciplinary actions, psychological evaluations, educational and vocational training, and other factors. Commissioners then vote to reduce, extend, or order no change to the presumptive parole release date. Finally, as the presumptive parole release date approaches, the commission conducts a final review of the inmate and the threat he/she poses. The commission solicits input from the sentencing judge, state attorney, law enforcement, the inmate's family and victims; conducts a complete review of the inmate's file; interviews the inmate and scrutinizes the proposed release plan. The commissioners vote at a public hearing whether to grant parole.

Conditional Release. Conditional release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or sexual predator. Unlike parole, conditional release is not discretionary. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the commission and this supervision can be revoked and the releasee returned to prison if the commission determines that a violation of supervision has occurred.

Control Release. The control release program was a prison population management system administered by the commission to keep the prison population at its lawful capacity. It is not currently active because there are sufficient prison beds, but there are a small number of control releasees still under supervision. The commission monitors the progress of these releasees and conducts revocation hearings for alleged violations.

Conditional Medical Release. Conditional medical release is a discretionary release that allows the commission to release inmates on supervision who are "terminally ill" or "permanently incapacitated" and who are not a danger to others.

Addiction Recovery Supervision. The addiction-recovery supervision program provides mandatory post-prison supervision for offenders released from a state correctional facility, who are convicted of a crime committed on or after July 1, 2001; who have a history of substance abuse or addiction or have participated in any drug treatment; and have not been convicted of a disqualifying offense. The commission

sets the term and conditions of supervision, and considers revocation of supervision if the offender fails to abide by the conditions of supervision. During FY 2003-2004, 719 offenders were placed in the program.

Clemency. The clemency activity includes full pardons, which unconditionally releases an individual from punishment and forgives guilt for any Florida convictions; commutations of sentence, which adjust an offender's sentence to one less severe (including changing a death row inmate's sentence to life in prison); restoration of firearms authority for ex-felons; and restoration of civil rights—the right to vote, hold public office, serve on a jury, and obtain state-issued occupational licenses—for ex-felons.

The Executive Clemency Board, composed of the Florida Cabinet, makes all final decisions regarding the granting of clemency. It is assisted by the Parole Commission's Office of Executive Clemency and Office of Clemency Administration. These offices assist the board with the two main processes for clemency—clemency with a formal hearing and restoration of civil rights without a hearing.

Clemency with a formal hearing. All ex-felons seeking a pardon or commutation of sentence, and some ex-felons seeking restoration of civil rights, must use the formal hearing process. In these cases, the applicant completes a short application which prompts the initiation of a full investigation as mandated by the Clemency Board. The application information is verified by field investigators at the Office of Clemency Administration. The commission staff then forwards its recommendation and investigative report to the Clemency Board, which makes its decision following a formal hearing.

Restoration of civil rights without a hearing. In accordance with changes to the Rules of Executive Clemency adopted in December 2004, most nonviolent offenders are eligible for restoration of civil rights without a hearing, provided that they have remained arrest-free for at least five years and do not owe victim restitution. All offenders are eligible for restoration of civil rights without a hearing if they have remained arrest-free for 15 years and do not owe victim restitution, although in rare cases a formal hearing is requested.

Impact of Bill:

This bill amends several sections of the Florida Statutes pertinent to the Parole Commission. Specifically, it abolishes the Parole Commission and provides for the creation of regional parole boards. The boards shall conduct parole hearings, grant or deny parole to eligible inmates, and sets conditions of parole. The boards are to be housed and supported administratively by the Department of Legal Affairs/Office of Attorney General. The bill also provides the Executive Office of the Governor with control over the administrative and investigative functions relating to clemency and grants the authority over revocation, conditional control, and addiction recovery release to the sentencing court. The House version of the General Appropriations Act transfers one-half of the 2006-2007 fiscal year funding for the Parole Commission to a lump sum appropriation category for distribution to other governmental entities.

PRISON PER-DIEM WORKGROUP

Background:

Section 957.07, F.S., states that the Department of Management Services (DMS) may not enter into a contract for the construction and operation of a privately operated prison unless it is determined that the total contract amount for the facility will result in a cost savings to the state of at least 7% over similar facilities constructed and operated by the state.

Section 957.07 (5)(a), F.S., states that by February 1 of each year, the Prison Per-Diem Workgroup shall develop consensus per diem rates to be used when determining per diem rates of privately operated prisons. The Department of Management Services, however, is directed by section 957.07(1), F.S., to use data provided by the Department of Corrections, rather than the per-diem workgroup, in determining whether a contract meets the 7% savings requirement.

Section 957.07 (5)(a), F.S., also states that the principals of the workgroup are the Office of Program Policy Analysis and Government Accountability (OPPAGA), the Office of the Auditor General, and the staffs of the

House and Senate appropriations committees. Sections 957.07 (1) and (4)(a), F.S., require the Auditor General to certify cost data provided by the Department of Corrections and used by the workgroup in its analysis.

Impact of Bill:

This bill amends s. 957.07 (5)(a), F.S., to allow the Prison Per-Diem Workgroup to develop consensus per diem rates of the state's privately operated correctional facilities upon the request of the Senate President or the Speaker of the House rather than develop the per diem rates annually. The section is further amended to remove the Auditor General as one of the principals of the workgroup to eliminate its dual role of assisting in the development of the consensus per diem rate and performing oversight duties.

C. SECTION DIRECTORY:

Section 1. Repeals s. 20.315(6), F.S., to abolish the Florida Corrections Commission.

Section 2. Amends s. 20.32, F.S., abolishing the Parole Commission and providing for the creation of regional parole boards; prescribing board membership; administratively housing the boards within the Office of the Attorney General (OAG); requiring the OAG to provide administrative and staff support; providing the powers and duties of the boards; and prescribing the OAG's assignment of inmates for board review.

Sections 3-23. Amends chapters 23, 112,186, 255, 322, 394, 775, 784, 843, 893 and 921, F.S., to conform references relating to parole and the roles of the regional parole boards, the DOC, and the OAG.

Sections 24-26. Amends chapters 940 and 941, F.S., to conform references relating to executive clemency and the roles of the boards and the Executive Office of the Governor.

Sections 27-31 and 38-43. Amends chapters 943, 944, 945 and 947, F.S., to conform references relating to the Parole Commission.

Sections 32 and 37. Amends s. 944.026, F.S., to delete references to state probation and restitution centers and pretrial intervention programs.

Section 33. Amends s. 944.23, F.S., to conform references relating to authorized prison visitations.

Sections 34. Amends s. 944.291(2), F.S., to conform references on matters concerning conditional release.

Sections 35 and 46. Amends ss. 944.4731 and 947.1405, F.S., to conform references relating to community supervision.

Section 36. Amends s. 944.8041, F.S., to delete all references to the Florida Corrections Commission relating to annual reporting requirements on elderly offenders within the correctional system and adds the Governor as a recipient of the annual report.

Sections 44 and 45. Amends ss. 947.02 and 947.021, F.S., to establish membership criteria for the parole boards and provide for reimbursement of the travel and per diem costs of board members.

Sections 46 and 47. Amends ss. 947.1405 and 947.141, F.S., to conform references, requiring the original sentencing court to impose conditional release at the initial sentencing or prior to release of the inmate, and determine violations, issue warrants, hold hearings and impose sanctions relating to conditional release. Additionally, s. 947.1405, F.S., requires the DOC to adopt rules on conditional release and provide information and make recommendations to the court on conditional releasees.

Section 48. Amends s. 947.146, F.S., to conform references relating to control release.

Sections 49-51. Amends ch. 947, F.S., to conform references relating to parole.

Sections 52-56. Amends ch. 948, F.S., to conform references relating to probation and community control.

Sections 57-58, 60 and 64. Amends ss. 948.101, 948.51, 958.231, 958.04, F.S., to eliminate the DOC probation and restitution centers.

Section 59. Amends s. 949.05, F.S., to conform references relating to Parole Commission appointments.

Section 61. Amends s. 957.04, F.S., to replace the Florida Corrections Commission with the Department of Management Services involving contract bidding process prohibitions.

Section 62. Amends s. 957.06, F.S., to conform references relating to privately operated prison facilities.

Section 63. Amends s. 957.07, F.S., to provide for the development of consensus per diem rates of privately operated prisons by the Prison Per-Diem Workgroup at the request of the Speaker of the House or President of the Senate and establish that consensus rates may be used by the Legislature in determining a level of funding necessary to meet the 7 percent savings requirement.

Sections 65-70. Amends ss. 958.045, 960.001, 960.17, 985.04, 985.05, and 984.078, F.S., to conform references relating to the Parole Commission.

Section 71. Provides for the transfer of positions, salary rate and funding as necessary from the Parole Commission to the Executive Office of the Governor to support the Executive Board of Clemency.

Section 72. Repeals ss. 947.01 and 947.022, F.S., relating to the creation and membership of the Parole Commission.

Section 73. Provides for a title change for chapter 947, F.S., to "Regional Parole Boards".

Section 74. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Probationers are generally required to pay the cost of supervision to the state of Florida. These funds are collected by DOC and remitted to general revenue unallocated. With the elimination of the DOC pretrial intervention program and the probation and restitution centers, any court-ordered DOC fees assessed to the offender would cease or be adjusted to reflect a replacement or alternative sentence imposed by the court.

2. Expenditures:

   The House version of the General Appropriations Act deletes $3,172,964 in recurring general revenue appropriations for probation and restitution centers and deletes 76 positions, 2,882,556 of salary rate and $4,368,916 in recurring general revenue funding for the pretrial intervention program in the Department of Corrections. The bill also transfers one-half of the 2006-2007 fiscal year funding for the Parole Commission to a lump sum appropriation category for distribution to other governmental entities. Positions and funding for the Florida Corrections Commission were eliminated in the 2004-2005 and 2005-2006 fiscal years.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   While this bill does not require counties to expend funds, it does provide the authority for counties to operate pretrial intervention programs if they elect to do so.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This is a conforming bill to the House version of the General Appropriations Act.

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, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not 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:

The effective date of the bill is July 1, 2007 while the General Appropriations Act will take effect July 1, 2006. If the bill's effective date is changed to July 1, 2006, offenders that currently reside in one of the state's three probation and restitution centers will not be able to remain in the center after June 30, 2006. The offender must go before the sentencing court to receive an alternate sentence. There may not be sufficient time for re-sentencing to be completed prior to the program's closing.

The House version of the General Appropriations Act contemplates an effective date of January 1, 2007 for the provisions related to the Parole Commission.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to corrections; amending s. 20.315, F.S.;
3 abolishing the Florida Corrections Commission; conforms
4 cross-references; amending s. 784.078, F.S.; conforming a
5 cross-reference; amending s. 921.187, F.S.; deleting a
6 provision authorizing probation and restitution centers as
7 a sentencing option; amending s. 944.026, F.S.; deleting
8 the Department of Corrections' responsibilities and
9 authority regarding probation and restitution centers;
10 deleting the department's responsibilities and authority
11 regarding pretrial intervention; amending s. 944.8041,
12 F.S.; requiring the Department of Corrections, in lieu of
13 the commission, to submit an annual report on certain
14 elderly offenders; amending s. 945.025, F.S.; revising the
15 jurisdiction of the Department of Corrections; repealing
16 s. 947.01, F.S., relating to the creation of the Parole
17 Commission; repealing s. 947.022, F.S., relating to terms
18 of members of the Parole Commission; amending s. 948.03,
19 F.S.; deleting a provision authorizing probation and
20 restitution centers as an option for incarceration as a
21 condition of probation; amending s. 948.035, F.S.;
22 deleting a provision authorizing probation and restitution
23 centers as an option for court-ordered residential
24 treatment; amending s. 948.08, F.S.; authorizing counties
25 to supervise pretrial intervention offenders; authorizing
26 counties to contract for certain services and facilities;
27 amending s. 948.09, F.S.; removing supervision costs
28 payment requirement for pretrial intervention; conforms
29 cross-references; amending s. 948.101, F.S.; deleting a

30 provision authorizing probation and restitution centers as
31 an option for incarceration as a condition of community
32 control; amending s. 948.51, F.S.; deleting the authority
33 of the department to contract with a county for probation
34 and restitution centers; amending s. 951.231, F.S.;
35 deleting the authority of the department to contract to
36 house county prisoners and revising the conditions for a
37 local government to provide county residential probation
38 facilities; amending s. 957.04, F.S.; requiring the
39 Department of Management Services, in lieu of the
40 commission, to consider proposed waivers of rules,
41 policies, and procedures of the Department of Corrections
42 for contractors of private correctional facilities;
43 providing that contracts for private correctional
44 facilities may be for an extended period under certain
45 circumstances; providing notification requirements if a
46 decision is made to enter into a contract for an extended
47 period; amending s. 957.07, F.S.; revising the membership
48 of the Prison Per-Diem Workgroup; revising meeting
49 requirements of the workgroup; revising information to be
50 included in the consensus per diem rates developed by the
51 workgroup; revising use of the per diem rates developed by
52 the workgroup; eliminating a provision that s. 957.07(5),
53 F.S., supersedes certain proviso language in the
54 Conference Report on CS for SB 2-C, ch. 2001-367, Laws of
55 Florida; amending s. 958.04, F.S.; deleting a provision
56 authorizing probation and restitution centers as an option
57 for judicial disposition for incarceration of youthful
58 offenders as a condition of probation or community

59 control; amending ss. 20.32, 23.21, 112.011, 186.005,
60 255.502, 322.16, 394.926, 394.927, 775.089, 775.16,
61 784.07, 784.078, 843.01, 843.02, 843.08, 893.11, 921.001,
62 921.16, 921.20, 921.21, 921.22, 940.03, 940.05, 941.23,
63 943.0311, 943.06, 944.012, 944.02, 944.024, 944.23,
64 944.291, 944.4731, 945.091, 945.10, 945.47, 945.73,
65 947.002, 947.005, 947.02, 947.021, 947.1405, 947.141,
66 947.146, 947.181, 947.185, 947.22, 948.10, 949.05, 957.06,
67 958.045, 960.001, 960.17, 985.04, and 985.05, F.S.;
68 abolishing the Parole Commission; providing for the
69 creation of regional parole boards; providing for
70 membership, powers, and duties of such boards; providing
71 for assignment of inmates to boards; conforming
72 provisions; transferring support for the Governor and
73 Cabinet acting in their capacity as the Executive Board of
74 Clemency from the Parole Commission to the Executive
75 Office of the Governor; providing a directive to the
76 Division of Statutory Revision; providing an effective
77 date.
78
79 Be It Enacted by the Legislature of the State of Florida:
80
81 Section 1. Subsections (7) through (13) of section 20.315,
82 Florida Statutes, are renumbered as sections (6) through (12),
83 respectively, and present subsections (6) and (10) of that
84 section are amended to read:
85 20.315 Department of Corrections.--There is created a
86 Department of Corrections.
87 ~~(6) FLORIDA CORRECTIONS COMMISSION.--~~

88 ~~(a)1. The Florida Corrections Commission is hereby created.~~
89 ~~The primary focus of the commission shall be on corrections;~~
90 ~~however, in those instances in which the policies of other~~
91 ~~components of the criminal justice system affect corrections, the~~
92 ~~commission shall advise and make recommendations.~~
93 ~~2. The commission shall consist of nine members appointed~~
94 ~~by the Governor subject to confirmation by the Senate. Members of~~
95 ~~the commission shall serve terms of 4 years each. Members must be~~
96 ~~appointed in such a manner as to equitably represent all~~
97 ~~geographic areas of the state. Each member of the commission must~~
98 ~~be a citizen and registered voter of the state. A member of the~~
99 ~~commission shall represent the public safety needs of the state~~
100 ~~as a whole and may not subordinate the needs of the state to~~
101 ~~those of any particular area of the state. The commission's~~
102 ~~membership should, to the extent possible, contain persons who~~
103 ~~are knowledgeable about construction, health care, information~~
104 ~~technology, education, business, food services, law, and inmate~~
105 ~~and youthful offender rehabilitation and services.~~
106 ~~3. The commission is assigned to the office of the~~
107 ~~Secretary of Corrections for administrative and fiscal~~
108 ~~accountability purposes, but it shall otherwise function~~
109 ~~independently of the control and direction of the Department of~~
110 ~~Corrections.~~
111 ~~(b) The primary functions of the commission are to:~~
112 ~~1. Recommend major correctional policies for the Governor's~~
113 ~~approval, and assure that approved policies and any revisions~~
114 ~~thereto are properly executed.~~

115 ~~2. Periodically review the status of the state correctional~~
116 ~~system and recommend improvements therein to the Governor and the~~
117 ~~Legislature.~~
118 ~~3. Annually perform an in-depth review of community-based~~
119 ~~intermediate sanctions and recommend to the Governor and the~~
120 ~~Legislature intergovernmental approaches through the Community~~
121 ~~Corrections Partnership Act for planning and implementing such~~
122 ~~sanctions and programs.~~
123 ~~4. Perform an in-depth evaluation of the annual budget~~
124 ~~request of the Department of Corrections, the comprehensive~~
125 ~~correctional master plan, and the tentative construction program~~
126 ~~for compliance with all applicable laws and established~~
127 ~~departmental policies. The commission may not consider individual~~
128 ~~construction projects, but shall consider methods of~~
129 ~~accomplishing the department's goals in the most effective,~~
130 ~~efficient, and businesslike manner.~~
131 ~~5. Routinely monitor the financial status of the Department~~
132 ~~of Corrections to assure that the department is managing revenue~~
133 ~~and any applicable bond proceeds responsibly and in accordance~~
134 ~~with law and established policy.~~
135 ~~6. Evaluate, at least quarterly, the efficiency,~~
136 ~~productivity, and management of the Department of Corrections,~~
137 ~~using performance and production standards developed by the~~
138 ~~department under former subsection (18).~~
139 ~~7. Provide public education on corrections and criminal~~
140 ~~justice issues.~~
141 ~~8. Report to the President of the Senate, the Speaker of~~
142 ~~the House of Representatives, and the Governor by November 1 of~~
143 ~~each year.~~

144 ~~9. Resolve disputes between the Department of Corrections~~
145 ~~and the contractors for the private correctional facilities~~
146 ~~entered into under chapter 957 when a contractor proposes to~~
147 ~~waive a rule, policy, or procedure concerning operation~~
148 ~~standards.~~
149 ~~(c) The commission or a member thereof may not enter into~~
150 ~~the day-to-day operation of the Department of Corrections and is~~
151 ~~specifically prohibited from taking part in:~~
152 ~~1. The awarding of contracts by the department.~~
153 ~~2. The selection by the department of a consultant or~~
154 ~~contractor or the prequalification by the department of any~~
155 ~~individual consultant or contractor. However, the commission may~~
156 ~~recommend to the Secretary of Corrections standards and policies~~
157 ~~governing the procedure for selection and prequalification of~~
158 ~~consultants and contractors.~~
159 ~~3. The selection by the department of a county for a~~
160 ~~specific project.~~
161 ~~4. The selection by the department of a specific location~~
162 ~~for a correctional facility.~~
163 ~~5. The employment, promotion, demotion, suspension,~~
164 ~~transfer, or discharge of any departmental personnel.~~
165 ~~6. The enforcement of minimum standards for any county or~~
166 ~~municipal detention facility.~~
167 ~~(d)1. The chair of the commission shall be selected by the~~
168 ~~members for a term of 1 year.~~
169 ~~2. The commission shall hold a minimum of four regular~~
170 ~~meetings annually, and other meetings may be called by the chair~~
171 ~~upon giving at least 7 days' notice to all members and the public~~
172 ~~pursuant to chapter 120. Meetings may also be held upon the~~

173 ~~written request of at least four members, upon at least 7 days'~~
174 ~~notice of such meeting being given to all members and the public~~
175 ~~by the chair pursuant to chapter 120. Emergency meetings may be~~
176 ~~held without notice upon the request of all members. The meetings~~
177 ~~of the commission shall be held in the central office of the~~
178 ~~Department of Corrections in Tallahassee unless the chair~~
179 ~~determines that special circumstances warrant meeting at another~~
180 ~~location.~~
181 ~~3. A majority of the membership of the commission~~
182 ~~constitutes a quorum at any meeting of the commission. An action~~
183 ~~of the commission is not binding unless the action is taken~~
184 ~~pursuant to an affirmative vote of a majority of the members~~
185 ~~present, but not fewer than four members of the commission must~~
186 ~~be present, and the vote must be recorded in the minutes of the~~
187 ~~meeting.~~
188 ~~4. The chair shall cause to be made a complete record of~~
189 ~~the proceedings of the commission, which record shall be open for~~
190 ~~public inspection.~~
191 ~~(c) The commission shall appoint an executive director and~~
192 ~~an assistant executive director, who shall serve under the~~
193 ~~direction, supervision, and control of the commission. The~~
194 ~~executive director, with the consent of the commission, shall~~
195 ~~employ such staff as are necessary to perform adequately the~~
196 ~~functions of the commission, within budgetary limitations. All~~
197 ~~employees of the commission are exempt from part II of chapter~~
198 ~~110 and serve at the pleasure of the commission. The salaries and~~
199 ~~benefits of all employees of the commission shall be set in~~
200 ~~accordance with the Selected Exempt Service rules; however, the~~

201 ~~commission shall have complete authority for fixing the salaries~~
202 ~~of the executive director and the assistant executive director.~~
203 ~~(f) Members of the commission are entitled to per diem and~~
204 ~~travel expenses pursuant to s. 112.061.~~
205 ~~(g) A member of the commission may not have any interest,~~
206 ~~direct or indirect, in any contract, franchise, privilege, or~~
207 ~~other benefit granted or awarded by the department during the~~
208 ~~term of his or her appointment and for 2 years after the~~
209 ~~termination of that appointment.~~
210 ~~(h) The commission shall develop a budget pursuant to~~
211 ~~chapter 216. The budget is not subject to change by the~~
212 ~~department, but such budget shall be submitted to the Governor~~
213 ~~along with the budget of the department.~~
214 (9)~~(10)~~ FORM OF COMMITMENT; NOTICE OF PAROLE
215 VIOLATION.--All commitments shall state the statutory authority
216 therefor. The Secretary of Corrections shall have the authority
217 to prescribe the form to be used for commitments. Nothing in this
218 act shall be construed to abridge the authority and
219 responsibility of a regional ~~the~~ parole board ~~Commission~~ with
220 respect to the granting ~~and revocation~~ of parole. The Department
221 of Corrections shall notify the original sentencing court ~~Parole~~
222 ~~Commission~~ of all violations of parole conditions and provide
223 reports connected thereto as may be requested by the court
224 ~~commission~~. The court ~~commission~~ shall have the authority to
225 issue orders dealing with supervision of specific parolees, and
226 such orders shall be binding on all parties.
227 Section 2. Section 20.32, Florida Statutes, is amended to
228 read:
229 20.32 Regional parole boards ~~Parole Commission~~.--

230 (1) There is hereby established a regional parole board of
231 no fewer than three or more than seven members in each of the
232 regions of the Department of Corrections. The Governor shall
233 appoint members to serve on the regional parole boards as
234 provided by s. 947.02. The regional parole boards shall be
235 administratively housed within the Office of the Attorney
236 General, which shall provide administrative and staff support to
237 the boards ~~The Parole and Probation Commission, authorized by s.~~
238 ~~8(c), Art. IV, State Constitution of 1968, is continued and~~
239 ~~renamed the Parole Commission. The commission retains its powers,~~
240 ~~duties, and functions with respect to the granting and revoking~~
241 ~~of parole and shall exercise powers, duties, and functions~~
242 ~~relating to investigations of applications for clemency as~~
243 ~~directed by the Governor and the Cabinet~~.
244 (2) The powers and duties of the regional parole boards
245 shall be to conduct parole hearings, to grant or deny parole to
246 parole-eligible inmates, to set any special conditions for
247 parole, and such other duties as may be prescribed by law. No
248 fewer than three members must participate in hearings to grant or
249 deny parole or to set any special conditions for parole. It shall
250 require a majority vote of members participating in a proceeding
251 to grant or deny parole or set any special conditions for parole
252 ~~All powers, duties, and functions relating to the appointment of~~
253 ~~the Parole Commission as provided in s. 947.02 or s. 947.021~~
254 ~~shall be exercised and performed by the Governor and the Cabinet.~~
255 ~~Except as provided in s. 947.021, each appointment shall be made~~
256 ~~from among the first three eligible persons on the list of the~~
257 ~~persons eligible for said position~~.
258 (3) The Attorney General shall assign parole-eligible

259 inmates to the jurisdiction of a regional board based on the
260 location of the most serious offense that resulted in the
261 offender's incarceration. The Attorney General may, however,
262 assign an inmate to a different parole board than for the
263 location where the most serious offense occurred if necessary to
264 facilitate attendance of a victim or to facilitate the
265 convenience of the parole board volunteer members in cases in
266 which the inmate is physically located outside the region in
267 which the crime occurred. Parole hearings may be held by video
268 teleconference. An accurate record of all proceedings conducted
269 by video teleconference must be maintained by the Office of the
270 Attorney General ~~The commission may require any employee of the~~
271 ~~commission to give a bond for the faithful performance of his or~~
272 ~~her duties. The commission may determine the amount of the bond~~
273 ~~and must approve the bond. In determining the amount of the bond,~~
274 ~~the commission may consider the amount of money or property~~
275 ~~likely to be in custody of the officer or employee at any one~~
276 ~~time. The premiums for the bonds must be paid out of the funds of~~
277 ~~the commission~~.
278 Section 3. Subsection (1) of section 23.21, Florida
279 Statutes, is amended to read:
280 23.21 Definitions.--For purposes of this part:
281 (1) "Department" means a principal administrative unit
282 within the executive branch of state government, as defined in
283 chapter 20, and includes the State Board of Administration, the
284 Executive Office of the Governor, the Fish and Wildlife
285 Conservation Commission, ~~the Parole Commission,~~ the Agency for
286 Health Care Administration, the Board of Regents, the State Board
287 of Community Colleges, the Justice Administrative Commission, the

288 Capital Collateral Representative, and separate budget entities
289 placed for administrative purposes within a department.
290 Section 4. Paragraph (b) of subsection (2) of section
291 112.011, Florida Statutes, is amended to read:
292 112.011 Felons; removal of disqualifications for
293 employment, exceptions.--
294 (2)
295 (b) This section shall not be applicable to the employment
296 practices of any fire department relating to the hiring of
297 firefighters. An applicant for employment with any fire
298 department with a prior felony conviction shall be excluded from
299 employment for a period of 4 years after expiration of sentence
300 or final release by the Parole Commission <u>or a regional parole</u>
301 <u>board</u> unless the applicant, prior to the expiration of the 4-year
302 period, has received a full pardon or has had his or her civil
303 rights restored.
304 Section 5. Subsection (1) of section 186.005, Florida
305 Statutes, is amended to read:
306 186.005 Designation of departmental planning officer.--
307 (1) The head of each executive department and the Public
308 Service Commission, the Fish and Wildlife Conservation
309 Commission, ~~the Parole Commission,~~ and the Department of Military
310 Affairs shall select from within such agency a person to be
311 designated as the planning officer for such agency. The planning
312 officer shall be responsible for coordinating with the Executive
313 Office of the Governor and with the planning officers of other
314 agencies all activities and responsibilities of such agency
315 relating to planning.
316 Section 6. Subsection (3) of section 255.502, Florida

317 Statutes, is amended to read:
318 255.502 Definitions; ss. 255.501-255.525.--As used in this
319 act, the following words and terms shall have the following
320 meanings unless the context otherwise requires:
321 (3) "Agency" means any department created by chapter 20,
322 the Executive Office of the Governor, the Fish and Wildlife
323 Conservation Commission, ~~the Parole Commission,~~ the State Board
324 of Administration, the Department of Military Affairs, or the
325 Legislative Branch or the Judicial Branch of state government.
326 Section 7. Paragraph (c) of subsection (1) of section
327 322.16, Florida Statutes, is amended to read:
328 322.16 License restrictions.--
329 (1)
330 (c) The department may further, at any time, impose other
331 restrictions on the use of the license with respect to time and
332 purpose of use or may impose any other condition or restriction
333 upon recommendation of any court, of the Parole Commission <u>or a</u>
334 <u>regional parole board</u>, or of the Department of Corrections with
335 respect to any individual who is under the jurisdiction,
336 supervision, or control of the entity that made the
337 recommendation.
338 Section 8. Subsection (2) of section 394.926, Florida
339 Statutes, is amended to read:
340 394.926 Notice to victims of release of persons committed
341 as sexually violent predators; notice to <u>certain agencies</u>
342 ~~Department of Corrections and Parole Commission~~.--
343 (2) If a sexually violent predator who has an active or
344 pending term of probation, community control, parole, conditional
345 release, or other court-ordered or postprison release supervision

346 is released from custody, the department must immediately notify
347 the Department of Corrections' Office of Community Corrections in
348 Tallahassee. The regional parole board with jurisdiction ~~Parole~~
349 ~~Commission~~ must also be immediately notified of any releases of a
350 sexually violent predator who has an active or pending term of
351 parole~~, conditional release, or other postprison release~~
352 ~~supervision that is administered by the Parole Commission~~.
353 Section 9. Subsection (2) of section 394.927, Florida
354 Statutes, is amended to read:
355 394.927 Escape while in lawful custody; notice to victim;
356 notice to the Department of Corrections and regional parole board
357 ~~Parole Commission~~.--
358 (2) If a person who is held in custody pursuant to a
359 finding of probable cause or commitment as a sexually violent
360 predator escapes while in custody, the department shall
361 immediately notify the victim in accordance with s. 394.926. The
362 state attorney that filed the petition for civil commitment of
363 the escapee must also be immediately notified by the department.
364 If the escapee has an active or pending term of probation,
365 community control, parole, conditional release, or other court-
366 ordered or postprison release supervision, the department shall
367 also immediately notify the Department of Corrections' Office of
368 Community Corrections in Tallahassee. The regional parole board
369 having jurisdiction ~~Parole Commission~~ shall also be immediately
370 notified of an escape if the escapee has an active or pending
371 term of parole~~, conditional release, or other postprison release~~
372 ~~supervision that is administered by the Parole Commission~~.
373 Section 10. Subsection (4) of section 775.089, Florida
374 Statutes, is amended to read:

375 775.089 Restitution.--
376 (4) If a defendant is placed on probation or paroled,
377 complete satisfaction of any restitution ordered under this
378 section shall be a condition of such probation or parole. The
379 court may revoke probation or~~, and the Parole Commission may~~
380 ~~revoke~~ parole~~,~~ if the defendant fails to comply with such order.
381 Section 11. Section 775.16, Florida Statutes, is amended to
382 read:
383 775.16 Drug offenses; additional penalties.--In addition to
384 any other penalty provided by law, a person who has been
385 convicted of sale of or trafficking in, or conspiracy to sell or
386 traffic in, a controlled substance under chapter 893, if such
387 offense is a felony, or who has been convicted of an offense
388 under the laws of any state or country which, if committed in
389 this state, would constitute the felony of selling or trafficking
390 in, or conspiracy to sell or traffic in, a controlled substance
391 under chapter 893, is:
392 (1) Disqualified from applying for employment by any agency
393 of the state, unless:
394 (a) The person has completed all sentences of imprisonment
395 or supervisory sanctions imposed by the court, by the Parole
396 Commission or a regional parole board, or by law; or
397 (b) The person has complied with the conditions of
398 subparagraphs 1. and 2. which shall be monitored by the
399 Department of Corrections while the person is under any
400 supervisory sanctions. The person under supervision may:
401 1. Seek evaluation and enrollment in, and once enrolled
402 maintain enrollment in until completion, a drug treatment and
403 rehabilitation program which is approved by the Department of

404 Children and Family Services, unless it is deemed by the program
405 that the person does not have a substance abuse problem. The
406 treatment and rehabilitation program may be specified by:
407 a. The court, in the case of court-ordered supervisory
408 sanctions;
409 b. The regional parole board having jurisdiction ~~Parole~~
410 ~~Commission~~, in the case of parole~~, control release, or~~
411 ~~conditional release~~; or
412 c. The Department of Corrections, in the case of
413 imprisonment, conditional release, control release, or any other
414 supervision required by law.
415 2. Submit to periodic urine drug testing pursuant to
416 procedures prescribed by the Department of Corrections. If the
417 person is indigent, the costs shall be paid by the Department of
418 Corrections.
419 (2) Disqualified from applying for a license, permit, or
420 certificate required by any agency of the state to practice,
421 pursue, or engage in any occupation, trade, vocation, profession,
422 or business, unless:
423 (a) The person has completed all sentences of imprisonment
424 or supervisory sanctions imposed by the court, by the Parole
425 Commission or a regional parole board, or by law;
426 (b) The person has complied with the conditions of
427 subparagraphs 1. and 2. which shall be monitored by the
428 Department of Corrections while the person is under any
429 supervisory sanction. If the person fails to comply with
430 provisions of these subparagraphs by either failing to maintain
431 treatment or by testing positive for drug use, the department
432 shall notify the licensing, permitting, or certifying agency,

433 which may refuse to reissue or reinstate such license, permit, or
434 certification. The licensee, permittee, or certificateholder
435 under supervision may:
436 1. Seek evaluation and enrollment in, and once enrolled
437 maintain enrollment in until completion, a drug treatment and
438 rehabilitation program which is approved or regulated by the
439 Department of Children and Family Services, unless it is deemed
440 by the program that the person does not have a substance abuse
441 problem. The treatment and rehabilitation program may be
442 specified by:
443 a. The court, in the case of court-ordered supervisory
444 sanctions;
445 b. The regional parole board having jurisdiction ~~Parole~~
446 ~~Commission~~, in the case of parole~~, control release, or~~
447 ~~conditional release~~; or
448 c. The Department of Corrections, in the case of
449 imprisonment, conditional release, control release, or any other
450 supervision required by law.
451 2. Submit to periodic urine drug testing pursuant to
452 procedures prescribed by the Department of Corrections. If the
453 person is indigent, the costs shall be paid by the Department of
454 Corrections; or
455 (c) The person has successfully completed an appropriate
456 program under the Correctional Education Program.
457
458 The provisions of this section do not apply to any of the taxes,
459 fees, or permits regulated, controlled, or administered by the
460 Department of Revenue in accordance with the provisions of s.
461 213.05.

462 Section 12. Paragraph (a) of subsection (1) of section
463 784.07, Florida Statutes, is amended to read:
464 784.07 Assault or battery of law enforcement officers,
465 firefighters, emergency medical care providers, public transit
466 employees or agents, or other specified officers;
467 reclassification of offenses; minimum sentences.--
468 (1) As used in this section, the term:
469 (a) "Law enforcement officer" includes a law enforcement
470 officer, a correctional officer, a correctional probation
471 officer, a part-time law enforcement officer, a part-time
472 correctional officer, an auxiliary law enforcement officer, and
473 an auxiliary correctional officer, as those terms are
474 respectively defined in s. 943.10, and any county probation
475 officer; employee or agent of the Department of Corrections who
476 supervises or provides services to inmates; ~~officer of the Parole~~
477 ~~Commission;~~ and law enforcement personnel of the Fish and
478 Wildlife Conservation Commission, the Department of Environmental
479 Protection, or the Department of Law Enforcement.
480 Section 13. Subsection (2) of section 784.078, Florida
481 Statutes, is amended to read:
482 784.078 Battery of facility employee by throwing, tossing,
483 or expelling certain fluids or materials.--
484 (2)~~(a)~~ As used in this section, the term "employee"
485 includes any person employed by or performing contractual
486 services for a public or private entity operating a facility or
487 any person employed by or performing contractual services for the
488 corporation operating the prison industry enhancement programs or
489 the correctional work programs, pursuant to part II of chapter
490 946.

491 ~~(b) "Employee" includes any person who is a parole examiner~~
492 ~~with the Florida Parole Commission.~~
493 Section 14. Section 843.01, Florida Statutes, is amended to
494 read:
495 843.01 Resisting officer with violence to his or her
496 person.--Whoever knowingly and willfully resists, obstructs, or
497 opposes any officer as defined in s. 943.10(1), (2), (3), (6),
498 (7), (8), or (9); ~~member of the Parole Commission or any~~
499 ~~administrative aide or supervisor employed by the commission;~~
500 parole and probation supervisor; county probation officer;
501 personnel or representative of the Department of Law Enforcement;
502 or other person legally authorized to execute process in the
503 execution of legal process or in the lawful execution of any
504 legal duty, by offering or doing violence to the person of such
505 officer or legally authorized person, commits ~~is guilty of~~ a
506 felony of the third degree, punishable as provided in s. 775.082,
507 s. 775.083, or s. 775.084.
508 Section 15. Section 843.02, Florida Statutes, is amended to
509 read:
510 843.02 Resisting officer without violence to his or her
511 person.--Whoever shall resist, obstruct, or oppose any officer as
512 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); ~~member~~
513 ~~of the Parole Commission or any administrative aide or supervisor~~
514 ~~employed by the commission;~~ county probation officer; parole and
515 probation supervisor; personnel or representative of the
516 Department of Law Enforcement; or other person legally authorized
517 to execute process in the execution of legal process or in the
518 lawful execution of any legal duty, without offering or doing
519 violence to the person of the officer, commits ~~shall be guilty of~~

520 a misdemeanor of the first degree, punishable as provided in s.
521 775.082 or s. 775.083.
522 Section 16. Section 843.08, Florida Statutes, is amended to
523 read:
524 843.08 Falsely personating an officer~~, etc~~.--A person who
525 falsely assumes or pretends to be a sheriff, officer of the
526 Florida Highway Patrol, officer of the Fish and Wildlife
527 Conservation Commission, officer of the Department of
528 Environmental Protection, officer of the Department of
529 Transportation, officer of the Department of Corrections,
530 correctional probation officer, deputy sheriff, state attorney or
531 assistant state attorney, statewide prosecutor or assistant
532 statewide prosecutor, state attorney investigator, coroner,
533 police officer, lottery special agent or lottery investigator,
534 beverage enforcement agent, or watchman, ~~or any member of the~~
535 ~~Parole Commission and any administrative aide or supervisor~~
536 ~~employed by the commission,~~ or any personnel or representative of
537 the Department of Law Enforcement, and takes upon himself or
538 herself to act as such, or to require any other person to aid or
539 assist him or her in a matter pertaining to the duty of any such
540 officer, commits a felony of the third degree, punishable as
541 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
542 person who falsely personates any such officer during the course
543 of the commission of a felony commits a felony of the second
544 degree, punishable as provided in s. 775.082, s. 775.083, or s.
545 775.084; except that if the commission of the felony results in
546 the death or personal injury of another human being, the person
547 commits a felony of the first degree, punishable as provided in
548 s. 775.082, s. 775.083, or s. 775.084.

549 Section 17. Paragraph (a) of subsection (1) of section
550 893.11, Florida Statutes, is amended to read:
551 893.11 Suspension, revocation, and reinstatement of
552 business and professional licenses.--Upon the conviction in any
553 court of competent jurisdiction of any person holding a license,
554 permit, or certificate issued by a state agency, for sale of, or
555 trafficking in, a controlled substance or for conspiracy to sell,
556 or traffic in, a controlled substance, if such offense is a
557 felony, the clerk of said court shall send a certified copy of
558 the judgment of conviction with the person's license number,
559 permit number, or certificate number on the face of such
560 certified copy to the agency head by whom the convicted defendant
561 has received a license, permit, or certificate to practice his or
562 her profession or to carry on his or her business. Such agency
563 head shall suspend or revoke the license, permit, or certificate
564 of the convicted defendant to practice his or her profession or
565 to carry on his or her business. Upon a showing by any such
566 convicted defendant whose license, permit, or certificate has
567 been suspended or revoked pursuant to this section that his or
568 her civil rights have been restored or upon a showing that the
569 convicted defendant meets the following criteria, the agency head
570 may reinstate or reactivate such license, permit, or certificate
571 when:
572 (1) The person has complied with the conditions of
573 paragraphs (a) and (b) which shall be monitored by the Department
574 of Corrections while the person is under any supervisory
575 sanction. If the person fails to comply with provisions of these
576 paragraphs by either failing to maintain treatment or by testing
577 positive for drug use, the department shall notify the licensing,

578 permitting, or certifying agency, which shall revoke the license,
579 permit, or certification. The person under supervision may:
580 (a) Seek evaluation and enrollment in, and once enrolled
581 maintain enrollment in until completion, a drug treatment and
582 rehabilitation program which is approved or regulated by the
583 Department of Children and Family Services. The treatment and
584 rehabilitation program shall be specified by:
585 1. The court, in the case of court-ordered supervisory
586 sanctions;
587 2. The regional parole board having jurisdiction ~~Parole~~
588 ~~Commission~~, in the case of parole~~, control release, or~~
589 ~~conditional release~~; or
590 3. The Department of Corrections, in the case of
591 imprisonment, conditional release, or any other supervision
592 required by law.
593
594 This section does not apply to any of the taxes, fees, or permits
595 regulated, controlled, or administered by the Department of
596 Revenue in accordance with s. 213.05.
597 Section 18. Paragraph (a) of subsection (9) of section
598 921.001, Florida Statutes, is amended to read:
599 921.001 Sentencing Commission and sentencing guidelines
600 generally.--
601 (9)(a) The Sentencing Commission and the office of the
602 State Courts Administrator shall conduct ongoing research on the
603 impact of the sentencing guidelines, the use of imprisonment and
604 alternatives to imprisonment, and plea bargaining. The
605 commission, with the aid of the office of the State Courts
606 Administrator, and the Department of Corrections, ~~and the Parole~~

607 ~~Commission,~~ shall estimate the impact of any proposed changes to
608 the sentencing guidelines on future rates of incarceration and
609 levels of prison population, based in part on historical data of
610 sentencing practices which have been accumulated by the office of
611 the State Courts Administrator and on Department of Corrections
612 records reflecting average time served for offenses covered by
613 the proposed changes to the guidelines. The commission shall
614 review the projections of impact and shall make them available to
615 other appropriate agencies of state government, including the
616 Legislature, by October 1 of each year.
617 Section 19. Subsection (2) of section 921.16, Florida
618 Statutes, is amended to read:
619 921.16 When sentences to be concurrent and when
620 consecutive.--
621 (2) A county court or circuit court of this state may
622 direct that the sentence imposed by such court be served
623 concurrently with a sentence imposed by a court of another state
624 or of the United States or, for purposes of this section,
625 concurrently with a sentence to be imposed in another
626 jurisdiction. In such case, the Department of Corrections may
627 designate the correctional institution of the other jurisdiction
628 as the place for reception and confinement of such person and may
629 also designate the place in Florida for reception and confinement
630 of such person in the event that confinement in the other
631 jurisdiction terminates before the expiration of the Florida
632 sentence. The sheriff shall forward commitment papers and other
633 documents specified in s. 944.17 to the department. Upon imposing
634 such a sentence, the court shall notify the <u>Office of the</u>
635 <u>Attorney General which shall notify the appropriate regional</u>

636 parole board ~~Parole Commission~~ as to the jurisdiction in which
637 the sentence is to be served. Any prisoner so released to another
638 jurisdiction shall be eligible for consideration for parole by
639 the appropriate regional parole board ~~Parole Commission~~ pursuant
640 to ~~the provisions of~~ chapter 947, except that the Office of the
641 Attorney General ~~commission~~ shall assist the appropriate regional
642 parole board in determining ~~determine~~ the presumptive parole
643 release date and the effective parole release date by requesting
644 such person's file from the receiving jurisdiction. Upon
645 receiving such records, the Office of the Attorney General
646 ~~commission~~ shall determine these release dates based on the
647 relevant information in that file and shall give credit toward
648 reduction of the Florida sentence for gain-time granted by the
649 jurisdiction where the inmate is serving the sentence. The
650 regional parole board ~~Parole Commission~~ may concur in ~~with~~ the
651 parole release decision of the jurisdiction granting parole and
652 accepting supervision.
653 Section 20. Subsection (1) of section 921.187, Florida
654 Statutes, is amended to read:
655 921.187 Disposition and sentencing; alternatives;
656 restitution.--
657 (1) The alternatives provided in this section for the
658 disposition of criminal cases shall be used in a manner that will
659 best serve the needs of society, punish criminal offenders, and
660 provide the opportunity for rehabilitation.
661 (a) If the offender does not receive a state prison
662 sentence, the court may:
663 1. Impose a split sentence whereby the offender is to be
664 placed on probation upon completion of any specified period of

665 such sentence, which period may include a term of years or less.
666 2. Make any other disposition that is authorized by law.
667 3. Place the offender on probation with or without an
668 adjudication of guilt pursuant to s. 948.01.
669 4. Impose a fine and probation pursuant to s. 948.011 when
670 the offense is punishable by both a fine and imprisonment and
671 probation is authorized.
672 5. Place the offender into community control requiring
673 intensive supervision and surveillance pursuant to chapter 948.
674 6. Impose, as a condition of probation or community
675 control, a period of treatment which shall be restricted to a
676 county facility, ~~a Department of Corrections probation and~~
677 ~~restitution center,~~ a probation program drug punishment treatment
678 community, or a community residential or nonresidential facility,
679 excluding a community correctional center as defined in s.
680 944.026, which is owned and operated by any qualified public or
681 private entity providing such services. Before admission to such
682 a facility, the court shall obtain an individual assessment and
683 recommendations on the appropriate treatment needs, which shall
684 be considered by the court in ordering such placements. Placement
685 in such a facility, except for a county residential probation
686 facility, may not exceed 364 days. Placement in a county
687 residential probation facility may not exceed 3 years. Early
688 termination of placement may be recommended to the court, when
689 appropriate, by the center supervisor, the supervising probation
690 officer, or the probation program manager.
691 7. Sentence the offender pursuant to s. 922.051 to
692 imprisonment in a county jail when a statute directs imprisonment
693 in a state prison, if the offender's cumulative sentence, whether

694 from the same circuit or from separate circuits, is not more than
695 364 days.
696 8. Sentence the offender who is to be punished by
697 imprisonment in a county jail to a jail in another county if
698 there is no jail within the county suitable for such prisoner
699 pursuant to s. 950.01.
700 9. Require the offender to participate in a work-release or
701 educational or technical training program pursuant to s. 951.24
702 while serving a sentence in a county jail, if such a program is
703 available.
704 10. Require the offender to perform a specified public
705 service pursuant to s. 775.091.
706 11. Require the offender who violates chapter 893 or
707 violates any law while under the influence of a controlled
708 substance or alcohol to participate in a substance abuse program.
709 12.a. Require the offender who violates any criminal
710 provision of chapter 893 to pay an additional assessment in an
711 amount up to the amount of any fine imposed, pursuant to ss.
712 938.21 and 938.23.
713 b. Require the offender who violates any provision of s.
714 893.13 to pay an additional assessment in an amount of $100,
715 pursuant to ss. 938.25 and 943.361.
716 13. Impose a split sentence whereby the offender is to be
717 placed in a county jail or county work camp upon the completion
718 of any specified term of community supervision.
719 14. Impose split probation whereby upon satisfactory
720 completion of half the term of probation, the Department of
721 Corrections may place the offender on administrative probation
722 pursuant to s. 948.013 for the remainder of the term of

723 supervision.
724 15. Require residence in a ~~state probation and restitution~~
725 ~~center~~ or private drug treatment program for offenders on
726 community control or offenders who have violated conditions of
727 probation.
728 16. Impose any other sanction which is provided within the
729 community and approved as an intermediate sanction by the county
730 public safety coordinating council as described in s. 951.26.
731 17. Impose, as a condition of community control, probation,
732 or probation following incarceration, a requirement that an
733 offender who has not obtained a high school diploma or high
734 school equivalency diploma or who lacks basic or functional
735 literacy skills, upon acceptance by an adult education program,
736 make a good faith effort toward completion of such basic or
737 functional literacy skills or high school equivalency diploma, as
738 defined in s. 1003.435, in accordance with the assessed adult
739 general education needs of the individual offender.
740 (b)1. Notwithstanding any provision of former s. 921.001 or
741 s. 921.002 to the contrary, on or after October 1, 1993, the
742 court may require any defendant who violates s. 893.13(1)(a)1.,
743 (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria
744 described in s. 893.13(10), to successfully complete a term of
745 probation pursuant to the terms and conditions set forth in s.
746 948.034(1), in lieu of serving a term of imprisonment.
747 2. Notwithstanding any provision of former s. 921.001 or s.
748 921.002 to the contrary, on or after October 1, 1993, the court
749 may require any defendant who violates s. 893.13(1)(a)2.,
750 (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in
751 s. 893.13(11), to successfully complete a term of probation

752 pursuant to the terms and conditions set forth in s. 948.034(2),
753 in lieu of serving a term of imprisonment.
754 Section 21. Section 921.20, Florida Statutes, is amended to
755 read:
756 921.20 Classification summary; regional parole boards
757 ~~Parole Commission~~.--As soon as possible after a prisoner has been
758 placed in the custody of the Department of Corrections, the
759 classification board shall furnish a classification summary to
760 the Office of the Attorney General for use by the regional parole
761 board ~~Parole Commission for use~~ as provided in s. 20.32 ~~947.14~~.
762 The summary shall include the criminal, personal, social, and
763 environmental background and other relevant factors considered in
764 classifying the prisoner for a penal environment best suited for
765 the prisoner's rapid rehabilitation.
766 Section 22. Section 921.21, Florida Statutes, is amended to
767 read:
768 921.21 Progress reports to regional parole boards ~~Parole~~
769 ~~Commission~~.--From time to time the Department of Corrections
770 shall submit to the Attorney General for use by the regional
771 parole board ~~Parole Commission~~ progress reports and
772 recommendations regarding prisoners sentenced under s. 921.18.
773 When the classification board of the Department of Corrections
774 determines that justice and the public welfare will best be
775 served by paroling or discharging a prisoner, it shall transmit
776 its finding to the Office of the Attorney General which shall
777 forward such findings to the appropriate regional parole board
778 ~~Parole Commission~~. The regional parole board ~~commission~~ shall
779 have the authority to place the prisoner on parole as provided by
780 law or give the prisoner a full discharge from custody. The

781 period of a parole granted by a regional parole board ~~the Parole~~
782 ~~Commission~~ shall be in its discretion, but the parole period
783 shall not exceed the maximum term for which the prisoner was
784 sentenced.
785 Section 23. Section 921.22, Florida Statutes, is amended to
786 read:
787 921.22 Determination of exact period of imprisonment by
788 regional parole board ~~Parole Commission~~.--Upon the recommendation
789 of the Department of Corrections, a regional parole board ~~the~~
790 ~~Parole Commission~~ shall have the authority to determine the exact
791 period of imprisonment to be served by defendants sentenced under
792 the provisions of s. 921.18, but a prisoner shall not be held in
793 custody longer than the maximum sentence provided for the
794 offense.
795 Section 24. Section 940.03, Florida Statutes, is amended to
796 read:
797 940.03 Application for executive clemency.--When any person
798 intends to apply for remission of any fine or forfeiture or the
799 commutation of any punishment, or for pardon or restoration of
800 civil rights, he or she shall request an application form from
801 the Executive Office of the Governor ~~Parole Commission~~ in
802 compliance with such rules regarding application for executive
803 clemency as are adopted by the Governor with the approval of two
804 members of the Cabinet. Such application may require the
805 submission of a certified copy of the applicant's indictment or
806 information, the judgment adjudicating the applicant to be
807 guilty, and the sentence, if sentence has been imposed, and may
808 also require the applicant to send a copy of the application to
809 the judge and prosecuting attorney of the court in which the

810 applicant was convicted, notifying them of the applicant's intent
811 to apply for executive clemency. An application for executive
812 clemency for a person who is sentenced to death must be filed
813 within 1 year after the date the Supreme Court issues a mandate
814 on a direct appeal or the United States Supreme Court denies a
815 petition for certiorari, whichever is later.
816 Section 25. Subsection (3) of section 940.05, Florida
817 Statutes, is amended to read:
818 940.05 Restoration of civil rights.--Any person who has
819 been convicted of a felony may be entitled to the restoration of
820 all the rights of citizenship enjoyed by him or her prior to
821 conviction if the person has:
822 (3) Been granted his or her final release by the regional
823 parole board having jurisdiction ~~Parole Commission~~.
824 Section 26. Subsections (2) and (3) of section 941.23,
825 Florida Statutes, are amended to read:
826 941.23 Application for issuance of requisition; by whom
827 made; contents.--
828 (2) When the return to this state is required of a person
829 who has been convicted of a crime in this state and has escaped
830 from confinement or broken the terms of his or her bail,
831 probation, or parole, the state attorney of the county in which
832 the offense was committed, the regional parole board having
833 jurisdiction ~~Parole Commission~~, the Department of Corrections, or
834 the warden of the institution or sheriff of the county, from
835 which escape was made, shall present to the Governor a written
836 application for a requisition for the return of such person, in
837 which application shall be stated the name of the person, the
838 crime of which the person was convicted, the circumstances of his

839 or her escape from confinement or of the breach of the terms of
840 his or her bail, probation, or parole, and the state in which the
841 person is believed to be, including the location of the person
842 therein at the time application is made.
843 (3) The application shall be verified by affidavit, shall
844 be executed in duplicate, and shall be accompanied by two
845 certified copies of the indictment returned or information and
846 affidavit filed or of the complaint made to the judge, stating
847 the offense with which the accused is charged, or of the judgment
848 of conviction or of the sentence. The prosecuting officer,
849 regional parole board having jurisdiction ~~Parole Commission~~,
850 Department of Corrections, warden, or sheriff may also attach
851 such further affidavits and other documents in duplicate as he or
852 she shall deem proper to be submitted with such application. One
853 copy of the application, with the action of the Governor
854 indicated by endorsement thereon, and one of the certified copies
855 of the indictment, complaint, information, and affidavits or of
856 the judgment of conviction or of the sentence shall be filed in
857 the office of the Department of State to remain of record in that
858 office. The other copies of all papers shall be forwarded with
859 the Governor's requisition.
860 Section 27. Subsection (7) of section 943.0311, Florida
861 Statutes, is amended to read:
862 943.0311 Chief of Domestic Security; duties of the
863 department with respect to domestic security.--
864 (7) As used in this section, the term "state agency"
865 includes the Agency for Health Care Administration, the Agency
866 for Workforce Innovation, the Department of Agriculture and
867 Consumer Services, the Department of Business and Professional

868 Regulation, the Department of Children and Family Services, the
869 Department of Citrus, the Department of Community Affairs, the
870 Department of Corrections, the Department of Education, the
871 Department of Elderly Affairs, the Department of Environmental
872 Protection, the Department of Financial Services, the Department
873 of Health, the Department of Highway Safety and Motor Vehicles,
874 the Department of Juvenile Justice, the Department of Law
875 Enforcement, the Department of Legal Affairs, the Department of
876 Management Services, the Department of Military Affairs, the
877 Department of Revenue, the Department of State, the Department of
878 the Lottery, the Department of Transportation, the Department of
879 Veterans' Affairs, the Fish and Wildlife Conservation Commission,
880 ~~the Parole Commission,~~ the State Board of Administration, and the
881 Executive Office of the Governor.
882 Section 28. Subsection (1) of section 943.06, Florida
883 Statutes, is amended to read:
884 943.06 Criminal and Juvenile Justice Information Systems
885 Council.--There is created a Criminal and Juvenile Justice
886 Information Systems Council within the department.
887 (1) The council shall be composed of 14 members, consisting
888 of the Attorney General or a designated assistant; the executive
889 director of the Department of Law Enforcement or a designated
890 assistant; the secretary of the Department of Corrections or a
891 designated assistant; ~~the chair of the Parole Commission or a~~
892 ~~designated assistant;~~ the Secretary of Juvenile Justice or a
893 designated assistant; the executive director of the Department of
894 Highway Safety and Motor Vehicles or a designated assistant; the
895 State Courts Administrator or a designated assistant; 1 public
896 defender appointed by the Florida Public Defender Association,

897 Inc.; 1 state attorney appointed by the Florida Prosecuting
898 Attorneys Association, Inc.; and 5 members, to be appointed by
899 the Governor, consisting of 2 sheriffs, 2 police chiefs, and 1
900 clerk of the circuit court.
901 Section 29. Subsection (5) of section 944.012, Florida
902 Statutes, is amended to read:
903 944.012 Legislative intent.--The Legislature hereby finds
904 and declares that:
905 (5) In order to make the correctional system an efficient
906 and effective mechanism, the various agencies involved in the
907 correctional process must coordinate their efforts. Where
908 possible, interagency offices should be physically located within
909 major institutions and should include representatives of the
910 Florida State Employment Service, the vocational rehabilitation
911 programs of the Department of Education~~, and the Parole~~
912 ~~Commission~~. Duplicative and unnecessary methods of evaluating
913 offenders must be eliminated and areas of responsibility
914 consolidated in order to more economically utilize present scarce
915 resources.
916 Section 30. Section 944.02, Florida Statutes, is amended to
917 read:
918 944.02 Definitions.--The following words and phrases used
919 in this chapter shall, unless the context clearly indicates
920 otherwise, have the following meanings:
921 ~~(1) "Commission" means the Parole Commission.~~
922 (1)~~(2)~~ "Correctional system" means all prisons and other
923 state correctional institutions now existing or hereafter created
924 under the jurisdiction of the Department of Corrections.
925 (2)~~(3)~~ "Department" means the Department of Corrections.

926 (3) ~~(4)~~ "Elderly offender" means a prisoner age 50 or older
927 in a state correctional institution or facility operated by the
928 Department of Corrections or the Department of Management
929 Services.
930 (4) ~~(5)~~ "Lease-purchase agreement" means an installment
931 sales contract which requires regular payments with an interest
932 charge included and which provides that the lessee receive title
933 to the property upon final payment.
934 (5) ~~(6)~~ "Prisoner" means any person who is under civil or
935 criminal arrest and in the lawful custody of any law enforcement
936 official, or any person committed to or detained in any municipal
937 or county jail or state prison, prison farm, or penitentiary, or
938 to the custody of the department pursuant to lawful authority.
939 (6) "Regional parole board" means a regional parole board
940 established pursuant to s. 20.32.
941 (7) "Secretary" means the Secretary of Corrections.
942 (8) "State correctional institution" means any prison, road
943 camp, prison industry, prison forestry camp, or any prison camp
944 or prison farm or other correctional facility, temporary or
945 permanent, in which prisoners are housed, worked, or maintained,
946 under the custody and jurisdiction of the department.
947 Section 31. Subsection (5) of section 944.024, Florida
948 Statutes, is amended to read:
949 944.024 Adult intake and evaluation.--The state system of
950 adult intake and evaluation shall include:
951 (5) The performance of postsentence intake by the
952 department. Any physical facility established by the department
953 for the intake and evaluation process prior to the offender's
954 entry into the correctional system shall provide for specific

955 office and work areas for the staff assisting any regional parole
956 board ~~of the commission~~. The purpose of such a physical center
957 shall be to combine in one place as many of the rehabilitation-
958 related functions as possible, including pretrial and posttrial
959 evaluation, parole and probation services, vocational
960 rehabilitation services, family assistance services of the
961 Department of Children and Family Services, and all other
962 rehabilitative and correctional services dealing with the
963 offender.
964 Section 32. Paragraph (c) of subsection (1) and subsections
965 (2) and (3) of section 944.026, Florida Statutes, are amended to
966 read:
967 944.026 Community-based facilities and programs.--
968 (1) In addition to those facilities and services described
969 elsewhere in this chapter, the department shall develop, provide,
970 or contract for a statewide system of community-based facilities,
971 services, and programs dealing with the rehabilitation of
972 offenders, which shall include, but not be limited to:
973 ~~(c) A system of probation and restitution centers~~
974 ~~throughout the state whereby probationers, drug offender~~
975 ~~probationers, and community controllees who have violated their~~
976 ~~terms or conditions, and whose presumptive sentence exceeds 22~~
977 ~~months, may be required to reside while working, receiving~~
978 ~~treatment, or attending school, or for persons on probation, drug~~
979 ~~offender probation, or community control who may be required to~~
980 ~~attend outpatient substance abuse counseling and whereby inmates~~
981 ~~may be placed who are nearing their date of release from a~~
982 ~~correctional institution or a community correctional center, who~~
983 ~~are in need of placement in a substance abuse transition housing~~

984 ~~program, and who are considered eligible for such placement by~~
985 ~~the department. The purpose of these facilities and services is~~
986 ~~to provide the court with an alternative to committing offenders~~
987 ~~to more secure state correctional institutions and to assist in~~
988 ~~the supervision of probationers, drug offender probationers, and~~
989 ~~community controllees and to provide the department transitional-~~
990 ~~housing beds to assist inmates released into the community.~~
991 (2) Notwithstanding any other law, the department shall
992 ensure that at least 400 of its contracted beds in nonsecure
993 community-based residential substance abuse treatment facilities
994 authorized under subparagraph (1)(b)1. ~~or probation and~~
995 ~~restitution centers authorized under paragraph (1)(c)~~ are
996 designated for transition assistance for inmates who are nearing
997 their date of release from a correctional institution or a
998 community correctional center. These designated beds shall be
999 provided by private organizations that do not have a faith
1000 component and that are under contract with the department. In
1001 making placement decisions, the department and the contract
1002 providers shall give priority consideration to those inmates who
1003 are nearing their date of release and who are to be placed in
1004 some form of postrelease community supervision. However, if an
1005 inmate whose sentence expires upon his or her release from a
1006 correctional institution or a community correction center and for
1007 whom community supervision is not required demonstrates the need
1008 for or interest in and suitability for transition-housing
1009 assistance, as determined by the department, the inmate is
1010 eligible to be considered for placement in transition housing. A
1011 right to substance abuse program services is not stated,
1012 intended, or otherwise implied by this subsection.

1013 (3)~~(a)~~ The department shall develop and implement
1014 procedures to diagnose offenders prior to sentencing, for the
1015 purpose of recommending to the sentencing court suitable
1016 candidates for placement in a community-based residential drug
1017 treatment facility ~~or probation and restitution center~~ as
1018 provided in this section. The department shall also develop and
1019 implement procedures to properly identify inmates prior to
1020 release who demonstrate the need for or interest in and
1021 suitability for placement in a community-based substance abuse
1022 transition housing program as provided in this section and
1023 pursuant to ss. 944.4731 and 944.704.
1024 ~~(b) Pretrial intervention programs in appropriate counties~~
1025 ~~to provide early counseling and supervision services to specified~~
1026 ~~offenders as provided in s. 948.08.~~
1027 Section 33. Section 944.23, Florida Statutes, is amended to
1028 read:
1029 944.23 Persons authorized to visit state prisons.--The
1030 following persons shall be authorized to visit at their pleasure
1031 all state correctional institutions: The Governor, all Cabinet
1032 members, members of the Legislature, judges of state courts,
1033 state attorneys, <u>and</u> public defenders~~, and authorized~~
1034 ~~representatives of the commission~~. No other person not otherwise
1035 authorized by law shall be permitted to enter a state
1036 correctional institution except under such regulations as the
1037 department may prescribe. Permission shall not be unreasonably
1038 withheld from those who give sufficient evidence to the
1039 department that they are bona fide reporters or writers.
1040 Section 34. Subsection (2) of section 944.291, Florida
1041 Statutes, is amended to read:

1042 944.291 Prisoner released by reason of gain-time allowances
1043 or attainment of provisional release date.--
1044 (2) Any prisoner who is convicted of a crime committed on
1045 or after October 1, 1988, which crime is contained in category 1,
1046 category 2, category 3, or category 4 of Rule 3.701 and Rule
1047 3.988, Florida Rules of Criminal Procedure, and who has served at
1048 least one prior felony commitment at a state or federal
1049 correctional institution, or is sentenced as a habitual or
1050 violent habitual offender pursuant to s. 775.084, may only be
1051 released under conditional release supervision as described in
1052 chapter 947. Not fewer than 90 days prior to the tentative
1053 release date or provisional release date, whichever is earlier,
1054 the department shall provide the original sentencing court
1055 ~~commission~~ with the name and inmate identification number for
1056 each eligible inmate.
1057 Section 35. Paragraph (b) of subsection (2) of section
1058 944.4731, Florida Statutes, is amended to read:
1059 944.4731 Addiction-Recovery Supervision Program.--
1060 (2)
1061 (b) An offender released under addiction-recovery
1062 supervision shall be subject to specified terms and conditions,
1063 including payment of the costs of supervision under s. 948.09 and
1064 any other court-ordered payments, such as child support and
1065 restitution. If an offender has received a term of probation or
1066 community control to be served after release from incarceration,
1067 the period of probation or community control may not be
1068 substituted for addiction-recovery supervision and shall follow
1069 the term of addiction-recovery supervision. The original
1070 sentencing court ~~A panel of not fewer than two parole~~

1071 ~~commissioners~~ shall establish the terms and conditions of
1072 supervision, and the terms and conditions must be included in the
1073 supervision order. In setting the terms and conditions of
1074 supervision, the court ~~parole commission~~ shall weigh heavily the
1075 program requirements, including, but not limited to, work at paid
1076 employment while participating in treatment and traveling
1077 restrictions. The court ~~commission~~ shall also determine whether
1078 an offender violates the terms and conditions of supervision and
1079 whether a violation warrants revocation of addiction-recovery
1080 supervision pursuant to s. 947.141. The court ~~parole commission~~
1081 shall review the offender's record for the purpose of
1082 establishing the terms and conditions of supervision. The court
1083 ~~parole commission~~ may impose any special conditions it considers
1084 warranted from its review of the record. The length of
1085 supervision may not exceed the maximum penalty imposed by the
1086 court.
1087 Section 36. Section 944.8041, Florida Statutes, is amended
1088 to read:
1089 944.8041 Elderly offenders; annual review.--For the purpose
1090 of providing information to the Legislature on elderly offenders
1091 within the correctional system, the department ~~Florida~~
1092 ~~Corrections Commission~~ and the Correctional Medical Authority
1093 shall each submit annually a report on the status and treatment
1094 of elderly offenders in the state-administered and private state
1095 correctional systems, as well as such information on the River
1096 Junction Correctional Institution. In order to adequately prepare
1097 the reports, the Department of Corrections and the Department of
1098 Management Services shall grant access to ~~the Florida Corrections~~
1099 ~~Commission and~~ the Correctional Medical Authority which includes

1100 access to the facilities, offenders, and any information the
1101 agencies require to complete their reports. The review shall also
1102 include an examination of promising geriatric policies,
1103 practices, and programs currently implemented in other
1104 correctional systems within the United States. The reports, with
1105 specific findings and recommendations for implementation, shall
1106 be submitted to the President of the Senate and the Speaker of
1107 the House of Representatives on or before December 31 of each
1108 year.
1109 Section 37. Paragraphs (d), (e), and (f) of subsection (1)
1110 of section 945.025, Florida Statutes, are amended to read:
1111 945.025 Jurisdiction of department.--
1112 (1) The Department of Corrections shall have supervisory
1113 and protective care, custody, and control of the inmates,
1114 buildings, grounds, property, and all other matters pertaining to
1115 the following facilities and programs for the imprisonment,
1116 correction, and rehabilitation of adult offenders:
1117 (d) ~~Department of Corrections Probation and Restitution~~
1118 ~~Center;~~
1119 ~~(e)~~ Department of Corrections community correctional
1120 centers; and
1121 (e) ~~(f)~~ Department of Corrections vocational centers.
1122 Section 38. Paragraph (b) of subsection (1) and paragraph
1123 (b) of subsection (6) of section 945.091, Florida Statutes, are
1124 amended to read:
1125 945.091 Extension of the limits of confinement; restitution
1126 by employed inmates.--
1127 (1) The department may adopt rules permitting the extension
1128 of the limits of the place of confinement of an inmate as to whom

1129 there is reasonable cause to believe that the inmate will honor
1130 his or her trust by authorizing the inmate, under prescribed
1131 conditions and following investigation and approval by the
1132 secretary, or the secretary's designee, who shall maintain a
1133 written record of such action, to leave the confines of that
1134 place unaccompanied by a custodial agent for a prescribed period
1135 of time to:
1136 (b) Work at paid employment, participate in an education or
1137 a training program, or voluntarily serve a public or nonprofit
1138 agency or faith-based service group in the community, while
1139 continuing as an inmate of the institution or facility in which
1140 the inmate is confined, except during the hours of his or her
1141 employment, education, training, or service and traveling thereto
1142 and therefrom. An inmate may travel to and from his or her place
1143 of employment, education, or training only by means of walking,
1144 bicycling, or using public transportation or transportation that
1145 is provided by a family member or employer. Contingent upon
1146 specific appropriations, the department may transport an inmate
1147 in a state-owned vehicle if the inmate is unable to obtain other
1148 means of travel to his or her place of employment, education, or
1149 training.
1150 1. An inmate may participate in paid employment only during
1151 the last 36 months of his or her confinement, unless sooner
1152 requested by the regional parole board having jurisdiction ~~Parole~~
1153 ~~Commission~~ or the Control Release Authority.
1154 2. While working at paid employment and residing in the
1155 facility, an inmate may apply for placement at a contracted
1156 substance abuse transition housing program. The transition
1157 assistance specialist shall inform the inmate of program

1158 availability and assess the inmate's need and suitability for
1159 transition housing assistance. If an inmate is approved for
1160 placement, the specialist shall assist the inmate. If an inmate
1161 requests and is approved for placement in a contracted faith-
1162 based substance abuse transition housing program, the specialist
1163 must consult with the chaplain prior to such placement. The
1164 department shall ensure that an inmate's faith orientation, or
1165 lack thereof, will not be considered in determining admission to
1166 a faith-based program and that the program does not attempt to
1167 convert an inmate toward a particular faith or religious
1168 preference.
1169 (6)
1170 (b) An offender who is required to provide restitution or
1171 reparation may petition the circuit court to amend the amount of
1172 restitution or reparation required or to revise the schedule of
1173 repayment established by the department, a regional parole board,
1174 or the Parole Commission.
1175 Section 39. Paragraph (d) of subsection (1), paragraphs (a)
1176 and (b) of subsection (2), and subsection (5) of section 945.10,
1177 Florida Statutes, are amended to read:
1178 945.10 Confidential information.--
1179 (1) Except as otherwise provided by law or in this section,
1180 the following records and information held by the Department of
1181 Corrections are confidential and exempt from the provisions of s.
1182 119.07(1) and s. 24(a), Art. I of the State Constitution:
1183 (d) ~~Parole Commission~~ Records of a regional parole board
1184 that ~~which~~ are confidential or exempt from public disclosure by
1185 law.
1186 (2) The records and information specified in paragraphs

1187 (1)(a)-(h) may be released as follows unless expressly prohibited
1188 by federal law:
1189 (a) Information specified in paragraphs (1)(b), (d), and
1190 (f) to the Office of the Governor, the Legislature, a regional
1191 parole board ~~the Parole Commission~~, the Department of Children
1192 and Family Services, a private correctional facility or program
1193 that operates under a contract, the Department of Legal Affairs,
1194 a state attorney, the court, or a law enforcement agency. A
1195 request for records or information pursuant to this paragraph
1196 need not be in writing.
1197 (b) Information specified in paragraphs (1)(c), (e), and
1198 (h) to the Office of the Governor, the Legislature, a regional
1199 parole board ~~the Parole Commission~~, the Department of Children
1200 and Family Services, a private correctional facility or program
1201 that operates under contract, the Department of Legal Affairs, a
1202 state attorney, the court, or a law enforcement agency. A request
1203 for records or information pursuant to this paragraph must be in
1204 writing and a statement provided demonstrating a need for the
1205 records or information.
1206
1207 Records and information released under this subsection remain
1208 confidential and exempt from the provisions of s. 119.07(1) and
1209 s. 24(a), Art. I of the State Constitution when held by the
1210 receiving person or entity.
1211 (5) The Department of Corrections and the regional parole
1212 board ~~Parole Commission~~ shall mutually cooperate with respect to
1213 maintaining the confidentiality of records that are exempt from
1214 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1215 Constitution.

1216 Section 40. Subsection (3) of section 945.47, Florida
1217 Statutes, is amended to read:
1218 945.47 Discharge of inmate from mental health treatment.--
1219 (3) At any time that an inmate who has received mental
1220 health treatment while in the custody of the department becomes
1221 eligible for release on parole, a complete record of the inmate's
1222 treatment shall be provided to the regional parole board having
1223 jurisdiction ~~Parole Commission~~ and to the Department of Children
1224 and Family Services. The record shall include, at least, the
1225 inmate's diagnosis, length of stay in treatment, clinical
1226 history, prognosis, prescribed medication, and treatment plan and
1227 recommendations for aftercare services. In the event that the
1228 inmate is released on parole, the record shall be provided to the
1229 parole officer who shall assist the inmate in applying for
1230 services from a professional or an agency in the community. The
1231 application for treatment and continuation of treatment by the
1232 inmate may be made a condition of parole, as provided in s.
1233 947.19(1); and a failure to participate in prescribed treatment
1234 may be a basis for initiation of parole violation hearings.
1235 Section 41. Subsection (6) of section 945.73, Florida
1236 Statutes, is amended to read:
1237 945.73 Inmate training program operation.--
1238 (6) The department shall work cooperatively with the
1239 Control Release Authority, the regional parole board ~~Florida~~
1240 ~~Parole Commission~~, or such other authority as may exist or be
1241 established in the future that ~~which~~ is empowered by law to
1242 effect the release of an inmate who has successfully completed
1243 the requirements established by ss. 945.71-945.74.
1244 Section 42. Subsections (3), (4), and (5) of section

1245 947.002, Florida Statutes, are amended to read:
1246 947.002 Intent.--
1247 ~~(3) The chair shall be the agency head. While the~~
1248 ~~commission is responsible for making decisions on the granting~~
1249 ~~and revoking of parole, the chair shall establish, execute, and~~
1250 ~~be held accountable for all administrative policy decisions. The~~
1251 ~~routine administrative decisions are the full responsibility of~~
1252 ~~the chair.~~
1253 ~~(4) Hearing examiners are assigned on the basis of caseload~~
1254 ~~needs as determined by the chair.~~
1255 (3) ~~(5)~~ It is the intent of the Legislature that the
1256 decision to parole an inmate from the incarceration portion of
1257 the inmate's sentence is an act of grace of the state and shall
1258 not be considered a right.
1259 Section 43. Subsection (1) of section 947.005, Florida
1260 Statutes, is amended to read:
1261 947.005 Definitions.--As used in this chapter, unless the
1262 context clearly indicates otherwise:
1263 (1) "Regional parole board" means a regional parole board
1264 established pursuant to s. 20.32 ~~"Commission" means the Parole~~
1265 ~~Commission~~.
1266 Section 44. Subsections (1) through (4) of section 947.02,
1267 Florida Statutes, are amended, and subsection (6) is added to
1268 that section, read:
1269 947.02 Regional parole boards ~~Parole Commission~~; members,
1270 appointment.--
1271 (1) Except as provided in s. 947.021, the members of each
1272 regional parole board ~~the Parole Commission~~ shall be appointed by
1273 the Governor ~~and Cabinet~~ from a list of eligible applicants

1274 submitted by a parole qualifications committee. The appointments
1275 of members of the commission shall be certified to the Senate by
1276 the Governor ~~and Cabinet~~ for confirmation, and the membership of
1277 the commission shall include representation from minority persons
1278 as defined in s. 288.703.
1279 (2) A parole qualifications committee shall consist of five
1280 persons who are appointed by the Governor ~~and Cabinet~~. One member
1281 shall be designated as chair by the Governor ~~and Cabinet~~. The
1282 committee shall provide for ~~statewide~~ advertisement throughout
1283 the region and the receiving of applications for any position or
1284 positions on the commission and shall devise a plan for the
1285 determination of the qualifications of the applicants by
1286 investigations and comprehensive evaluations, including, but not
1287 limited to, investigation and evaluation of the character,
1288 habits, and philosophy of each applicant. Each parole
1289 qualifications committee shall exist for 2 years. If additional
1290 vacancies on a regional parole board ~~the commission~~ occur during
1291 this 2-year period, the committee may advertise and accept
1292 additional applications; however, all previously submitted
1293 applications shall be considered along with the new applications
1294 according to the previously established plan for the evaluation
1295 of the qualifications of applicants.
1296 (3) Within 90 days before an anticipated vacancy by
1297 expiration of term pursuant to s. 947.03 or upon any other
1298 vacancy, the Governor ~~and Cabinet~~ shall appoint a parole
1299 qualifications committee if one has not been appointed during the
1300 previous 2 years. The committee shall consider applications for
1301 the board vacancy ~~commission seat~~, including the application of
1302 an incumbent board member ~~commissioner~~ if he or she applies,

1303 according to the provisions of subsection (2). The committee
1304 shall submit a list of three eligible applicants, which may
1305 include the incumbent if the committee so decides, without
1306 recommendation, to the Governor ~~and Cabinet~~ for appointment to
1307 the board ~~commission~~. In the case of an unexpired term, the
1308 appointment must be for the remainder of the unexpired term and
1309 until a successor is appointed and qualified. If more than one
1310 seat is vacant, the committee shall submit a list of eligible
1311 applicants, without recommendation, containing a number of names
1312 equal to three times the number of vacant seats; however, the
1313 names submitted shall not be distinguished by seat, and each
1314 submitted applicant shall be considered eligible for each
1315 vacancy.
1316 (4) Upon receiving a list of eligible persons from the
1317 parole qualifications committee, the Governor ~~and Cabinet~~ may
1318 reject the list. If the list is rejected, the committee shall
1319 reinitiate the application and examination procedure according to
1320 the provisions of subsection (2).
1321 (6) Members of the regional parole boards shall be
1322 volunteers and shall not receive compensation for their services.
1323 They shall, however, receive reimbursement for travel expenses
1324 and other expenses incurred in carrying out their official
1325 responsibilities as provided in s. 112.061.
1326 Section 45. Section 947.021, Florida Statutes, is amended
1327 to read:
1328 947.021 Regional parole boards ~~Parole Commission~~; expedited
1329 appointments.--Whenever the Legislature decreases the membership
1330 of the regional parole boards ~~commission~~, all terms of office
1331 shall expire, notwithstanding any law to the contrary. Under such

1332 circumstances, the Governor and Cabinet shall expedite the
1333 appointment of commissioners. Notwithstanding the parole
1334 qualifications committee procedure in s. 947.02, members shall be
1335 directly appointed by the Governor and Cabinet. Members appointed
1336 to the boards ~~commission~~ may be selected from incumbents. Members
1337 shall be certified to the Senate by the Governor and Cabinet for
1338 confirmation, and the membership of the commission shall include
1339 representation from minority persons as defined in s. 288.703.
1340 Section 46. Subsections (2) through (7) and subsection (9)
1341 of section 947.1405, Florida Statutes, are amended to read:
1342 947.1405 Conditional release program.--
1343 (2) Any inmate who:
1344 (a) Is convicted of a crime committed on or after October
1345 1, 1988, and before January 1, 1994, and any inmate who is
1346 convicted of a crime committed on or after January 1, 1994, which
1347 crime is or was contained in category 1, category 2, category 3,
1348 or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of
1349 Criminal Procedure (1993), and who has served at least one prior
1350 felony commitment at a state or federal correctional institution;
1351 (b) Is sentenced as a habitual or violent habitual offender
1352 or a violent career criminal pursuant to s. 775.084; or
1353 (c) Is found to be a sexual predator under s. 775.21 or
1354 former s. 775.23,
1355
1356 shall, upon reaching the tentative release date or provisional
1357 release date, whichever is earlier, as established by the
1358 Department of Corrections, be released under supervision subject
1359 to specified terms and conditions, including payment of the cost
1360 of supervision pursuant to s. 948.09. Such supervision shall be

1361 applicable to all sentences within the overall term of sentences
1362 if an inmate's overall term of sentences includes one or more
1363 sentences that are eligible for conditional release supervision
1364 as provided herein. Effective July 1, 1994, and applicable for
1365 offenses committed on or after that date, the sentencing court
1366 ~~commission~~ may require, as a condition of conditional release,
1367 that the releasee make payment of the debt due and owing to a
1368 county or municipal detention facility under s. 951.032 for
1369 medical care, treatment, hospitalization, or transportation
1370 received by the releasee while in that detention facility. The
1371 court ~~commission~~, in determining whether to order such repayment
1372 and the amount of such repayment, shall consider the amount of
1373 the debt, whether there was any fault of the institution for the
1374 medical expenses incurred, the financial resources of the
1375 releasee, the present and potential future financial needs and
1376 earning ability of the releasee, and dependents, and other
1377 appropriate factors. ~~If~~ Any inmate placed on conditional release
1378 supervision shall be supervised by ~~is also subject to probation~~
1379 ~~or community control, resulting from a probationary or community~~
1380 ~~control split sentence within the overall term of sentences,~~ the
1381 Department of Corrections, which shall supervise such person
1382 according to the conditions imposed by the court ~~and the~~
1383 ~~commission shall defer to such supervision~~. If the court revokes
1384 probation or community control and resentences the offender to a
1385 term of incarceration, such revocation also constitutes a
1386 sufficient basis for the revocation of the conditional release
1387 supervision on any nonprobationary or noncommunity control
1388 sentence without further hearing ~~by the commission~~. If any such
1389 supervision on any nonprobationary or noncommunity control

1390 sentence is revoked, such revocation may result in a forfeiture
1391 of all gain-time, and the court ~~commission~~ may revoke the
1392 resulting deferred conditional release supervision or take other
1393 action it considers appropriate. If the term of conditional
1394 release supervision exceeds that of the probation or community
1395 control, then, upon expiration of the probation or community
1396 control, ~~authority for the supervision shall revert to the~~
1397 ~~commission and~~ the supervision shall be subject to the conditions
1398 of conditional release imposed by the court ~~commission~~. The
1399 original sentencing court ~~A panel of no fewer than two~~
1400 ~~commissioners~~ shall establish the terms and conditions of
1401 conditional release at the time of initial sentencing or prior to
1402 release of the inmate if terms and conditions were not
1403 established at the initial sentencing ~~any such release~~. The court
1404 may alter the original terms of conditional release at any time
1405 based on any additional information that may become available. If
1406 the offense was a controlled substance violation, the conditions
1407 shall include a requirement that the offender submit to random
1408 substance abuse testing intermittently throughout the term of
1409 conditional release supervision, upon the direction of the
1410 correctional probation officer as defined in s. 943.10(3). The
1411 court ~~commission~~ shall also determine whether the terms and
1412 conditions of such release have been violated and whether such
1413 violation warrants revocation of the conditional release.
1414 (3) As part of the conditional release process, the court
1415 ~~commission~~, through review and consideration of information
1416 provided by the state attorney, victim, and department, shall
1417 determine:
1418 (a) The amount of reparation or restitution.

1419 (b) The consequences of the offense as reported by the
1420 aggrieved party.
1421 (c) The aggrieved party's fear of the inmate or concerns
1422 about the release of the inmate.
1423 (4) The department ~~commission~~ shall provide to the
1424 aggrieved party information regarding the manner in which notice
1425 of any developments concerning the status of the inmate during
1426 the term of conditional release may be requested.
1427 (5) Within 180 days prior to the tentative release date or
1428 provisional release date, whichever is earlier, a representative
1429 of the department shall review the inmate's program
1430 participation, disciplinary record, psychological and medical
1431 records, criminal records, and any other information pertinent to
1432 the impending release and shall provide this information to the
1433 original sentencing court. ~~The department shall gather and~~
1434 ~~compile information necessary for the commission to make the~~
1435 ~~determinations set forth in subsection (3).~~ This shall include
1436 information developed during ~~A department representative shall~~
1437 ~~conduct~~ a personal interview with the inmate for the purpose of
1438 determining the details of the inmate's release plan, including
1439 the inmate's planned residence and employment. The department
1440 ~~representative~~ shall forward the inmate's release plan to the
1441 court ~~commission~~ and recommend terms and conditions of
1442 conditional release or any modifications to the original
1443 ~~commission the~~ terms and conditions of the conditional release
1444 established by the court.
1445 (6) The court ~~commission~~ shall review the recommendations
1446 of the department, and such other information as it deems
1447 relevant, and may conduct a review of the inmate's record for the

1448 purpose of modifying or establishing the terms and conditions of
1449 the conditional release. The court ~~commission~~ may impose any
1450 special conditions it considers warranted from its review of the
1451 release plan and recommendation. If the court ~~commission~~
1452 determines that the inmate is eligible for release under this
1453 section, it ~~the commission~~ shall enter an order establishing the
1454 length of supervision and the conditions attendant thereto.
1455 However, an inmate who has been convicted of a violation of
1456 chapter 794 or found by the court to be a sexual predator is
1457 subject to the maximum level of supervision provided, with the
1458 mandatory conditions as required in subsection (7), and that
1459 supervision shall continue through the end of the releasee's
1460 original court-imposed sentence. The length of supervision must
1461 not exceed the maximum penalty imposed by the court.
1462 (7)(a) Any inmate who is convicted of a crime committed on
1463 or after October 1, 1995, or who has been previously convicted of
1464 a crime committed on or after October 1, 1995, in violation of
1465 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
1466 subject to conditional release supervision, shall have, in
1467 addition to any other conditions imposed, the following special
1468 conditions imposed ~~by the commission~~:
1469 1. A mandatory curfew from 10 p.m. to 6 a.m. The court
1470 ~~commission~~ may designate another 8-hour period if the offender's
1471 employment precludes the above specified time, and such
1472 alternative is recommended by the Department of Corrections. If
1473 the court ~~commission~~ determines that imposing a curfew would
1474 endanger the victim, the court ~~commission~~ may consider
1475 alternative sanctions.
1476 2. If the victim was under the age of 18, a prohibition on

1477 living within 1,000 feet of a school, day care center, park,
1478 playground, designated public school bus stop, or other place
1479 where children regularly congregate. A releasee who is subject to
1480 this subparagraph may not relocate to a residence that is within
1481 1,000 feet of a public school bus stop. Beginning October 1,
1482 2004, ~~the commission or~~ the department may not approve a
1483 residence that is located within 1,000 feet of a school, day care
1484 center, park, playground, designated school bus stop, or other
1485 place where children regularly congregate for any releasee who is
1486 subject to this subparagraph. On October 1, 2004, the department
1487 shall notify each affected school district of the location of the
1488 residence of a releasee 30 days prior to release and thereafter,
1489 if the releasee relocates to a new residence, shall notify any
1490 affected school district of the residence of the releasee within
1491 30 days after relocation. If, on October 1, 2004, any public
1492 school bus stop is located within 1,000 feet of the existing
1493 residence of such releasee, the district school board shall
1494 relocate that school bus stop. Beginning October 1, 2004, a
1495 district school board may not establish or relocate a public
1496 school bus stop within 1,000 feet of the residence of a releasee
1497 who is subject to this subparagraph. The failure of the district
1498 school board to comply with this subparagraph shall not result in
1499 a violation of conditional release supervision.
1500 3. Active participation in and successful completion of a
1501 sex offender treatment program with qualified practitioners
1502 specifically trained to treat sex offenders, at the releasee's
1503 own expense. If a qualified practitioner is not available within
1504 a 50-mile radius of the releasee's residence, the offender shall
1505 participate in other appropriate therapy.

1506 4. A prohibition on any contact with the victim, directly
1507 or indirectly, including through a third person, unless approved
1508 by the victim, the offender's therapist, and the sentencing
1509 court.
1510 5. If the victim was under the age of 18, a prohibition
1511 against contact with children under the age of 18 without review
1512 and approval by the commission. The commission may approve
1513 supervised contact with a child under the age of 18 if the
1514 approval is based upon a recommendation for contact issued by a
1515 qualified practitioner who is basing the recommendation on a risk
1516 assessment. Further, the sex offender must be currently enrolled
1517 in or have successfully completed a sex offender therapy program.
1518 The commission may not grant supervised contact with a child if
1519 the contact is not recommended by a qualified practitioner and
1520 may deny supervised contact with a child at any time. When
1521 considering whether to approve supervised contact with a child,
1522 the commission must review and consider the following:
1523 a. A risk assessment completed by a qualified practitioner.
1524 The qualified practitioner must prepare a written report that
1525 must include the findings of the assessment and address each of
1526 the following components:
1527 (I) The sex offender's current legal status;
1528 (II) The sex offender's history of adult charges with
1529 apparent sexual motivation;
1530 (III) The sex offender's history of adult charges without
1531 apparent sexual motivation;
1532 (IV) The sex offender's history of juvenile charges,
1533 whenever available;
1534 (V) The sex offender's offender treatment history,

1535 including a consultation from the sex offender's treating, or
1536 most recent treating, therapist;
1537 (VI) The sex offender's current mental status;
1538 (VII) The sex offender's mental health and substance abuse
1539 history as provided by the Department of Corrections;
1540 (VIII) The sex offender's personal, social, educational,
1541 and work history;
1542 (IX) The results of current psychological testing of the
1543 sex offender if determined necessary by the qualified
1544 practitioner;
1545 (X) A description of the proposed contact, including the
1546 location, frequency, duration, and supervisory arrangement;
1547 (XI) The child's preference and relative comfort level with
1548 the proposed contact, when age-appropriate;
1549 (XII) The parent's or legal guardian's preference regarding
1550 the proposed contact; and
1551 (XIII) The qualified practitioner's opinion, along with the
1552 basis for that opinion, as to whether the proposed contact would
1553 likely pose significant risk of emotional or physical harm to the
1554 child.
1555
1556 The written report of the assessment must be given to the
1557 commission.
1558 b. A recommendation made as a part of the risk-assessment
1559 report as to whether supervised contact with the child should be
1560 approved;
1561 c. A written consent signed by the child's parent or legal
1562 guardian, if the parent or legal guardian is not the sex
1563 offender, agreeing to the sex offender having supervised contact

1564 with the child after receiving full disclosure of the sex
1565 offender's present legal status, past criminal history, and the
1566 results of the risk assessment. The commission may not approve
1567 contact with the child if the parent or legal guardian refuses to
1568 give written consent for supervised contact;
1569 d. A safety plan prepared by the qualified practitioner,
1570 who provides treatment to the offender, in collaboration with the
1571 sex offender, the child's parent or legal guardian, and the
1572 child, when age appropriate, which details the acceptable
1573 conditions of contact between the sex offender and the child. The
1574 safety plan must be reviewed and approved by the Department of
1575 Corrections before being submitted to the commission; and
1576 e. Evidence that the child's parent or legal guardian, if
1577 the parent or legal guardian is not the sex offender, understands
1578 the need for and agrees to the safety plan and has agreed to
1579 provide, or to designate another adult to provide, constant
1580 supervision any time the child is in contact with the offender.
1581
1582 The commission may not appoint a person to conduct a risk
1583 assessment and may not accept a risk assessment from a person who
1584 has not demonstrated to the commission that he or she has met the
1585 requirements of a qualified practitioner as defined in this
1586 section.
1587 6. If the victim was under age 18, a prohibition on working
1588 for pay or as a volunteer at any school, day care center, park,
1589 playground, or other place where children regularly congregate,
1590 as prescribed by the commission.
1591 7. Unless otherwise indicated in the treatment plan
1592 provided by the sexual offender treatment program, a prohibition

1593 on viewing, owning, or possessing any obscene, pornographic, or
1594 sexually stimulating visual or auditory material, including
1595 telephone, electronic media, computer programs, or computer
1596 services that are relevant to the offender's deviant behavior
1597 pattern.
1598 8. Effective for a releasee whose crime is committed on or
1599 after July 1, 2005, a prohibition on accessing the Internet or
1600 other computer services until the offender's sex offender
1601 treatment program, after a risk assessment is completed, approves
1602 and implements a safety plan for the offender's accessing or
1603 using the Internet or other computer services.
1604 9. A requirement that the releasee must submit two
1605 specimens of blood to the Florida Department of Law Enforcement
1606 to be registered with the DNA database.
1607 10. A requirement that the releasee make restitution to the
1608 victim, as determined by the sentencing court or the commission,
1609 for all necessary medical and related professional services
1610 relating to physical, psychiatric, and psychological care.
1611 11. Submission to a warrantless search by the community
1612 control or probation officer of the probationer's or community
1613 controllee's person, residence, or vehicle.
1614 (b) For a releasee whose crime was committed on or after
1615 October 1, 1997, in violation of chapter 794, s. 800.04, s.
1616 827.071, or s. 847.0145, and who is subject to conditional
1617 release supervision, in addition to any other provision of this
1618 subsection, the ~~commission shall impose the~~ following additional
1619 conditions of conditional release supervision <u>are hereby imposed</u>:
1620 1. As part of a treatment program, participation in a
1621 minimum of one annual polygraph examination to obtain information

1622 necessary for risk management and treatment and to reduce the sex
1623 offender's denial mechanisms. The polygraph examination must be
1624 conducted by a polygrapher trained specifically in the use of the
1625 polygraph for the monitoring of sex offenders, where available,
1626 and at the expense of the sex offender. The results of the
1627 polygraph examination shall not be used as evidence in a hearing
1628 to prove that a violation of supervision has occurred.
1629 2. Maintenance of a driving log and a prohibition against
1630 driving a motor vehicle alone without the prior approval of the
1631 supervising officer.
1632 3. A prohibition against obtaining or using a post office
1633 box without the prior approval of the supervising officer.
1634 4. If there was sexual contact, a submission to, at the
1635 probationer's or community controllee's expense, an HIV test with
1636 the results to be released to the victim or the victim's parent
1637 or guardian.
1638 5. Electronic monitoring of any form when ordered by the
1639 commission.
1640 (9) The department ~~commission~~ shall adopt rules pursuant to
1641 ss. 120.536(1) and 120.54 necessary to implement the provisions
1642 of the Conditional Release Program Act.
1643 Section 47. Section 947.141, Florida Statutes, is amended
1644 to read:
1645 947.141 Violations of conditional release, control release,
1646 or conditional medical release or addiction-recovery
1647 supervision.--
1648 (1) If ~~a member of~~ the court ~~commission or a duly~~
1649 ~~authorized representative of the commission~~ has reasonable
1650 grounds to believe that an offender who is on release supervision

1651 under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has
1652 violated the terms and conditions of the release in a material
1653 respect, the court ~~such member or representative~~ may cause a
1654 warrant to be issued for the arrest of the releasee; if the
1655 offender was found to be a sexual predator, the warrant must be
1656 issued.
1657 (2) Upon the arrest on a felony charge of an offender who
1658 is on release supervision under s. 947.1405, s. 947.146, s.
1659 947.149, or s. 944.4731, the offender must be detained without
1660 bond until the initial appearance of the offender at which a
1661 judicial determination of probable cause is made. If the trial
1662 court judge determines that there was no probable cause for the
1663 arrest, the offender may be released. If the trial court judge
1664 determines that there was probable cause for the arrest, such
1665 determination also constitutes reasonable grounds to believe that
1666 the offender violated the conditions of the release. Within 24
1667 hours after the trial court judge's finding of probable cause,
1668 the detention facility administrator or designee shall notify the
1669 ~~commission and the~~ department of the finding and transmit to each
1670 a facsimile copy of the probable cause affidavit or the sworn
1671 offense report upon which the trial court judge's probable cause
1672 determination is based. The offender must continue to be detained
1673 without bond for a period not exceeding 72 hours excluding
1674 weekends and holidays after the date of the probable cause
1675 determination, pending a decision by the court ~~commission~~ whether
1676 to issue a warrant charging the offender with violation of the
1677 conditions of release. Upon the issuance of the court's
1678 ~~commission's~~ warrant, the offender must continue to be held in
1679 custody pending a revocation hearing held in accordance with this

1680 section.
1681 (3) Within 45 days after ~~notice to the Parole Commission of~~
1682 the arrest of a releasee charged with a violation of the terms
1683 and conditions of conditional release, control release,
1684 conditional medical release, or addiction-recovery supervision,
1685 the releasee must be afforded a hearing conducted by a judge
1686 ~~commissioner~~ or a duly authorized representative thereof. If the
1687 releasee elects to proceed with a hearing, the releasee must be
1688 informed orally and in writing of the following:
1689 (a) The alleged violation with which the releasee is
1690 charged.
1691 (b) The releasee's right to be represented by counsel.
1692 (c) The releasee's right to be heard in person.
1693 (d) The releasee's right to secure, present, and compel the
1694 attendance of witnesses relevant to the proceeding.
1695 (e) The releasee's right to produce documents on the
1696 releasee's own behalf.
1697 (f) The releasee's right of access to all evidence used
1698 against the releasee and to confront and cross-examine adverse
1699 witnesses.
1700 (g) The releasee's right to waive the hearing.
1701 (4) Within a reasonable time following the hearing, the
1702 judge ~~commissioner~~ or the judge's ~~commissioner's~~ duly authorized
1703 representative who conducted the hearing shall make findings of
1704 fact in regard to the alleged violation. The judge ~~A panel of no~~
1705 ~~fewer than two commissioners~~ shall enter an order determining
1706 whether the charge of violation of conditional release, control
1707 release, conditional medical release, or addiction-recovery
1708 supervision has been sustained based upon his or her ~~the~~ findings

1709 of fact or by the findings of the duly ~~presented by the hearing~~
1710 ~~commissioner or~~ authorized representative. By such order, the
1711 court ~~panel~~ may revoke conditional release, control release,
1712 conditional medical release, or addiction-recovery supervision
1713 and thereby return the releasee to prison to serve the sentence
1714 imposed, reinstate the original order granting the release, or
1715 enter such other order as it considers proper. Effective for
1716 inmates whose offenses were committed on or after July 1, 1995,
1717 the court ~~panel~~ may order the placement of a releasee, upon a
1718 finding of violation pursuant to this subsection, into a local
1719 detention facility as a condition of supervision.
1720 (5) Effective for inmates whose offenses were committed on
1721 or after July 1, 1995, notwithstanding the provisions of ss.
1722 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
1723 951.23, or any other law to the contrary, by such order as
1724 provided in subsection (4), the court ~~panel~~, upon a finding of
1725 guilt, may, as a condition of continued supervision, place the
1726 releasee in a local detention facility for a period of
1727 incarceration not to exceed 22 months. Prior to the expiration of
1728 the term of incarceration, or upon recommendation of the chief
1729 correctional officer of that county, the court ~~commission~~ shall
1730 cause inquiry into the inmate's release plan and custody status
1731 in the detention facility and consider whether to restore the
1732 inmate to supervision, modify the conditions of supervision, or
1733 enter an order of revocation, thereby causing the return of the
1734 inmate to prison to serve the sentence imposed. The provisions of
1735 this section do not prohibit the court ~~panel~~ from entering such
1736 other order or conducting any investigation that it deems proper.
1737 The court ~~commission~~ may only place a person in a local detention

1738 facility pursuant to this section if there is a contractual
1739 agreement between the chief correctional officer of that county
1740 and the Department of Corrections. The agreement must provide for
1741 a per diem reimbursement for each person placed under this
1742 section, which is payable by the Department of Corrections for
1743 the duration of the offender's placement in the facility. This
1744 section does not limit the court's ~~commission's~~ ability to place
1745 a person in a local detention facility for less than 1 year.
1746 (6) Whenever a conditional release, control release,
1747 conditional medical release, or addiction-recovery supervision is
1748 revoked as provided by this section ~~by a panel of no fewer than~~
1749 ~~two commissioners~~ and the releasee is ordered to be returned to
1750 prison, the releasee, by reason of the misconduct, shall be
1751 deemed to have forfeited all gain-time or commutation of time for
1752 good conduct, as provided for by law, earned up to the date of
1753 release. However, if a conditional medical release is revoked due
1754 to the improved medical or physical condition of the releasee,
1755 the releasee shall not forfeit gain-time accrued before the date
1756 of conditional medical release. This subsection does not deprive
1757 the prisoner of the right to gain-time or commutation of time for
1758 good conduct, as provided by law, from the date of return to
1759 prison.
1760 (7) If a law enforcement officer has probable cause to
1761 believe that an offender who is on release supervision under s.
1762 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the
1763 terms and conditions of his or her release by committing a felony
1764 offense, the officer shall arrest the offender without a warrant,
1765 and a warrant need not be issued in the case.
1766 Section 48. Subsection (1) and paragraph (b) of subsection

1767 (7) of section 947.146, Florida Statutes, are amended to read:
1768 947.146 Control Release Authority.--
1769 (1) There may be ~~is~~ created a Control Release Authority to
1770 be administratively housed within the Department of Corrections,
1771 which shall be composed of five ~~the~~ members appointed by the
1772 Governor, who shall also designate the chair ~~of the Parole~~
1773 ~~Commission and which shall have the same chair as the commission~~.
1774 The authority shall use ~~utilize~~ such ~~commission~~ staff from the
1775 Department of Corrections as it determines is necessary to carry
1776 out its purposes.
1777 (7) The authority has the power and duty to:
1778 (b) Authorize an individual member of the authority
1779 ~~commissioner~~ to postpone a control release date for not more than
1780 60 days without a hearing for any inmate who has become the
1781 subject of a disciplinary proceeding, a criminal arrest, an
1782 information, or an indictment; who has been terminated from work
1783 release; or about whom there is any recently discovered
1784 information as specified in paragraph (a).
1785 Section 49. Section 947.181, Florida Statutes, is amended
1786 to read:
1787 947.181 Victim restitution as condition of parole.--
1788 (1)(a) The regional parole boards ~~Parole Commission~~ shall
1789 require as a condition of parole reparation or restitution to the
1790 aggrieved party for the damage or loss caused by the offense for
1791 which the parolee was imprisoned unless the commission finds
1792 reasons to the contrary. If a regional parole board ~~the~~
1793 ~~commission~~ does not order restitution or orders only partial
1794 restitution, the board ~~commission~~ shall state on the record the
1795 reasons therefor. The amount of such reparation or restitution

1796 shall be determined by the regional parole board having
1797 jurisdiction ~~Parole Commission~~.
1798 (b) If the parolee fails to make the reparation or
1799 restitution to the aggrieved party as authorized in paragraph
1800 (a), it shall be considered by the court ~~commission~~ as a
1801 violation of parole as specified in s. 947.21 and may be cause
1802 for revocation of her or his parole.
1803 (2) If a defendant is paroled, any restitution ordered
1804 under s. 775.089 shall be a condition of such parole. The court
1805 ~~Parole Commission~~ may revoke parole if the defendant fails to
1806 comply with such order. In determining whether to revoke parole,
1807 the court ~~Parole Commission~~ shall consider the defendant's
1808 employment status, earning ability, and financial resources; the
1809 willfulness of the defendant's failure to pay; and any other
1810 special circumstances that may have a bearing on the defendant's
1811 ability to pay.
1812 Section 50. Section 947.185, Florida Statutes, is amended
1813 to read:
1814 947.185 Application for mental retardation services as
1815 condition of parole.--A regional parole board ~~The Parole~~
1816 ~~Commission~~ may require as a condition of parole that any inmate
1817 who has been diagnosed as mentally retarded as defined in s.
1818 393.063 shall, upon release, apply for retardation services from
1819 the Department of Children and Family Services.
1820 Section 51. Subsections (1) and (2) of section 947.22,
1821 Florida Statutes, are amended to read:
1822 947.22 Authority to arrest parole violators with or without
1823 warrant.--
1824 (1) If a court ~~member of the commission or a duly~~

1825 ~~authorized representative of the commission~~ has reasonable
1826 grounds to believe that a parolee has violated the terms and
1827 conditions of her or his parole in a material respect, it ~~such~~
1828 ~~member or representative~~ may issue a warrant for the arrest of
1829 such parolee. The warrant shall be returnable before the court ~~a~~
1830 ~~member of the commission or a duly authorized representative of~~
1831 ~~the commission~~. The court ~~commission, a commissioner, or a parole~~
1832 ~~examiner with approval of the parole examiner supervisor,~~ may
1833 release the parolee on bail or her or his own recognizance,
1834 conditioned upon her or his appearance at any hearings noticed by
1835 the commission. If not released on bail or her or his own
1836 recognizance, the parolee shall be committed to jail pending
1837 hearings pursuant to s. 947.23. ~~The commission, at its election,~~
1838 ~~may have the hearing conducted by one or more commissioners or by~~
1839 ~~a duly authorized representative of the commission.~~ Any parole
1840 and probation officer, any officer authorized to serve criminal
1841 process, or any peace officer of this state is authorized to
1842 execute the warrant.
1843 (2) Any parole and probation officer, when she or he has
1844 reasonable ground to believe that a parolee, control releasee, or
1845 conditional releasee has violated the terms and conditions of her
1846 or his parole, control release, or conditional release in a
1847 material respect, has the right to arrest the releasee or parolee
1848 without warrant and bring her or him forthwith before a court ~~one~~
1849 ~~or more commissioners or a duly authorized representative of the~~
1850 ~~Parole Commission or Control Release Authority;~~ and proceedings
1851 shall thereupon be had as provided ~~herein when a warrant has been~~
1852 ~~issued by a member of the commission or authority or a duly~~
1853 ~~authorized representative of the commission or authority~~.

1854 Section 52. Subsection (2) of section 948.03, Florida
1855 Statutes, is amended to read:
1856 948.03 Terms and conditions of probation.--
1857 (2) The enumeration of specific kinds of terms and
1858 conditions shall not prevent the court from adding thereto such
1859 other or others as it considers proper. However, the sentencing
1860 court may only impose a condition of supervision allowing an
1861 offender convicted of s. 794.011, s. 800.04, s. 827.071, or s.
1862 847.0145, to reside in another state, if the order stipulates
1863 that it is contingent upon the approval of the receiving state
1864 interstate compact authority. The court may rescind or modify at
1865 any time the terms and conditions theretofore imposed by it upon
1866 the probationer. However, if the court withholds adjudication of
1867 guilt or imposes a period of incarceration as a condition of
1868 probation, the period shall not exceed 364 days, and
1869 incarceration shall be restricted to either a county facility, ~~a~~
1870 ~~probation and restitution center under the jurisdiction of the~~
1871 ~~Department of Corrections,~~ a probation program drug punishment
1872 phase I secure residential treatment institution, or a community
1873 residential facility owned or operated by any entity providing
1874 such services.
1875 Section 53. Subsection (1) of section 948.035, Florida
1876 Statutes, is amended to read:
1877 948.035 Residential treatment as a condition of probation
1878 or community control.--
1879 (1) If the court imposes a period of residential treatment
1880 or incarceration as a condition of probation or community
1881 control, the residential treatment or incarceration shall be
1882 restricted to the following facilities:

1883 (a) ~~A Department of Corrections probation and restitution~~
1884 ~~center;~~
1885 ~~(b)~~ A probation program drug punishment treatment
1886 community;
1887 (b) ~~(c)~~ A community residential facility which is owned and
1888 operated by any public or private entity, excluding a community
1889 correctional center as defined in s. 944.026; or
1890 (c) ~~(d)~~ A county-owned facility.
1891 Section 54. Subsections (1) and (8) of section 948.08,
1892 Florida Statutes, are amended, and subsection (9) is added to
1893 that section, to read:
1894 948.08 Pretrial intervention program.--
1895 (1) At its discretion, each county may operate and ~~The~~
1896 ~~department shall~~ supervise pretrial intervention programs for
1897 persons charged with a crime, before or after any information has
1898 been filed or an indictment has been returned in the circuit
1899 court. Such programs shall provide appropriate counseling,
1900 education, supervision, and medical and psychological treatment
1901 as available and when appropriate for the persons released to
1902 such programs. Effective July 1, 2007, the department shall no
1903 longer be responsible for the supervision of pretrial
1904 intervention programs, including the supervision of offenders in
1905 pretrial intervention programs.
1906 (8) The county ~~department~~ may contract for the services and
1907 facilities necessary to operate pretrial intervention programs.
1908 (9) The Department of Corrections shall no longer supervise
1909 offenders under pretrial intervention supervision effective July
1910 1, 2007, but the county may supervise such offenders if the
1911 county elects to continue a pretrial supervision program or may

1912 be referred to the State Attorney's Office for further
1913 consideration.
1914 Section 55. Paragraph (a) of subsection (1) and subsections
1915 (3) and (6) of section 948.09, Florida Statutes, are amended to
1916 read:
1917 948.09 Payment for cost of supervision and
1918 rehabilitation.--
1919 (1)(a)1. Any person ordered by the court, the Department of
1920 Corrections, ~~or the parole commission~~ to be placed on probation,
1921 drug offender probation, community control, parole, control
1922 release, provisional release supervision, addiction-recovery
1923 supervision, or conditional release supervision under chapter
1924 944, chapter 945, chapter 947, chapter 948, or chapter 958, ~~or in~~
1925 ~~a pretrial intervention program,~~ must, as a condition of any
1926 placement, pay the department a total sum of money equal to the
1927 total month or portion of a month of supervision times the court-
1928 ordered amount, but not to exceed the actual per diem cost of the
1929 supervision. The department shall adopt rules by which an
1930 offender who pays in full and in advance of regular termination
1931 of supervision may receive a reduction in the amount due. The
1932 rules shall incorporate provisions by which the offender's
1933 ability to pay is linked to an established written payment plan.
1934 Funds collected from felony offenders may be used to offset costs
1935 of the Department of Corrections associated with community
1936 supervision programs, subject to appropriation by the
1937 Legislature.
1938 2. In addition to any other contribution or surcharge
1939 imposed by this section, each felony offender assessed under this
1940 paragraph shall pay a $2-per-month surcharge to the department.

1941 The surcharge shall be deemed to be paid only after the full
1942 amount of any monthly payment required by the established written
1943 payment plan has been collected by the department. These funds
1944 shall be used by the department to pay for correctional probation
1945 officers' training and equipment, including radios, and firearms
1946 training, firearms, and attendant equipment necessary to train
1947 and equip officers who choose to carry a concealed firearm while
1948 on duty. Nothing in this subparagraph shall be construed to limit
1949 the department's authority to determine who shall be authorized
1950 to carry a concealed firearm while on duty, or to limit the right
1951 of a correctional probation officer to carry a personal firearm
1952 approved by the department.
1953 (3) Any failure to pay contribution as required under this
1954 section may constitute a ground for the revocation of probation,
1955 parole, or conditional release by the court~~, the revocation of~~
1956 ~~parole or conditional release by the Parole Commission, the~~
1957 ~~revocation of control release by the Control Release Authority,~~
1958 ~~or removal from the pretrial intervention program by the state~~
1959 ~~attorney~~. The Department of Corrections may exempt a person from
1960 the payment of all or any part of the contribution if it finds
1961 any of the following factors to exist:
1962 (a) The offender has diligently attempted, but has been
1963 unable, to obtain employment which provides him or her sufficient
1964 income to make such payments.
1965 (b) The offender is a student in a school, college,
1966 university, or course of career training designed to fit the
1967 student for gainful employment. Certification of such student
1968 status shall be supplied to the Secretary of Corrections by the
1969 educational institution in which the offender is enrolled.

1970 (c) The offender has an employment handicap, as determined
1971 by a physical, psychological, or psychiatric examination
1972 acceptable to, or ordered by, the secretary.
1973 (d) The offender's age prevents him or her from obtaining
1974 employment.
1975 (e) The offender is responsible for the support of
1976 dependents, and the payment of such contribution constitutes an
1977 undue hardship on the offender.
1978 (f) The offender has been transferred outside the state
1979 under an interstate compact adopted pursuant to chapter 949.
1980 (g) There are other extenuating circumstances, as
1981 determined by the secretary.
1982 (6) In addition to any other required contributions, the
1983 department, at its discretion, may require offenders under any
1984 form of supervision to submit to and pay for urinalysis testing
1985 to identify drug usage as part of the rehabilitation program. Any
1986 failure to make such payment, or participate, may be considered a
1987 ground for revocation by the court~~, the Parole Commission, or the~~
1988 ~~Control Release Authority, or for removal from the pretrial~~
1989 ~~intervention program by the state attorney~~. The department may
1990 exempt a person from such payment if it determines that any of
1991 the factors specified in subsection (3) exist.
1992 Section 56. Subsection (1) of section 948.10, Florida
1993 Statutes, is amended to read:
1994 948.10 Community control programs.--
1995 (1) The Department of Corrections shall develop and
1996 administer a community control program. Such community control
1997 program and required manuals shall be developed in consultation
1998 with the Florida Conference of Circuit Court Judges and the

1999 office of the State Courts Administrator. This complementary
2000 program shall be rigidly structured and designed to accommodate
2001 offenders who, in the absence of such a program, would have been
2002 incarcerated. The program shall focus on the provision of
2003 sanctions and consequences which are commensurate with the
2004 seriousness of the crime. The program shall offer the courts ~~and~~
2005 ~~the Parole Commission~~ an alternative, community-based method to
2006 punish an offender in lieu of incarceration when the offender is
2007 a member of one of the following target groups:
2008 (a) Probation violators charged with technical violations
2009 or misdemeanor violations.
2010 (b) Parole violators charged with technical violations or
2011 misdemeanor violations.
2012 (c) Individuals found guilty of felonies, who, due to their
2013 criminal backgrounds or the seriousness of the offenses, would
2014 not be placed on regular probation.
2015 Section 57. Subsection (2) of section 948.101, Florida
2016 Statutes, is amended to read:
2017 948.101 Terms and conditions of community control and
2018 criminal quarantine community control.--
2019 (2) The enumeration of specific kinds of terms and
2020 conditions does not prevent the court from adding thereto any
2021 other terms or conditions that the court considers proper.
2022 However, the sentencing court may only impose a condition of
2023 supervision allowing an offender convicted of s. 794.011, s.
2024 800.04, s. 827.071, or s. 847.0145 to reside in another state if
2025 the order stipulates that it is contingent upon the approval of
2026 the receiving state interstate compact authority. The court may
2027 rescind or modify at any time the terms and conditions

2028 theretofore imposed by it upon the offender in community control.
2029 However, if the court withholds adjudication of guilt or imposes
2030 a period of incarceration as a condition of community control,
2031 the period may not exceed 364 days, and incarceration shall be
2032 restricted to a county facility, ~~a probation and restitution~~
2033 ~~center under the jurisdiction of the Department of Corrections,~~ a
2034 probation program drug punishment phase I secure residential
2035 treatment institution, or a community residential facility owned
2036 or operated by any entity providing such services.
2037 Section 58. Paragraph (b) of subsection (4) of section
2038 948.51, Florida Statutes, is amended to read:
2039 948.51 Community corrections assistance to counties or
2040 county consortiums.--
2041 (4) PURPOSES OF COMMUNITY CORRECTIONS FUNDS.--
2042 (b) Programs, services, and facilities that may be funded
2043 under this section include, but are not limited to:
2044 1. Programs providing pretrial services.
2045 2. Specialized divisions within the circuit or county court
2046 established for the purpose of hearing specific types of cases,
2047 such as drug cases or domestic violence cases.
2048 3. Work camps.
2049 4. Programs providing intensive probation supervision.
2050 5. Military-style boot camps.
2051 6. Work-release facilities.
2052 7. Centers to which offenders report during the day.
2053 8. ~~Restitution centers.~~
2054 ~~9.~~ Inpatient or outpatient programs for substance abuse
2055 treatment and counseling.
2056 9.~~10.~~ Vocational and educational programs.

2057 Section 59. Section 949.05, Florida Statutes, is amended to
2058 read:
2059 949.05 Constitutionality.--
2060 ~~(1)~~ If any clause, sentence, paragraph, section, or part of
2061 chapters 947-949 shall for any reason be adjudged by any court of
2062 competent jurisdiction to be unconstitutional, invalid, or void,
2063 such judgment shall not affect, impair, or invalidate the
2064 remainder of the law, but shall be confined in its operation to
2065 the clause, sentence, paragraph, section, or part thereof
2066 directly involved in the controversy in which such judgment shall
2067 have been rendered.
2068 ~~(2) If the method of selecting the commission members as~~
2069 ~~herein provided is found to be invalid by reason of the vesting~~
2070 ~~of the appointing power in the Governor and the Cabinet, the~~
2071 ~~members of the Parole Commission herein provided for shall be~~
2072 ~~appointed by the Governor.~~
2073 Section 60. Subsections (3), (4), and (5) of section
2074 951.231, Florida Statutes, are amended to read:
2075 951.231 County residential probation program.--
2076 (3) ~~A local government having an existing Department of~~
2077 ~~Corrections probation and restitution center within its~~
2078 ~~boundaries with current available capacity may contract with the~~
2079 ~~Department of Corrections to house prisoners sentenced in~~
2080 ~~accordance with s. 921.18.~~
2081 ~~(4)~~ A local government having an existing Department of
2082 Corrections probation and restitution center within its
2083 boundaries without current available capacity, or a local
2084 government not having an existing Department of Corrections
2085 probation and restitution center within its boundaries, may

2086 provide facilities either through construction, purchase, or
2087 lease of new facilities or purchase, renovation, or lease of
2088 existing facilities.
2089 (4) ~~(5)~~ Local governments participating in this program may
2090 apply to the Department of Corrections for funding. The
2091 department shall allocate the funding for this program to the
2092 extent authorized in the General Appropriations Act.
2093 Section 61. Paragraph (e) of subsection (1) of section
2094 957.04, Florida Statutes, is amended to read:
2095 957.04 Contract requirements.--
2096 (1) A contract entered into under this chapter for the
2097 operation of private correctional facilities shall maximize the
2098 cost savings of such facilities and shall:
2099 (e) Establish operations standards for correctional
2100 facilities subject to the contract. However, if the department
2101 and the contractor disagree with an operations standard, the
2102 contractor may propose to waive any rule, policy, or procedure of
2103 the department related to the operations standards of
2104 correctional facilities which is inconsistent with the mission of
2105 the contractor to establish cost-effective, privately operated
2106 correctional facilities. The Department of Management Services
2107 ~~Florida Corrections Commission~~ shall be responsible for
2108 considering all proposals from the contractor to waive any rule,
2109 policy, or procedure and shall render a final decision granting
2110 or denying such request.
2111 Section 62. Subsection (6) of section 957.06, Florida
2112 Statutes, is amended to read:
2113 957.06 Powers and duties not delegable to contractor.--A
2114 contract entered into under this chapter does not authorize,

2115 allow, or imply a delegation of authority to the contractor to:
2116 (6) Make recommendations to a regional parole board ~~the~~
2117 ~~Parole Commission~~ with respect to the denial or granting of
2118 parole, control release, conditional release, or conditional
2119 medical release. However, the contractor may submit written
2120 reports to a regional parole board ~~the Parole Commission~~ and must
2121 respond to a written request by a regional parole board ~~the~~
2122 ~~Parole Commission~~ for information.
2123 Section 63. Subsection (5) of section 957.07, Florida
2124 Statutes, is amended to read:
2125 957.07 Cost-saving requirements.--
2126 (5)(a) At the request of the Speaker of the House of
2127 Representatives or the President of the Senate ~~By February 1 each~~
2128 ~~year~~, the Prison Per-Diem Workgroup shall develop consensus per
2129 diem rates for use by the Legislature ~~to be used when determining~~
2130 ~~per diem rates of privately operated prisons~~. The Office of
2131 Program Policy Analysis and Government Accountability~~, the Office~~
2132 ~~of the Auditor General,~~ and the staffs of the appropriations
2133 committees of both the Senate and the House of Representatives
2134 are the principals of the workgroup. The workgroup may consult
2135 with other experts to assist in the development of the consensus
2136 per diem rates. All meetings of the workgroup shall be open to
2137 the public as provided in chapter 286.
2138 (b) When developing the consensus per diem rates, the
2139 workgroup must:
2140 1. Use data provided by the Department of Corrections from
2141 the most recent fiscal year to determine per diem costs for the
2142 following activities:
2143 a. Custody and control;

2144 b. Health services;
2145 c. Substance abuse programs; and
2146 d. Educational programs;
2147 2. Include the cost of departmental, regional,
2148 institutional, and program administration and any other fixed
2149 costs of the department;
2150 3. Calculate average per diem rates for the following
2151 offender populations: adult male, youthful offender male, and
2152 female; and
2153 4. Make per diem adjustments, as appropriate, to account
2154 for variations in size and location of correctional facilities.
2155 (c) ~~It is the intent of the Legislature that~~ The consensus
2156 per diem rates determined by the workgroup may ~~shall~~ be used to
2157 assist the Legislature in determining ~~determine~~ the level of
2158 funding provided to privately operated prisons to meet the~~, which~~
2159 ~~must reflect at least a~~ 7-percent savings required of private
2160 prisons by this chapter ~~when compared to the Department of~~
2161 ~~Corrections~~.
2162 (d) If a private vendor chooses not to renew the contract
2163 at the appropriated level, the Department of Management Services
2164 shall terminate the contract as provided in s. 957.14.
2165 ~~(e) This subsection supersedes the proviso language~~
2166 ~~immediately following Specific Appropriation 570 in the~~
2167 ~~Conference Report on CS for SB 2-C.~~
2168 Section 64. Paragraphs (b) and (c) of subsection (2) of
2169 section 958.04, Florida Statutes, are amended to read:
2170 958.04 Judicial disposition of youthful offenders.--
2171 (2) In lieu of other criminal penalties authorized by law
2172 and notwithstanding any imposition of consecutive sentences, the

2173 court shall dispose of the criminal case as follows:
2174 (b) The court may impose a period of incarceration as a
2175 condition of probation or community control, which period of
2176 incarceration shall be served in either a county facility, ~~a~~
2177 ~~department probation and restitution center,~~ or a community
2178 residential facility which is owned and operated by any public or
2179 private entity providing such services. No youthful offender may
2180 be required to serve a period of incarceration in a community
2181 correctional center as defined in s. 944.026. Admission to a
2182 department facility ~~or center~~ shall be contingent upon the
2183 availability of bed space and shall take into account the purpose
2184 and function of such facility ~~or center~~. Placement in such a
2185 facility ~~or center~~ shall not exceed 364 days.
2186 (c) The court may impose a split sentence whereby the
2187 youthful offender is to be placed on probation or community
2188 control upon completion of any specified period of incarceration;
2189 however, if the incarceration period is to be served in a
2190 department facility ~~other than a probation and restitution center~~
2191 or community residential facility, such period shall be for not
2192 less than 1 year or more than 4 years. The period of probation or
2193 community control shall commence immediately upon the release of
2194 the youthful offender from incarceration. The period of
2195 incarceration imposed or served and the period of probation or
2196 community control, when added together, shall not exceed 6 years.
2197 Section 65. Paragraph (c) of subsection (8) of section
2198 958.045, Florida Statutes, is amended to read:
2199 958.045 Youthful offender basic training program.--
2200 (8)
2201 (c) The department shall work cooperatively with the

2202 Control Release Authority or the regional parole board having
2203 jurisdiction ~~Parole Commission~~ to effect the release of an
2204 offender who has successfully completed the requirements of the
2205 basic training program.
2206 Section 66. Subsection (1) of section 960.001, Florida
2207 Statutes, is amended to read:
2208 960.001 Guidelines for fair treatment of victims and
2209 witnesses in the criminal justice and juvenile justice systems.--
2210 (1) The Department of Legal Affairs, the state attorneys,
2211 the Department of Corrections, the Department of Juvenile
2212 Justice, ~~the Parole Commission,~~ the State Courts Administrator
2213 and circuit court administrators, the Department of Law
2214 Enforcement, and every sheriff's department, police department,
2215 or other law enforcement agency as defined in s. 943.10(4) shall
2216 develop and implement guidelines for the use of their respective
2217 agencies, which guidelines are consistent with the purposes of
2218 this act and s. 16(b), Art. I of the State Constitution and are
2219 designed to implement the provisions of s. 16(b), Art. I of the
2220 State Constitution and to achieve the following objectives:
2221 (a) Information concerning services available to victims of
2222 adult and juvenile crime.--As provided in s. 27.0065, state
2223 attorneys and public defenders shall gather information regarding
2224 the following services in the geographic boundaries of their
2225 respective circuits and shall provide such information to each
2226 law enforcement agency with jurisdiction within such geographic
2227 boundaries. Law enforcement personnel shall ensure, through
2228 distribution of a victim's rights information card or brochure at
2229 the crime scene, during the criminal investigation, and in any
2230 other appropriate manner, that victims are given, as a matter of

2231 course at the earliest possible time, information about:
2232 1. The availability of crime victim compensation, when
2233 applicable;
2234 2. Crisis intervention services, supportive or bereavement
2235 counseling, social service support referrals, and community-based
2236 victim treatment programs;
2237 3. The role of the victim in the criminal or juvenile
2238 justice process, including what the victim may expect from the
2239 system as well as what the system expects from the victim;
2240 4. The stages in the criminal or juvenile justice process
2241 which are of significance to the victim and the manner in which
2242 information about such stages can be obtained;
2243 5. The right of a victim, who is not incarcerated,
2244 including the victim's parent or guardian if the victim is a
2245 minor, the lawful representative of the victim or of the victim's
2246 parent or guardian if the victim is a minor, and the next of kin
2247 of a homicide victim, to be informed, to be present, and to be
2248 heard when relevant, at all crucial stages of a criminal or
2249 juvenile proceeding, to the extent that this right does not
2250 interfere with constitutional rights of the accused, as provided
2251 by s. 16(b), Art. I of the State Constitution;
2252 6. In the case of incarcerated victims, the right to be
2253 informed and to submit written statements at all crucial stages
2254 of the criminal proceedings, parole proceedings, or juvenile
2255 proceedings; and
2256 7. The right of a victim to a prompt and timely disposition
2257 of the case in order to minimize the period during which the
2258 victim must endure the responsibilities and stress involved to
2259 the extent that this right does not interfere with the

2260 constitutional rights of the accused.
2261 (b) Information for purposes of notifying victim or
2262 appropriate next of kin of victim or other designated contact of
2263 victim.--In the case of a homicide, pursuant to chapter 782; or a
2264 sexual offense, pursuant to chapter 794; or an attempted murder
2265 or sexual offense, pursuant to chapter 777; or stalking, pursuant
2266 to s. 784.048; or domestic violence, pursuant to s. 25.385:
2267 1. The arresting law enforcement officer or personnel of an
2268 organization that provides assistance to a victim or to the
2269 appropriate next of kin of the victim or other designated contact
2270 must request that the victim or appropriate next of kin of the
2271 victim or other designated contact complete a victim notification
2272 card. However, the victim or appropriate next of kin of the
2273 victim or other designated contact may choose not to complete the
2274 victim notification card.
2275 2. Unless the victim or the appropriate next of kin of the
2276 victim or other designated contact waives the option to complete
2277 the victim notification card, a copy of the victim notification
2278 card must be filed with the incident report or warrant in the
2279 sheriff's office of the jurisdiction in which the incident report
2280 or warrant originated. The notification card shall, at a minimum,
2281 consist of:
2282 a. The name, address, and phone number of the victim; or
2283 b. The name, address, and phone number of the appropriate
2284 next of kin of the victim; or
2285 c. The name, address, and phone number of a designated
2286 contact other than the victim or appropriate next of kin of the
2287 victim; and
2288 d. Any relevant identification or case numbers assigned to

2289 the case.
2290 3. The chief administrator, or a person designated by the
2291 chief administrator, of a county jail, municipal jail, juvenile
2292 detention facility, or residential commitment facility shall make
2293 a reasonable attempt to notify the alleged victim or appropriate
2294 next of kin of the alleged victim or other designated contact
2295 within 4 hours following the release of the defendant on bail or,
2296 in the case of a juvenile offender, upon the release from
2297 residential detention or commitment. If the chief administrator,
2298 or designee, is unable to contact the alleged victim or
2299 appropriate next of kin of the alleged victim or other designated
2300 contact by telephone, the chief administrator, or designee, must
2301 send to the alleged victim or appropriate next of kin of the
2302 alleged victim or other designated contact a written notification
2303 of the defendant's release.
2304 4. Unless otherwise requested by the victim or the
2305 appropriate next of kin of the victim or other designated
2306 contact, the information contained on the victim notification
2307 card must be sent by the chief administrator, or designee, of the
2308 appropriate facility to the subsequent correctional or
2309 residential commitment facility following the sentencing and
2310 incarceration of the defendant, and unless otherwise requested by
2311 the victim or the appropriate next of kin of the victim or other
2312 designated contact, he or she must be notified of the release of
2313 the defendant from incarceration as provided by law.
2314 5. If the defendant was arrested pursuant to a warrant
2315 issued or taken into custody pursuant to s. 985.207 in a
2316 jurisdiction other than the jurisdiction in which the defendant
2317 is being released, and the alleged victim or appropriate next of

2318 kin of the alleged victim or other designated contact does not
2319 waive the option for notification of release, the chief
2320 correctional officer or chief administrator of the facility
2321 releasing the defendant shall make a reasonable attempt to
2322 immediately notify the chief correctional officer of the
2323 jurisdiction in which the warrant was issued or the juvenile was
2324 taken into custody pursuant to s. 985.207, and the chief
2325 correctional officer of that jurisdiction shall make a reasonable
2326 attempt to notify the alleged victim or appropriate next of kin
2327 of the alleged victim or other designated contact, as provided in
2328 this paragraph, that the defendant has been or will be released.
2329 (c) Information concerning protection available to victim
2330 or witness.--A victim or witness shall be furnished, as a matter
2331 of course, with information on steps that are available to law
2332 enforcement officers and state attorneys to protect victims and
2333 witnesses from intimidation. Victims of domestic violence shall
2334 also be given information about the address confidentiality
2335 program provided under s. 741.403.
2336 (d) Notification of scheduling changes.--Each victim or
2337 witness who has been scheduled to attend a criminal or juvenile
2338 justice proceeding shall be notified as soon as possible by the
2339 agency scheduling his or her appearance of any change in
2340 scheduling which will affect his or her appearance.
2341 (e) Advance notification to victim or relative of victim
2342 concerning judicial proceedings; right to be present.--Any
2343 victim, parent, guardian, or lawful representative of a minor who
2344 is a victim, or relative of a homicide victim shall receive from
2345 the appropriate agency, at the address found in the police report
2346 or the victim notification card if such has been provided to the

2347 agency, prompt advance notification, unless the agency itself
2348 does not have advance notification, of judicial and postjudicial
2349 proceedings relating to his or her case, including all
2350 proceedings or hearings relating to:
2351 1. The arrest of an accused;
2352 2. The release of the accused pending judicial proceedings
2353 or any modification of release conditions; and
2354 3. Proceedings in the prosecution or petition for
2355 delinquency of the accused, including the filing of the
2356 accusatory instrument, the arraignment, disposition of the
2357 accusatory instrument, trial or adjudicatory hearing, sentencing
2358 or disposition hearing, appellate review, subsequent modification
2359 of sentence, collateral attack of a judgment, and, when a term of
2360 imprisonment, detention, or residential commitment is imposed,
2361 the release of the defendant or juvenile offender from such
2362 imprisonment, detention, or residential commitment by expiration
2363 of sentence or parole and any meeting held to consider such
2364 release.
2365
2366 A victim, a victim's parent or guardian if the victim is a minor,
2367 a lawful representative of the victim or of the victim's parent
2368 or guardian if the victim is a minor, or a victim's next of kin
2369 may not be excluded from any portion of any hearing, trial, or
2370 proceeding pertaining to the offense based solely on the fact
2371 that such person is subpoenaed to testify, unless, upon motion,
2372 the court determines such person's presence to be prejudicial.
2373 The appropriate agency with respect to notification under
2374 subparagraph 1. is the arresting law enforcement agency, and the
2375 appropriate agency with respect to notification under

2376 subparagraphs 2. and 3. is the Attorney General or state
2377 attorney, unless the notification relates to a hearing concerning
2378 parole, in which case the appropriate agency is the Office of the
2379 Attorney General ~~Parole Commission~~. The Department of
2380 Corrections, the Department of Juvenile Justice, or the sheriff
2381 is the appropriate agency with respect to release by expiration
2382 of sentence or any other release program provided by law. Any
2383 victim may waive notification at any time, and such waiver shall
2384 be noted in the agency's files.
2385 (f) Information concerning release from incarceration from
2386 a county jail, municipal jail, juvenile detention facility, or
2387 residential commitment facility.--The chief administrator, or a
2388 person designated by the chief administrator, of a county jail,
2389 municipal jail, juvenile detention facility, or residential
2390 commitment facility shall, upon the request of the victim or the
2391 appropriate next of kin of a victim or other designated contact
2392 of the victim of any of the crimes specified in paragraph (b),
2393 make a reasonable attempt to notify the victim or appropriate
2394 next of kin of the victim or other designated contact prior to
2395 the defendant's or offender's release from incarceration,
2396 detention, or residential commitment if the victim notification
2397 card has been provided pursuant to paragraph (b). If prior
2398 notification is not successful, a reasonable attempt must be made
2399 to notify the victim or appropriate next of kin of the victim or
2400 other designated contact within 4 hours following the release of
2401 the defendant or offender from incarceration, detention, or
2402 residential commitment. If the defendant is released following
2403 sentencing, disposition, or furlough, the chief administrator or
2404 designee shall make a reasonable attempt to notify the victim or

2405 the appropriate next of kin of the victim or other designated
2406 contact within 4 hours following the release of the defendant. If
2407 the chief administrator or designee is unable to contact the
2408 victim or appropriate next of kin of the victim or other
2409 designated contact by telephone, the chief administrator or
2410 designee must send to the victim or appropriate next of kin of
2411 the victim or other designated contact a written notification of
2412 the defendant's or offender's release.
2413 (g) Consultation with victim or guardian or family of
2414 victim.--
2415 1. In addition to being notified of the provisions of s.
2416 921.143, the victim of a felony involving physical or emotional
2417 injury or trauma or, in a case in which the victim is a minor
2418 child or in a homicide, the guardian or family of the victim
2419 shall be consulted by the state attorney in order to obtain the
2420 views of the victim or family about the disposition of any
2421 criminal or juvenile case brought as a result of such crime,
2422 including the views of the victim or family about:
2423 a. The release of the accused pending judicial proceedings;
2424 b. Plea agreements;
2425 c. Participation in pretrial diversion programs; and
2426 d. Sentencing of the accused.
2427 2. Upon request, the state attorney shall permit the
2428 victim, the victim's parent or guardian if the victim is a minor,
2429 the lawful representative of the victim or of the victim's parent
2430 or guardian if the victim is a minor, or the victim's next of kin
2431 in the case of a homicide to review a copy of the presentence
2432 investigation report prior to the sentencing hearing if one was
2433 completed. Any confidential information that pertains to medical

2434 history, mental health, or substance abuse and any information
2435 that pertains to any other victim shall be redacted from the copy
2436 of the report. Any person who reviews the report pursuant to this
2437 paragraph must maintain the confidentiality of the report and
2438 shall not disclose its contents to any person except statements
2439 made to the state attorney or the court.
2440 3. When an inmate has been approved for community work
2441 release, the Department of Corrections shall, upon request and as
2442 provided in s. 944.605, notify the victim, the victim's parent or
2443 guardian if the victim is a minor, the lawful representative of
2444 the victim or of the victim's parent or guardian if the victim is
2445 a minor, or the victim's next of kin if the victim is a homicide
2446 victim.
2447 (h) Return of property to victim.--Law enforcement agencies
2448 and the state attorney shall promptly return a victim's property
2449 held for evidentiary purposes unless there is a compelling law
2450 enforcement reason for retaining it. The trial or juvenile court
2451 exercising jurisdiction over the criminal or juvenile proceeding
2452 may enter appropriate orders to implement the provisions of this
2453 subsection, including allowing photographs of the victim's
2454 property to be used as evidence at the criminal trial or the
2455 juvenile proceeding in place of the victim's property when no
2456 substantial evidentiary issue related thereto is in dispute.
2457 (i) Notification to employer and explanation to creditors
2458 of victim or witness.--A victim or witness who so requests shall
2459 be assisted by law enforcement agencies and the state attorney in
2460 informing his or her employer that the need for victim and
2461 witness cooperation in the prosecution of the case may
2462 necessitate the absence of that victim or witness from work. A

2463 victim or witness who, as a direct result of a crime or of his or
2464 her cooperation with law enforcement agencies or a state
2465 attorney, is subjected to serious financial strain shall be
2466 assisted by such agencies and state attorney in explaining to the
2467 creditors of such victim or witness the reason for such serious
2468 financial strain.
2469 (j) Notification of right to request restitution.--Law
2470 enforcement agencies and the state attorney shall inform the
2471 victim of the victim's right to request and receive restitution
2472 pursuant to s. 775.089 or s. 985.231(1)(a)1., and of the victim's
2473 rights of enforcement under ss. 775.089(6) and 985.201 in the
2474 event an offender does not comply with a restitution order. The
2475 state attorney shall seek the assistance of the victim in the
2476 documentation of the victim's losses for the purpose of
2477 requesting and receiving restitution. In addition, the state
2478 attorney shall inform the victim if and when restitution is
2479 ordered. If an order of restitution is converted to a civil lien
2480 or civil judgment against the defendant, the clerks shall make
2481 available at their office, as well as on their website,
2482 information provided by the Secretary of State, the court, or The
2483 Florida Bar on enforcing the civil lien or judgment.
2484 (k) Notification of right to submit impact statement.--The
2485 state attorney shall inform the victim of the victim's right to
2486 submit an oral or written impact statement pursuant to s. 921.143
2487 and shall assist in the preparation of such statement if
2488 necessary.
2489 (l) Local witness coordination services.--The requirements
2490 for notification provided for in paragraphs (c), (d), and (i) may
2491 be performed by the state attorney or public defender for their

2492 own witnesses.
2493 (m) Victim assistance education and training.--Victim
2494 assistance education and training shall be offered to persons
2495 taking courses at law enforcement training facilities and to
2496 state attorneys and assistant state attorneys so that victims may
2497 be promptly, properly, and completely assisted.
2498 (n) General victim assistance.--Victims and witnesses shall
2499 be provided with such other assistance, such as transportation,
2500 parking, separate pretrial waiting areas, and translator services
2501 in attending court, as is practicable.
2502 (o) Victim's rights information card or brochure.--A victim
2503 of a crime shall be provided with a victim's rights information
2504 card or brochure containing essential information concerning the
2505 rights of a victim and services available to a victim as required
2506 by state law.
2507 (p) Information concerning escape from a state correctional
2508 institution, county jail, juvenile detention facility, or
2509 residential commitment facility.--In any case where an offender
2510 escapes from a state correctional institution, private
2511 correctional facility, county jail, juvenile detention facility,
2512 or residential commitment facility, the institution of
2513 confinement shall immediately notify the state attorney of the
2514 jurisdiction where the criminal charge or petition for
2515 delinquency arose and the judge who imposed the sentence of
2516 incarceration. The state attorney shall thereupon make every
2517 effort to notify the victim, material witness, parents or legal
2518 guardian of a minor who is a victim or witness, or immediate
2519 relatives of a homicide victim of the escapee. The state attorney
2520 shall also notify the sheriff of the county where the criminal

2521 charge or petition for delinquency arose. The sheriff shall offer
2522 assistance upon request. When an escaped offender is subsequently
2523 captured or is captured and returned to the institution of
2524 confinement, the institution of confinement shall again
2525 immediately notify the appropriate state attorney and sentencing
2526 judge pursuant to this section.
2527 (q) Presence of victim advocate during discovery
2528 deposition; testimony of victim of a sexual offense.--At the
2529 request of the victim or the victim's parent, guardian, or lawful
2530 representative, the victim advocate designated by state
2531 attorney's office, sheriff's office, or municipal police
2532 department, or one representative from a not-for-profit victim
2533 services organization, including, but not limited to, rape crisis
2534 centers, domestic violence advocacy groups, and alcohol abuse or
2535 substance abuse groups shall be permitted to attend and be
2536 present during any deposition of the victim. The victim of a
2537 sexual offense shall be informed of the right to have the
2538 courtroom cleared of certain persons as provided in s. 918.16
2539 when the victim is testifying concerning that offense.
2540 (r) Implementing crime prevention in order to protect the
2541 safety of persons and property, as prescribed in the State
2542 Comprehensive Plan.--By preventing crimes that create victims or
2543 further harm former victims, crime prevention efforts are an
2544 essential part of providing effective service for victims and
2545 witnesses. Therefore, the agencies identified in this subsection
2546 may participate in and expend funds for crime prevention, public
2547 awareness, public participation, and educational activities
2548 directly relating to, and in furtherance of, existing public
2549 safety statutes. Furthermore, funds may not be expended for the

2550 purpose of influencing public opinion on public policy issues
2551 that have not been resolved by the Legislature or the electorate.
2552 (s) Attendance of victim at same school as defendant.--When
2553 the victim of an offense committed by a juvenile is a minor, the
2554 Department of Juvenile Justice shall request information to
2555 determine if the victim, or any sibling of the victim, attends or
2556 is eligible to attend the same school as the offender. However,
2557 if the offender is subject to a presentence investigation by the
2558 Department of Corrections, the Department of Corrections shall
2559 make such request. If the victim or any sibling of the victim
2560 attends or is eligible to attend the same school as that of the
2561 offender, the appropriate agency shall notify the victim's parent
2562 or legal guardian of the right to attend the sentencing or
2563 disposition of the offender and request that the offender be
2564 required to attend a different school.
2565 Section 67. Subsection (3) of section 960.17, Florida
2566 Statutes, is amended to read:
2567 960.17 Award constitutes debt owed to state.--
2568 (3) The regional parole board with jurisdiction ~~Parole~~
2569 ~~Commission~~ shall make the payment of the debt to the state a
2570 condition of parole under chapter 947, unless the board
2571 ~~commission~~ finds reasons to the contrary. If the board ~~commission~~
2572 does not order payment, or orders only partial payment, it shall
2573 state on the record the reasons therefor.
2574 Section 68. Paragraph (a) of subsection (3) of section
2575 985.04, Florida Statutes, is amended to read:
2576 985.04 Oaths; records; confidential information.--
2577 (3)(a) Except as provided in subsections (2), (4), (5), and
2578 (6), and s. 943.053, all information obtained under this part in

2579 the discharge of official duty by any judge, any employee of the
2580 court, any authorized agent of the Department of Juvenile
2581 Justice, the regional parole boards ~~Parole Commission~~, the
2582 Department of Corrections, the juvenile justice circuit boards,
2583 any law enforcement agent, or any licensed professional or
2584 licensed community agency representative participating in the
2585 assessment or treatment of a juvenile is confidential and may be
2586 disclosed only to the authorized personnel of the court, the
2587 Department of Juvenile Justice and its designees, the Department
2588 of Corrections, the regional parole boards ~~Parole Commission~~, law
2589 enforcement agents, school superintendents and their designees,
2590 any licensed professional or licensed community agency
2591 representative participating in the assessment or treatment of a
2592 juvenile, and others entitled under this chapter to receive that
2593 information, or upon order of the court. Within each county, the
2594 sheriff, the chiefs of police, the district school
2595 superintendent, and the department shall enter into an
2596 interagency agreement for the purpose of sharing information
2597 about juvenile offenders among all parties. The agreement must
2598 specify the conditions under which summary criminal history
2599 information is to be made available to appropriate school
2600 personnel, and the conditions under which school records are to
2601 be made available to appropriate department personnel. Such
2602 agreement shall require notification to any classroom teacher of
2603 assignment to the teacher's classroom of a juvenile who has been
2604 placed in a probation or commitment program for a felony offense.
2605 The agencies entering into such agreement must comply with s.
2606 943.0525, and must maintain the confidentiality of information
2607 that is otherwise exempt from s. 119.07(1), as provided by law.

2608 Section 69. Subsection (2) of section 985.05, Florida
2609 Statutes, is amended to read:
2610 985.05 Court records.--
2611 (2) The clerk shall keep all official records required by
2612 this section separate from other records of the circuit court,
2613 except those records pertaining to motor vehicle violations,
2614 which shall be forwarded to the Department of Highway Safety and
2615 Motor Vehicles. Except as provided in ss. 943.053 and 985.04(4),
2616 official records required by this part are not open to inspection
2617 by the public, but may be inspected only upon order of the court
2618 by persons deemed by the court to have a proper interest therein,
2619 except that a child and the parents, guardians, or legal
2620 custodians of the child and their attorneys, law enforcement
2621 agencies, the Department of Juvenile Justice and its designees, a
2622 regional parole board ~~the Parole Commission~~, the Department of
2623 Corrections, and the Justice Administrative Commission shall
2624 always have the right to inspect and copy any official record
2625 pertaining to the child. The court may permit authorized
2626 representatives of recognized organizations compiling statistics
2627 for proper purposes to inspect, and make abstracts from, official
2628 records under whatever conditions upon the use and disposition of
2629 such records the court may deem proper and may punish by contempt
2630 proceedings any violation of those conditions.
2631 Section 70. Subsection (1) of section 784.078, Florida
2632 Statutes, is amended to read:
2633 784.078 Battery of facility employee by throwing, tossing,
2634 or expelling certain fluids or materials.--
2635 (1) As used in this section, the term "facility" means a
2636 state correctional institution defined in s. 944.02~~(6)~~; a private

2637 correctional facility defined in s. 944.710 or under chapter 957;
2638 a county, municipal, or regional jail or other detention facility
2639 of local government under chapter 950 or chapter 951; or a secure
2640 facility operated and maintained by the Department of Corrections
2641 or the Department of Juvenile Justice.
2642 Section 71. Support for the Governor and Cabinet acting in
2643 their capacity as the Executive Board of Clemency is hereby
2644 transferred from the Parole Commission to the Executive Office of
2645 the Governor by a type two transfer as provided in s. 20.06,
2646 Florida Statutes.
2647 Section 72. Sections 947.01 and 947.022, Florida Statutes,
2648 are repealed.
2649 Section 73. The Division of Statutory Revision of the
2650 Office of Legislative Services shall redesignate, in the next
2651 edition of the Florida Statutes, the title of chapter 947,
2652 Florida Statutes, as "Regional Parole Boards."
2653 Section 74. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB FC 06-09**

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: Fiscal Council
2 Representative(s) Barreiro offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 2653 and insert:
6 Section 74. This act shall take effect July 1, 2006 except
7 for sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
8 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33,
9 34, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51,
10 55, 56, 59, 62, 65, 66, 67, 68, 69, 70, 71 and 72 which shall
11 take effect January 1, 2007.
12
13
14

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-10 Juvenile Justice
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		DeBeaugrine	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill conforms Chapter 985, F.S., to the House version of the General Appropriations Act. Specific provisions are as follows:

- Eliminates statutory authority for juvenile boot camps.
- Authorizes Sheriff's Training and Respect (STAR) programs.
- Creates the Juvenile Justice Accountability Commission to conduct quality assurance and program evaluations.
- Allows a court to hold a youth in secure detention for violation of the terms of an adjudication order until disposition and placement.
- Requires the department to adopt uniform state rules on use of force and physical restraint.
- Requires direct care staff to have received Protective Action Response certification prior to working with youth.
- Revises definition of a "fiscally constrained county" for purposes of defining eligibility for state financial assistance to counties to cover their costs associated with secure detention. This has the effect of adding Wakulla, Sumter and Highlands counties to the list of counties eligible for state financial assistance.

The House version of the General Appropriations Act (GAA) includes a reduction of $10.5 million to juvenile boot camp programs and additional appropriations of $10.6 million for STAR programs. The House version of the GAA also transfers funds associated with the department's in-house quality assurance and data and research functions to the Juvenile Justice Accountability Commission. The expanded authority provided to the court to place youth in secure detention could increase utilization of secure detention beds and result in increased costs to the counties. The impact is indeterminate. The House version of the GAA includes $822,421 in addition to that recommended by the Governor to continue state financial assistance to Wakulla, Highlands and Sumter counties as fiscally constrained counties. These funds will cover their costs of providing secure detention. There could also be an indeterminate impact on contract providers who will face more stringent requirements regarding staff qualifications and performance. The House version of the GAA includes a price level increase of $16 million for contract service providers.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: The bill provides additional tools to the judiciary to hold youth accountable for their behavior during the period of time between adjudication and final disposition.

Reduce Government: The bill creates an additional commission. However, this commission will assume quality assurance responsibilities that the Department of Juvenile Justice (DJJ) will no longer be required to provide.

B. EFFECT OF PROPOSED CHANGES:

Juvenile boot camps and STAR programs

Background:

Section 985.309, F.S., authorizes boot camp programs for juvenile offenders. There are now four boot camps operating in the state of Florida. Each are moderate risk residential commitment programs. Eligibility for admission into a boot camp is limited to juveniles between the ages of 14 and 18 who are adjudicated for a felony with the exception of capital, life or violent first degree felonies. Youth are also required to be screened to ensure that only youth who have psychological and medical profiles conducive to success in the program are admitted.

Youth are to be placed in a program in or nearest to the judicial circuit in which the child was adjudicated unless such placement would not be in the best interest of the child or the boot camp was unable to accept the child. According to one sheriff that runs a boot camp, youth from other parts of the state are frequently referred to his program. The sheriff is unable to provide aftercare services to these youth and he feels that this negatively impacts the success of his program[1].

According to s. 985.309, F.S., boot camps are to provide intensive educational, physical training and rehabilitation. The programs are, to varying degrees, modeled after military boot camps and feature intense physical activity and highly structured and disciplined daily routines. Each existing boot camp has its own unique approach within this basic framework and operates under the direct authority of the sheriff. Three of the four programs currently in operation in the state provide some form of aftercare when youth leave the residential phase of the program.

The boot camps are staffed by both sworn officers and non-sworn personnel. Sworn officers and non-sworn staff at boot camps that have completed the defensive tactics portion of the law enforcement training curriculum developed by the Criminal Justice Training and Standards Commission are authorized to use physical force and restraint techniques taught as part of this curriculum. Others are required to follow the department's Protective Action Response (PAR) protocol[2]. Current DJJ policy allows a staff person to work with youth prior to successfully completing training as long as certain "essential skills" are obtained. One such essential skill is "PAR trained," which is defined as 40 hours of training and at least one attempt at the test whether pass or fail[3]. Staff are allowed five attempts to pass the PAR written examination and performance evaluation[4].

According to testimony provided to the Criminal Justice Appropriations Committee, research on boot camps is inconclusive as to their effectiveness compared to other types of residential programs. In fact,

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[1] Personal conversation with Sheriff Grady Judd from Polk County on March 16, 2005.
[2] Florida Department of Juvenile Justice Protective Action Response Policy (FDJJ-1508-03) Effective Date 6/1/01, Revised 8/15/03.
[3] Memorandum from Secretary Anthony Schembri to the Executive Management Team dated March 4, 2005.
[4] Memorandum from Secretary Anthony Schembri to the Executive Management Team dated July 23, 2004.

many studies show the programs to be less effective than other residential models. As a result of these and other concerns, nine states have closed some or all or their boot camps for juveniles. Georgia converted its boot camps to "work camps" which place more emphasis on education and treatment than a military model[5].

The operating budget for the Department of Juvenile Justice includes $10.5 million for 320 boot camp residential beds and aftercare programs. Two programs, Collier and Bay, have closed since the department's initial operating budget was developed. Currently, four counties have boot camps (Manatee, Martin, Polk and Pinellas) that provide 260 residential beds[6].

On January 6, 2006, Martin Lee Anderson died after an incident involving staff at the Bay County Boot Camp. This led to a series of workshops held by the House Criminal Justice Appropriations and House Juvenile Justice committees. Much of the testimony and discussion involved the lack of uniform rules regarding use of force and physical restraints, need for improved training for direct care staff, the need for an improved accountability system for juvenile justice programs based on best practices, and the need for a strong aftercare program when youth leave the residential phase of boot camp programs.

Impact of bill:

The bill repeals s. 985.309, F.S. which authorizes boot camps for children and creates a new section 985.3091 which authorizes Sheriff's Training and Respect (STAR) programs.

Prior to admission to a STAR program, youth will be required to receive substance abuse screenings in addition to medical and psychological screenings. Youth may only be admitted to a STAR program in the judicial circuit in which they were adjudicated unless this would not be in the child's best interest or the STAR program is unable to accommodate the child ***and*** the parents agree to placement outside the circuit. STAR programs will be required to provide both a residential component and aftercare assessment and services.

The department is required to adopt rules governing the operation of boot camps which prohibit the use of psychological intimidation techniques, physical force and restraint techniques except as necessary to protect the safety of youth or others or to maintain security. Physical force and restraint techniques are more specifically forbidden as disciplinary sanctions or to encourage compliance with program requirements. STAR programs will also be required to prominently display the telephone number of the abuse registry and allow youth access to a telephone to notify the abuse registry of complaints.

The bill requires the department to develop rules establishing training requirements for STAR programs requiring 120 hours for administrative staff and 200 hours for training for direct-care staff. Training requirements include state and federal laws related to child abuse, authorized disciplinary sanctions, limitations on use of physical force and restraints and psychological intimidation techniques, and CPR and other emergency medical procedures. The bill would prohibit a person from providing direct care to children in STAR programs until he or she has successfully completed training and certification requirements.

The bill does not allow children to be admitted into a STAR program until the department has adopted rules and verified that STAR programs are in compliance with the rules. Provision is made for the department to adopt emergency rules if necessary to allow for operation of programs starting July 1, 2006. According to s. 120.54(4), F.S. an emergency rule is valid for 90 days.

The bill creates a new s. 985.4055, F.S., which requires the department to develop uniform rules regarding protective action response that will apply to all programs under the jurisdiction of the

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[5] Presentation by Dr. Tom Blomberg to the House Criminal Justice Appropriations Committee on February 16, 2006.

[6] Department of Juvenile Justice 2005-2006 Approved Operating Budget and e-mail from Lucy Mohs, Department of Juvenile Justice Legislative Affairs Director sent October 3, 2005. The sheriff of Martin county advised the Department of Juvenile Justice in a letter dated December 16, 2006 that he would be closing his boot camp on June 30, 2006.

department. The bill requires all direct care staff to have the necessary protective action response certification prior to working directly with youth.

Accountability Systems for Juvenile Justice Programs

Background:

The Department of Juvenile Justice currently operates an in-house quality assurance program that uses staff working at DJJ programs as peer reviewers[7]. In addition, the department contracts with the Justice Research Center, Inc. to produce the Outcome Evaluation Report and Program Accountability Measures report[8]. Dr. Tom Blomberg with the Florida State University Center for Criminology and Public Policy delivered a presentation to the House Criminal Justice Appropriations Committee on accountability systems in juvenile justice programs across the nation on March 17, 2006. His presentation suggested a number of limitations associated with the current quality assurance and program evaluation methodologies utilized by the Department of Juvenile Justice. Among the limitations were the lack of autonomy associated with an in-house evaluation system, the fact that results were not used to replicate best practices or eliminate ineffective programs, and questions regarding the validity of evaluation scores since 44% of residential providers challenged their quality assurance scores in 2003 with 63% getting their scores increased.

Impact of bill:

The bill eliminates the in-house quality assurance program and transfers oversight for program evaluation to an independent Juvenile Justice Accountability Commission. The commission will be administratively housed within the department but is authorized to hire its own staff and is independent of control and direction from the Secretary of the department.

The commission will be composed of seven individuals appointed by the Governor who must represent all geographic areas of the state and include minorities and women. Members are not eligible for appointment to the commission if they have worked for a provider under contract to the department in the two years preceding their employment or bid for a department contract. The bill also precludes members of the commission from working for a provider under contract to the department or bidding for a department contract for two years after they leave the commission.

The commission will be required to meet at least four times per year in Tallahassee unless the chair determines that special circumstances require a meeting in another location.

The primary responsibility of the commission will be oversight of a contract to develop and implement a comprehensive evaluation and accountability system for each juvenile justice program. The evaluation protocol will be based on best practices identified and updated through continuous review of research literature related to juvenile justice programs. The commission will be responsible for an annual report to the department and policy makers on the results of the contractor's program evaluation results. The Commission will also serve as an information clearinghouse to local juvenile boards and provide policy recommendations to the Governor and Legislature.

Programs that fail to meet minimum performance standards will be immediately terminated if the deficiency is related to critical life safety standards. Programs who demonstrate deficiencies in other areas of their performance will be given six months to obtain compliance unless documented extenuating circumstances are present. These circumstances must be defined by the commission by rule rather than on a case-by-case basis.

Expanded authority of the court to use secure detention for certain adjudicated youth awaiting disposition

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[7] See http://www.djj.state.fl.us/djjservices/qa/introqa.pdf

[8] Both reports available at http://www.djj.state.fl.us/Research/index.html

Background:

Under s. 985.215, F.S., a court, in determining whether to order secure, nonsecure, or home detention for a youth, must use the results of the risk assessment instrument (RAI) completed by a juvenile probation officer. The RAI incorporates the criteria for detention set forth in s. 985.215(2), F.S., which provides that a youth may be detained if he or she:

- Is alleged to have escaped or absconded;
- Is wanted in another jurisdiction for a felony;
- Has requested detention for his or her personal safety;
- Is charged with:
  - A capital, life, or first degree felony.
  - A second degree felony other than a drug offense under ch. 893, F.S.
  - A violent third degree felony.
  - A second or third degree felony drug offense under ch. 893, F.S., or a third degree non-violent felony and the youth has a record of failure to appear; a record of law violations prior to court hearings; has already been detained or has been released and is awaiting disposition; has a record of violent conduct resulting in physical injury; or is found to have been in possession of a firearm.
- Is alleged to have violated probation or conditional release.

If the RAI results do not warrant detention based on the aforementioned criteria, the court may not order detention for the youth unless: (a) the youth is charged with specified domestic violence offenses or with possession or discharge of a firearm on school property;[9] (b) the youth is detained on a judicial order for failure to appear and has previously failed to appear for an adjudicatory hearing or at two or more hearings in the same case;[10] or (c) the court enters written reasons for a deviation from the RAI results.[11]

If the youth is detained by the court, the maximum amounts of time in secure, nonsecure, or home detention that may be imposed are 21-days pre-adjudication and 15-days post-adjudication/predisposition. In either case detention may be extended for an additional 9 days if the court finds that the prosecution or defense require additional time and the charge is a capital, life, or first degree felony or a second degree felony involving violence. If such additional time is granted by the court, a maximum of 30-days pre-adjudication or 24-days post-adjudication/predisposition may be imposed.[12]

There have been questions raised by members of the judiciary as to their authority under this law to hold youths in secure detention past the statutory time limits established in law, even if there is clear evidence that the youths may be a danger to themselves or others.

Impact of bill:

The bill enables a court to place an adjudicated youth in secure detention, notwithstanding the time limitations established elsewhere in statute, or on home detention with electronic monitoring until disposition in the following two circumstances:

- A youth has been found at the adjudicatory hearing to have committed a delinquent act or violation of law and has previously willfully failed to appear for other delinquency proceedings regardless of the youth's score on the RAI.

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[9] Section 985.215(2)(d) and (e), F.S.
[10] Section 985.215(2)(i) and (j), F.S. (authorizing a youth with such failure to appear record to be held in secure detention for up to 72 hours prior to the next scheduled court hearing).
[11] Section 985.215(2), F.S.
[12] Section.985.215(5)(g), F.S.

- A youth is found to be in contempt of court by violating a conditioned contained in the order of delinquency.

The bill requires a standard set of conditions to be imposed in the order of adjudication. They include compliance with a curfew, school attendance, and not engaging in ungovernable behavior. Ungovernable behavior is further defined to include the failure to obey reasonable and lawful demands of parents, teachers and others who are responsible for supervising the child and behavior that evidences a risk that the child will cause harm to others or the property of others.

Fiscally constrained counties

Background:

Current law authorizes state funding to offset the costs of providing secure detention to "fiscally constrained" counties. These counties must be within a rural area of critical state concern under s. 288.0656, F.S. for which the value of a mill is no more than $3 million. A rural area of critical state concern is a designation conferred by the Governor and is limited to counties with a population of less than 75,000 or a county of less than 100,000 that is contiguous to a county with a population of less than 75,000 and that has been adversely affected by an extraordinary economic event or represents a unique economic development opportunity on a regional level.

Under this definition, 26 counties fall within a rural area of critical state concern. Chapter 2005-263, Laws of Florida, adds three counties that are not within a rural area of critical state concern to the list of counties eligible for funding to offset the costs of providing secure detention. The three counties are Wakulla, Highlands and Sumter. This authorization, however, expires June 30, 2006.

Impact of bill:

The bill changes the definition of a fiscally constrained county to be any county for which the value of a mill is $4 million or less. The effect is to make Wakulla, Highlands and Sumter eligible for state assistance to cover their costs associated with secure detention. If the value of a mill exceeds $4 million in the future for these three counties or any of the existing 26 counties, the county would no longer be eligible for assistance. The House version of the General Appropriations Act contains sufficient funding to cover financial assistance for the three counties that would be added under this bill.

C. SECTION DIRECTORY:

Section 1. Amends s. 985.207, F.S., related to taking youths into custody.
Section 2. Amends s. 985.215, F.S., related to use of secure detention.
Section 3. Amends s. 985.2155, F.S., related to fiscally constrained counties.
Section 4. Amends s. 985.228, F.S., relating to orders of adjudication of delinquency.
Section 5. Amends s. 985.231. F.S., to correct cross reference.
Section 6. Amends s. 985.308, F.S., to correct cross reference.
Section 7. Repeals s. 985.309, F.S., authorizing boot camps for children.
Section 8. Creates s. 985.3091, F.S., authorizing Sheriff's Training and Respect (STAR) programs.
Section 9. Amends s. 985.311, F.S., to correct cross reference.
Section 10. Amends s. 985.404, F.S., to correct cross reference.
Section 11. Creates s. 985.4055, F.S., to require statewide Protective Action Response (PAR) rules.
Section 12. Creates s. 985.4056, F.S., to create the Juvenile Justice Accountability Commission.
Section 13. Amends s. 985.412, F.S., related to the current quality assurance process.
Section 14. Amends s. 958.04, F.S., to update terminology to conform to boot camp changes.
Section 15. Amends s. 958.046, F.S. to correct cross reference.
Section 16. Amends s. 985.31, F.S., to correct cross reference.
Section 17. Amends s. 985.314, F.S., to correct cross reference.
Section 18. Amends s. 985.315, F.S., to correct cross reference.
Section 19. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Insignificant (see Fiscal Comments)

2. Expenditures:

   The House version of the General Appropriations Act (GAA) contains a reduction of $10.5 million associated with the elimination of boot camps. Approximately $10.6 million is provided to Sheriff's Respect and Training programs for residential services and aftercare.

   The House version of the GAA transfers $2.5 million associated with the department's in-house quality assurance and data and research functions to the Juvenile Justice Accountability Commission to provide salaries for 2 FTE to support the Commission and to contract with the Florida State University Center for Criminology and Public Policy Research to develop and implement an independent quality assurance program.

   There could be additional costs associated with personnel turnover and additional training required due to direct care staff not being qualified to work with youth under the provisions of this bill. This impact is indeterminate since data are not available to indicate how many current or future staff would fall under this exclusion. The House version of the GAA contains $4.5 million for merit-based pay raises for department staff that provide direct care to youth who exceed performance expectations, have clean disciplinary records, and acquire training in excess of the minimum required for their job class. This may mitigate the impact of these provisions by providing an incentive for staff to increase their level of training and competence.

   The House version of the GAA contains $822,422 to continue to provide assistance for the cost of providing secure detention to Wakulla, Sumter and Highlands counties for FY 2006-07.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The provisions of the bill that allow additional options to judges to detain youth could increase utilization of pre-disposition detention. This could increase the cost of secure detention to counties if a significant increase in utilization actually materializes. The DJJ has not submitted an estimate of this impact to the House Fiscal Council, but an analysis of a similar proposal last session indicated an indeterminate impact[13]. Further, DJJ representatives have recently indicated that adjudicatory and disposition hearings are held simultaneously in the majority of delinquency cases[14]. The bill's provisions would have no effect on these cases. Therefore, the impact is anticipated to be insignificant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   Private contract providers could incur additional costs associated with staff turnover due to the requirement that staff have completed basic training and passed exams prior to working directly with youth. The House version of the GAA provides a price level increase of $16 million for contract providers which could be used to offer better pay and benefits to attract more qualified workers.

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[13] Department of Juvenile Justice bill analysis on strike all amendment to HB 1863 prepared April 19, 2005.
[14] Telephone conversation with Department of Juvenile Justice staff on 3/28/2006.

Some private providers may lose contracts with the department if they are unable to meet acceptable performance standards within the time frames specified by the bill.

The department's current quality assurance process requires private providers to donate staff to serve as voluntary peer reviewers to assist with quality assurance reviews. Preliminary discussions with the Florida State University Center for Criminology and Public Policy Research indicate that this practice is unlikely to continue once the Center assumes responsibility for quality assurance reviews.

D. FISCAL COMMENTS:

The Department of Juvenile Justice has not submitted an analysis of this PCB to the House Fiscal Council.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

There is the potential for increased utilization of predisposition secure detention which would result in increased costs to counties. The expected impact is indeterminate but most likely insignificant. Also, the bill is a criminal law in that it deals with options available to the judiciary to respond to individuals who have been adjudicated delinquent for violating the criminal laws of this state. Therefore, the bill would appear to be exempt from the provisions of Article VII, Section 18(a).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department is required to adopt rules to implement STAR programs and to establish statewide Protective Action Response regulations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to juvenile justice; amending s. 985.207,
3 F.S.; permitting a law enforcement officer to take a child
4 into custody for a violation of adjudication order
5 conditions; amending s. 985.215, F.S.; permitting
6 specified types of postadjudication detention for a child
7 who has previously failed to appear at delinquency court
8 proceedings regardless of risk assessment instrument
9 results; providing exceptions that permit postadjudication
10 detention until the child's disposition order is entered
11 in his or her case; conforming cross-references; amending
12 s. 985.2155, F.S.; revising the definition of the term
13 "fiscally constrained county" for purposes of determining
14 state payment of costs of juvenile detention care;
15 amending s. 985.228, F.S.; requiring the court to include
16 specified conditions in a child's order of adjudication of
17 delinquency that apply during the postadjudication and
18 predisposition period; providing a definition; permitting
19 a court to find a child in contempt of court for a
20 violation of adjudication order conditions; providing
21 sanctions; amending s. 985.231, F.S.; conforming cross-
22 references; amending s. 985.308, F.S.; providing for
23 evaluations of juvenile sexual offender programs;
24 conforming cross-references; repealing s. 985.309, F.S.,
25 relating to boot camps for children; creating s. 985.3091,
26 F.S.; authorizing the department to contract for sheriff's
27 training and respect programs; providing eligibility
28 requirements for children placed in the programs;
29 specifying required program offerings; specifying program

30 participation time frames; requiring the department to
31 adopt rules and maintain specified records; providing for
32 quarterly evaluations of and contract cancellation under
33 specified circumstances; specifying staff training
34 requirements; requiring the department to adopt training
35 rules; prohibiting the provision of direct care to
36 children by staff who have not complied with training
37 requirements; prohibiting the operation of a program until
38 department rules are adopted and the department has
39 verified program compliance with applicable law and rules;
40 authorizing emergency rules to expedite implementation;
41 amending s. 985.311, F.S.; requiring the establishment of
42 minimum thresholds for evaluations; conforming cross-
43 references; amending s. 985.404, F.S.; providing for the
44 inclusion of evaluations in department contract
45 cooperative agreements; conforming cross-references;
46 creating s. 985.4055, F.S.; providing definitions;
47 requiring the department to adopt rules establishing a
48 protective action response policy; specifying when verbal
49 and physical intervention techniques may be used;
50 specifying prohibited uses of mechanical restraints;
51 prohibiting use of aerosol and chemical agents; requiring
52 the department to adopt rules establishing protection
53 action response training curriculums and certification
54 procedures; requiring department and provider employees to
55 be certified in protective action response prior to
56 exercising direct care; creating s. 985.4056, F.S.;
57 creating the Juvenile Justice Accountability Commission;
58 providing for membership; providing definitions; providing

59 for meetings and voting requirements; providing for an
60 executive director and staff; providing for commission's
61 budget; providing for reimbursement of per diem and travel
62 expenses; requiring the commission to contract for a
63 comprehensive evaluation and accountability system for
64 juvenile justice programs; providing requirements for the
65 system; requiring a report by the system provider;
66 specifying commission duties; requiring a report by the
67 commission; providing for termination of juvenile justice
68 programs in specified circumstances; requiring the
69 commission to adopt rules; amending s. 985.412, F.S.;
70 deleting department's authority to establish a
71 comprehensive quality assurance system; providing
72 conforming changes; deleting obsolete provisions relating
73 to incentive and disincentive proposals and liquidated
74 damages; amending ss. 958.04, 958.046, 985.31, 985.314,
75 and 985.315, F.S.; conforming cross-references and
76 terminology; providing an effective date.
77
78 Be It Enacted by the Legislature of the State of Florida:
79
80 Section 1. Paragraph (e) is added to subsection (1) of
81 section 985.207, Florida Statutes, to read:
82 985.207 Taking a child into custody.--
83 (1) A child may be taken into custody under the following
84 circumstances:
85 <u>(e) When a law enforcement officer has probable cause to</u>
86 <u>believe that a child who is awaiting disposition has violated</u>

87 conditions imposed by the court under s. 985.228(5) in his or her
88 order of adjudication of delinquency.
89
90 Nothing in this subsection shall be construed to allow the
91 detention of a child who does not meet the detention criteria in
92 s. 985.215.
93 Section 2. Subsection (2) and paragraphs (d) and (g) of
94 subsection (5) of section 985.215, Florida Statutes, are amended
95 to read:
96 985.215 Detention.--
97 (2) Subject to the provisions of subsection (1), a child
98 taken into custody and placed into nonsecure or home detention
99 care or detained in secure detention care prior to a detention
100 hearing may continue to be detained by the court if:
101 (a) The child is alleged to be an escapee from a
102 residential commitment program, or an absconder from a
103 nonresidential commitment program, a probation program, or
104 conditional release supervision, or is alleged to have escaped
105 while being lawfully transported to or from a residential
106 commitment program.
107 (b) The child is wanted in another jurisdiction for an
108 offense which, if committed by an adult, would be a felony.
109 (c) The child is charged with a delinquent act or violation
110 of law and requests in writing through legal counsel to be
111 detained for protection from an imminent physical threat to his
112 or her personal safety.
113 (d) The child is charged with committing an offense of
114 domestic violence as defined in s. 741.28 and is detained as
115 provided in s. 985.213(2)(b)3.

116 (e) The child is charged with possession or discharging a
117 firearm on school property in violation of s. 790.115.
118 (f) The child is charged with a capital felony, a life
119 felony, a felony of the first degree, a felony of the second
120 degree that does not involve a violation of chapter 893, or a
121 felony of the third degree that is also a crime of violence,
122 including any such offense involving the use or possession of a
123 firearm.
124 (g) The child is charged with any second degree or third
125 degree felony involving a violation of chapter 893 or any third
126 degree felony that is not also a crime of violence, and the
127 child:
128 1. Has a record of failure to appear at court hearings
129 after being properly notified in accordance with the Rules of
130 Juvenile Procedure;
131 2. Has a record of law violations prior to court hearings;
132 3. Has already been detained or has been released and is
133 awaiting final disposition of the case;
134 4. Has a record of violent conduct resulting in physical
135 injury to others; or
136 5. Is found to have been in possession of a firearm.
137 (h) The child is alleged to have violated the conditions of
138 the child's probation or conditional release supervision.
139 However, a child detained under this paragraph may be held only
140 in a consequence unit as provided in s. 985.231(1)(a)1.c. If a
141 consequence unit is not available, the child shall be placed on
142 home detention with electronic monitoring.
143 (i) The child is detained on a judicial order for failure
144 to appear and has previously willfully failed to appear, after

145 proper notice, for an adjudicatory hearing on the same case
146 regardless of the results of the risk assessment instrument. A
147 child may be held in secure detention for up to 72 hours in
148 advance of the next scheduled court hearing pursuant to this
149 paragraph. The child's failure to keep the clerk of court and
150 defense counsel informed of a current and valid mailing address
151 where the child will receive notice to appear at court
152 proceedings does not provide an adequate ground for excusal of
153 the child's nonappearance at the hearings.
154 (j) The child is detained on a judicial order for failure
155 to appear and has previously willfully failed to appear, after
156 proper notice, at two or more court hearings of any nature on the
157 same case regardless of the results of the risk assessment
158 instrument. A child may be held in secure detention for up to 72
159 hours in advance of the next scheduled court hearing pursuant to
160 this paragraph. The child's failure to keep the clerk of court
161 and defense counsel informed of a current and valid mailing
162 address where the child will receive notice to appear at court
163 proceedings does not provide an adequate ground for excusal of
164 the child's nonappearance at the hearings.
165 (k) At his or her adjudicatory hearing, the child has been
166 found to have committed a delinquent act or violation of law and
167 has previously willfully failed to appear, after proper notice,
168 for other delinquency court proceedings of any nature regardless
169 of the results of the risk assessment instrument. A child may be
170 held in secure detention or, at the discretion of the court and
171 if available, placed on home detention with electronic monitoring
172 until the child's disposition order is entered in his or her
173 case. The child's failure to keep the clerk of court and defense

174 counsel informed of a current and valid mailing address where the
175 child will receive notice to appear at court proceedings does not
176 provide an adequate ground for excusal of the child's
177 nonappearance at the hearings.
178
179 A child who meets any of these criteria and who is ordered to be
180 detained pursuant to this subsection shall be given a hearing
181 within 24 hours after being taken into custody. The purpose of
182 the detention hearing is to determine the existence of probable
183 cause that the child has committed the delinquent act or
184 violation of law with which he or she is charged and the need for
185 continued detention, except where the child is alleged to have
186 absconded from a nonresidential commitment program in which case
187 the court, at the detention hearing, shall order that the child
188 be released from detention and returned to his or her
189 nonresidential commitment program. Unless a child is detained
190 under paragraph (d), ~~or~~ paragraph (e), or paragraph (k), the
191 court shall use the results of the risk assessment performed by
192 the juvenile probation officer and, based on the criteria in this
193 subsection, shall determine the need for continued detention. A
194 child placed into secure, nonsecure, or home detention care may
195 continue to be so detained by the court pursuant to this
196 subsection. If the court orders a placement more restrictive than
197 indicated by the results of the risk assessment instrument, the
198 court shall state, in writing, clear and convincing reasons for
199 such placement. Except as provided in s. 790.22(8) or in
200 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or
201 paragraph (10)(d), when a child is placed into secure or
202 nonsecure detention care, or into a respite home or other

203 placement pursuant to a court order following a hearing, the
204 court order must include specific instructions that direct the
205 release of the child from such placement no later than 5 p.m. on
206 the last day of the detention period specified in paragraph
207 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever
208 is applicable, unless the requirements of such applicable
209 provision have been met or an order of continuance has been
210 granted pursuant to paragraph (5)(f).
211 (5)
212 (d) Except as provided in paragraph (2)(k), paragraph (g),
213 or s. 985.228(5), a child may not be held in secure, nonsecure,
214 or home detention care for more than 15 days following the entry
215 of an order of adjudication.
216 (g) Upon good cause being shown that the nature of the
217 charge requires additional time for the prosecution or defense of
218 the case, the court may extend the time limits for detention
219 specified in paragraph (c) or paragraph (d) an additional 9 days
220 if the child is charged with an offense that would be, if
221 committed by an adult, a capital felony, a life felony, a felony
222 of the first degree, or a felony of the second degree involving
223 violence against any individual.
224 Section 3. Paragraph (b) of subsection (2) of section
225 985.2155, Florida Statutes, is amended to read:
226 985.2155 Shared county and state responsibility for
227 juvenile detention.--
228 (2) As used in this section, the term:
229 (b) "Fiscally constrained county" means a county ~~designated~~
230 ~~as a rural area of critical economic concern under s. 288.0656~~
231 for which the value of a mill in the county is no more than $4 ~~$3~~

232 million, based on the property valuations and tax data annually
233 published by the Department of Revenue under s. 195.052.
234 Section 4. Subsection (5) of section 985.228, Florida
235 Statutes, is amended to read:
236 985.228 Adjudicatory hearings; withheld adjudications;
237 orders of adjudication.--
238 (5)(a) If the court finds that the child named in a
239 petition has committed a delinquent act or violation of law, but
240 elects not to proceed under subsection (4), it shall incorporate
241 that finding in an order of adjudication of delinquency entered
242 in the case, briefly stating the facts upon which the finding is
243 made, and the court shall thereafter have full authority under
244 this chapter to deal with the child as adjudicated.
245 (b) The order of adjudication of delinquency under
246 paragraph (a) shall also include conditions that must be followed
247 by the child until a disposition order is entered in his or her
248 case. These conditions must include, but are not limited to,
249 specifying that the child, during any period of time that he or
250 she:
251 1. Is not in secure detention, must comply with a curfew;
252 must attend school or another educational program, if eligible;
253 and is prohibited from engaging in ungovernable behavior.
254 2. Is in secure detention, is prohibited from engaging in
255 ungovernable behavior.
256 (c) For purposes of this subsection, the term "ungovernable
257 behavior" means:
258 1. The child's failing to obey the reasonable and lawful
259 demands of the child's parent or legal guardian and, where
260 applicable, the reasonable and lawful demands of a person

261 responsible for supervising the child while he or she is in
262 school, another educational program, or secure detention.
263 2. The child engaging in behavior that evidences a risk
264 that the child may fail to appear for future court proceedings or
265 may inflict harm upon others or the property of others.
266 3. Other behavior of the child as specified in writing by
267 the court in the order of adjudication of delinquency.
268 (d) If a child willfully violates a condition contained in
269 his or her order of adjudication of delinquency, the court may
270 find the child in direct or indirect contempt of court under s.
271 985.216; however, notwithstanding s. 985.216 and the results of
272 the risk assessment instrument, the child's sanctions for such
273 contempt of court shall be placement in secure detention or, at
274 the discretion of the court and if available, on home detention
275 with electronic monitoring until the child's disposition order is
276 entered in his or her case.
277 Section 5. Paragraph (j) of subsection (1) of section
278 985.231, Florida Statutes, is amended to read:
279 985.231 Powers of disposition in delinquency cases.--
280 (1)
281 (j) If the offense committed by the child was grand theft
282 of a motor vehicle, the court:
283 1. Upon a first adjudication for a grand theft of a motor
284 vehicle, may place the child ~~youth~~ in a sheriff's training and
285 respect program ~~boot camp~~, unless the child is ineligible under
286 s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the child
287 ~~youth~~ to complete a minimum of 50 hours of community service.
288 2. Upon a second adjudication for grand theft of a motor
289 vehicle which is separate and unrelated to the previous

290 adjudication, may place the child ~~youth~~ in a sheriff's training
291 and respect program ~~boot camp~~, unless the child is ineligible
292 under s. 985.3091 ~~pursuant to s. 985.309~~, and shall order the
293 child ~~youth~~ to complete a minimum of 100 hours of community
294 service.
295 3. Upon a third adjudication for grand theft of a motor
296 vehicle which is separate and unrelated to the previous
297 adjudications, shall place the child ~~youth~~ in a sheriff's
298 training and respect program ~~boot camp~~ or other treatment
299 program, unless the child is ineligible under s. 985.3091
300 ~~pursuant to s. 985.309~~, and shall order the child ~~youth~~ to
301 complete a minimum of 250 hours of community service.
302 Section 6. Subsection (9) of section 985.308, Florida
303 Statutes, is amended to read:
304 985.308 Juvenile sexual offender commitment programs;
305 sexual abuse intervention networks.--
306 (9) Evaluations under s. 985.4056(5)(a) of ~~The department~~
307 ~~shall conduct inspections of and quality assurance activities for~~
308 each juvenile sexual offender program ~~operated by or under~~
309 ~~contract with the department,~~ shall be conducted based on
310 standards specifically developed for these types of programs~~, to~~
311 ~~determine whether the program complies with department rules for~~
312 ~~continued operation of the program~~.
313 Section 7. Section 985.309, Florida Statutes, is repealed.
314 Section 8. Section 985.3091, Florida Statutes, is created
315 to read:
316 985.3091 Sheriff's training and respect programs.--
317 (1) Contingent upon specific appropriation, local funding,
318 or specific appropriation and local funding, a county sheriff

319 may, under contract with the department, implement and operate a
320 sheriff's training and respect program to provide intensive
321 educational, work, and physical training and rehabilitation for
322 children who are eligible under subsection (2). A sheriff's
323 training and respect program shall be under the sheriff's
324 supervisory jurisdiction and authority as determined by the
325 contract between the department and the sheriff.
326 (2) A child is eligible for placement in a sheriff's
327 training and respect program if he or she:
328 (a) Is at least 14 years of age but less than 18 years of
329 age at the time of adjudication.
330 (b) Has been committed to the department for any offense
331 that, if committed by an adult, would be a felony other than a
332 capital felony, a life felony, or a violent felony of the first
333 degree.
334 (c) Has a medical, psychological, and substance abuse
335 profile that is conducive to successful completion of the
336 program, as determined by preadmission medical, psychological,
337 and substance abuse screenings conducted by the sheriff.
338 (d) Will be placed in the judicial circuit in which the
339 child was adjudicated, except that the child may be placed
340 outside of that judicial circuit if:
341 1. The department, or the court if otherwise authorized by
342 law to select a commitment program within a restrictiveness level
343 for a child, determines that placement within the judicial
344 circuit would not be in the child's best interest or the
345 sheriff's training and respect program is unable to accept the
346 child; and

347 2. The child's parent or guardian agrees in writing to the
348 placement.
349 (3) A sheriff's training and respect program shall require
350 children to:
351 (a) Participate in physical training exercises.
352 (b) Complete educational, vocational, and substance abuse
353 programs.
354 (c) Receive training in life and job skills and in
355 techniques for appropriate decisionmaking.
356 (d) Receive counseling that is directed at replacing
357 criminal thinking, beliefs, and values with moral thinking,
358 beliefs, and values.
359 (4) A sheriff's training and respect program must provide a
360 residential component and conditional release assessment and
361 services in accordance with s. 985.316. The minimum period of
362 participation in the residential component of:
363 (a) A low-risk residential program is 2 months.
364 (b) A moderate-risk residential program is 4 months.
365
366 This subsection does not prohibit operation of a program that
367 requires the participants to spend more than 4 months in the
368 residential component of the program or that requires the
369 participants to complete two sequential programs of 4 months each
370 in the residential component of the program.
371 (5) The department shall adopt rules under ss. 120.536(1)
372 and 120.54 for the sheriff's training and respect program that
373 specify:

374 (a) Requirements for the preadmission medical,
375 psychological, and substance abuse screenings required by
376 subsection (2).
377 (b) Authorized disciplinary sanctions and restrictions on
378 the privileges of the general population of children in the
379 program. The rules must prohibit the use of physical force or
380 restraint except as authorized in rules adopted pursuant to s.
381 985.4055 and must specifically preclude the use of physical force
382 or restraint as a disciplinary sanction or to encourage
383 compliance with program requirements.
384 (c) Prohibitions on the use of psychological intimidation
385 techniques, unless necessary for the safety of youth or other
386 persons or to maintain security.
387 (d) Requirements for provision of notice by the program to
388 the department and for the removal of a child from the program if
389 the child becomes unmanageable or ineligible for the program due
390 to changes in his or her medical, psychological, or substance
391 abuse profile.
392 (e) Requirements for the prominent display of the telephone
393 number of the statewide abuse registry and for immediate access
394 by children in the program, upon request, to a telephone for the
395 purpose of contacting the abuse registry.
396 (6)(a) Evaluations under s. 985.4056 of each sheriff's
397 training and respect program shall be conducted quarterly. If a
398 sheriff's training and respect program fails to meet the minimum
399 thresholds for program continuation, the department shall cancel
400 the contract for the program:
401 1. Immediately if the program has a deficiency in a
402 critical life safety aspect of its operations, as defined in a

403 rule adopted under s. 985.4056, or has failed to train and
404 certify its employees as required in s. 985.4055.
405 2. If the program fails to achieve compliance with the
406 minimum thresholds for program continuation within 3 months,
407 unless there are documented extenuating circumstances, as defined
408 in a rule adopted under s. 985.4056.
409 (b) Upon cancellation of a contract under paragraph (a),
410 the program's operations shall immediately cease and the
411 department shall immediately discontinue any state payments to
412 the program.
413 (7) The department shall keep records and monitor criminal
414 activity, educational progress, and employment placement of all
415 sheriff's training and respect program participants after their
416 release from the program. The department must annually publish an
417 outcome evaluation study of each sheriff's training and respect
418 program.
419 (8)(a) The department shall adopt rules under ss.
420 120.536(1) and 120.54 that establish training requirements for
421 staff in a sheriff's training and respect program. These
422 requirements shall, at a minimum, require administrative staff to
423 successfully complete 120 contact hours of department-approved
424 training and staff who provide direct care, as defined in s.
425 985.4055, to successfully complete 200 contact hours of
426 department-approved training.
427 (b) Department-approved training must include, but is not
428 limited to, training on:
429 1. State and federal laws relating to child abuse.
430 2. Authorized disciplinary sanctions, privilege
431 restrictions, and limitations on use of physical force and

432 restraint techniques under paragraph (5)(b) and prohibited
433 psychological intimidation techniques under paragraph (5)(c).
434 3. Appropriate counseling techniques and aggression control
435 methods.
436 4. Appropriate methods for dealing with children who have
437 been placed in programs that emphasize physical fitness and
438 personal discipline, including training on the identification of,
439 and appropriate responses to, children who are experiencing
440 physical or mental distress.
441 5. Cardiopulmonary resuscitation, choke-relief, and other
442 emergency medical procedures.
443 (c) All department-approved training courses under this
444 subsection must be taught by persons who are certified as
445 instructors by the Division of Criminal Justice Standards and
446 Training of the Department of Law Enforcement and who have prior
447 experience in a juvenile program. A training course in counseling
448 techniques need not be taught by a certified instructor but must
449 be taught by a person who has at least a bachelor's degree in
450 social work, counseling, psychology, or a related field.
451 (d) A person may not provide direct care, as defined in s.
452 985.4055, to a child in a sheriff's training and respect program
453 until he or she has successfully completed the training
454 requirements under this subsection and the certification
455 requirements under s. 985.4055.
456 (9) Children shall not be admitted to a sheriff's training
457 and respect program until the department has adopted the rules
458 required by this section and has verified that each program is in
459 compliance with all laws and rules applicable to the program. The
460 department may adopt emergency rules pursuant to s. 120.54(4) if

461 necessary to allow operation of sheriff's training and respect
462 programs beginning July 1, 2006.
463 Section 9. Paragraph (e) of subsection (2) and paragraph
464 (i) of subsection (3) of section 985.311, Florida Statutes, are
465 amended to read:
466 985.311 Intensive residential treatment program for
467 offenders less than 13 years of age.--
468 (2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR OFFENDERS
469 LESS THAN 13 YEARS OF AGE.--
470 (e) Minimum thresholds ~~The department~~ shall be established
471 under s. 985.4056(5)(a) ~~establish quality assurance standards~~ to
472 ensure the quality and substance of mental health services
473 provided to children with mental, nervous, or emotional disorders
474 who may be committed to intensive residential treatment programs.
475 The minimum thresholds ~~quality assurance standards~~ shall address
476 the possession of credentials by the mental health service
477 providers.
478 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
479 TREATMENT.--
480 (i) The treatment and placement recommendations shall be
481 submitted to the court for further action pursuant to this
482 paragraph:
483 1. If it is recommended that placement in an intensive
484 residential treatment program for offenders less than 13 years of
485 age is inappropriate, the court shall make an alternative
486 disposition pursuant to s. 985.3091 ~~985.309~~ or other alternative
487 sentencing as applicable, utilizing the recommendation as a
488 guide.

489 2. If it is recommended that placement in an intensive
490 residential treatment program for offenders less than 13 years of
491 age is appropriate, the court may commit the child to the
492 department for placement in the restrictiveness level designated
493 for intensive residential treatment program for offenders less
494 than 13 years of age.
495 Section 10. Paragraph (d) of subsection (10) of section
496 985.404, Florida Statutes, is amended to read:
497 985.404 Administering the juvenile justice continuum.--
498 (10)
499 (d) Each programmatic, residential, and service contract or
500 agreement entered into by the department must include a
501 cooperation clause for purposes of complying with the evaluation
502 requirements under s. 985.4056(5)(a) and the department's ~~quality~~
503 ~~assurance requirements,~~ cost-accounting ~~requirements,~~ and ~~the~~
504 program outcome evaluation requirements.
505 Section 11. Section 985.4055, Florida Statutes, is created
506 to read:
507 985.4055 Protective action response.--
508 (1) For purposes of this section, the term:
509 (a) "Direct care" means the care, supervision, custody, or
510 control of youth in any facility, service, or program that is
511 operated by the department or by a provider under contract with
512 the department.
513 (b) "Employee" means any person who exercises direct care.
514 (c) "Protective Action Response policy" means the policy
515 governing the use of verbal and physical intervention techniques,
516 mechanical restraints, and aerosol and chemical agents by
517 employees.

518 (2) The department shall adopt rules under ss. 120.536(1)
519 and 120.54 that:
520 (a) Establish a Protective Action Response policy that:
521 1. Defines the authorized level of response by an employee
522 to each level of verbal or physical resistance by a youth.
523 2. Requires the use of verbal intervention techniques as
524 the initial response by an employee to verbal or physical
525 resistance by a youth, except where physical intervention
526 techniques are necessary to prevent:
527 a. Physical harm to the youth, employee, or another person;
528 b. Property damage; or
529 b. The youth from escaping or absconding from lawful
530 supervision.
531 3. Defines authorized physical intervention techniques and
532 the situations under which employees may use these techniques for
533 youth. Pain compliance techniques and other use of force less
534 than lethal force shall be prohibited, except where necessary to
535 prevent:
536 a. Physical harm to the youth, employee, or another person;
537 b. Property damage; or
538 c. The youth from escaping or absconding from lawful
539 supervision.
540
541 Lethal force shall be prohibited, except where necessary to
542 protect the employee or another person from an imminent threat of
543 great bodily harm or death. Prior authorization by an employee's
544 supervisor for the use of physical intervention techniques shall
545 be obtained when practical.

546 4. Defines authorized use of mechanical restraints and the
547 situations under which employees may use such restraints on
548 youth. Prohibited uses of mechanical restraints shall include the
549 use of neck restraints and the securing of a youth to a fixed
550 object. Supervision requirements for youth who are secured in
551 mechanical restraints shall include constant and direct visual
552 monitoring by an employee for purposes of insuring youth safety
553 and ascertaining indications by the youth that restraints are no
554 longer necessary. Prior authorization by an employee's supervisor
555 for the use of mechanical restraints shall be obtained when
556 practical.
557 5. Prohibits employee use of aerosol or chemical agents,
558 including, but not limited to, oleoresin capsicum spray and
559 ammonia capsules, on a youth unless required for medical
560 treatment of the youth by a licensed medical professional.
561 (b) Establish training curriculums for protective action
562 response certification of employees and instructors. The training
563 curriculum for employee certification shall, at a minimum,
564 require the employee to obtain a passing score:
565 1. On a written examination that tests the employee's
566 knowledge and understanding of the protective action response
567 policy.
568 2. During an evaluation by an instructor of the employee's
569 physically demonstrated ability to implement the protective
570 action response policy.
571 (c) Require training curriculums for protective action
572 response certification of employees to be taught by instructors
573 who have been certified under the training curriculum for
574 protective action response certification of instructors.

575 (d) Require each employee to have received his or her
576 protective action response certification prior to exercising
577 direct care.
578 Section 12. Section 985.4056, Florida Statutes, is created
579 to read:
580 985.4056 Juvenile Justice Accountability Commission.--
581 (1) CREATION; MEMBERSHIP.--
582 (a) The Juvenile Justice Accountability Commission is
583 created and administratively housed within the department. The
584 commission shall be composed of seven members appointed by the
585 Governor. Each member of the commission must have direct
586 experience in juvenile justice issues and must be a citizen of
587 and registered voter in this state. The composition of the
588 commission must equitably represent all geographic areas of the
589 state and include minorities and women.
590 (b) Within the 2-year period preceding his or her
591 appointment, a member of the commission may not have been, and
592 during the 2-year period following termination of his or her
593 appointment, a member of the commission may not be:
594 1. An employee of, a consultant to, or a provider under
595 contract with the department.
596 2. A contractor, or an employee or a consultant thereof,
597 who submits a bid, proposal, or reply in response to a
598 competitive solicitation issued by the commission.
599 (c) Each member of the commission shall serve a term of 4
600 years; however, for the purpose of providing staggered terms, of
601 the initial appointments, three members shall serve 2-year terms
602 and four members shall serve 4-year terms. Any vacancy on the
603 commission shall be filled in the same manner as the original

604 appointment within 60 days after the date upon which the vacancy
605 occurred, and any member appointed to fill a vacancy shall serve
606 only for the unexpired term of the member's predecessor. The
607 chairperson of the commission shall be selected by the members
608 for a term of 1 year.
609 (2) DEFINITIONS.--For purposes of this section, the term:
610 (a) "Juvenile justice program" means any facility, service,
611 or program that is operated by the department or by a provider
612 under contract with the department.
613 (b) "Minorities" means a member of a socially or
614 economically disadvantaged group and includes African Americans,
615 Hispanics, and American Indians.
616 (3) MEETINGS.--
617 (a) The commission shall hold a minimum of four regular
618 meetings annually, and other meetings may be called by the chair
619 upon giving at least 7 days' notice to all members and the public
620 pursuant to chapter 120. Meetings may also be held upon the
621 written request of at least four members, upon at least 7 days'
622 notice of such meeting being given to all members and the public
623 by the chair pursuant to chapter 120. Emergency meetings may be
624 held without notice upon the request of all members. The meetings
625 of the commission shall be held in the central office of the
626 department in Tallahassee unless the chair determines that
627 special circumstances warrant meeting at another location.
628 (b) A majority of the membership of the commission
629 constitutes a quorum and a quorum is required for any meeting of
630 the commission during which action will be voted upon. An action
631 of the commission is not binding unless the action is taken
632 pursuant to an affirmative vote of a majority of the members

633 present and the vote must be recorded in the minutes of the
634 meeting.
635 (c) A member of the commission may not authorize a designee
636 to attend a meeting of the commission in his or her place. A
637 member who fails to attend two consecutive regularly scheduled
638 meetings of the commission, unless the member is excused by the
639 chairperson, shall be deemed to have abandoned the position, and
640 the position shall be declared vacant by the commission.
641 (d) The chairperson shall cause to be made a complete
642 record of the proceedings of the commission, which record shall
643 be open for public inspection.
644 (4) ORGANIZATION.--
645 (a) The commission, subject to appropriation, may employ an
646 executive director and other staff, and may retain consultants,
647 as necessary. No person employed or retained by the commission
648 under this paragraph may have served in a position under
649 paragraph (1)(b) within the 2-year period preceding his or her
650 employment or retention, nor may such person serve in a position
651 under paragraph (1)(b) within the 2-year period following his or
652 her termination from the commission.
653 (b) The commission shall be a separate budget entity, and
654 the executive director shall be the chief administrative officer.
655 The department shall provide administrative support and service
656 to the commission to the extent requested by the executive
657 director. The commission and its staff are not subject to the
658 control, supervision, or direction of the department.
659 (c) The commission shall develop a budget pursuant to
660 chapter 216. The budget is not subject to change by the

661 department and shall be submitted to the Governor and Legislature
662 as provided in s. 216.023.
663 (d) Members of the commission shall serve without
664 compensation, but are entitled to reimbursement for per diem and
665 travel expenses under s. 112.061.
666 (5) DUTIES.--The commission shall:
667 (a) On or before October, 1, 2006 and subject to
668 appropriation, enter into a contract under chapter 287 for the
669 development and implementation of a comprehensive evaluation and
670 accountability system for each juvenile justice program. The
671 contract for the system must require the provider to:
672 1. Develop a standardized evaluation protocol based upon
673 best practices for juvenile justice programs that includes
674 minimum thresholds for program continuation and that identifies
675 program effectiveness and areas in need of expansion,
676 improvement, modification or elimination.
677 2. Continually review best practices literature and update
678 the standardized evaluation protocol based upon that review.
679 3. Conduct annual or more frequent evaluations of each
680 juvenile justice program, except that evaluations of sheriff's
681 training and respect programs under s. 985.3091 shall be
682 conducted quarterly. The date and time of the evaluations shall
683 not be announced to the juvenile justice program.
684 4. Notify the chair of the commission and the secretary of
685 the department within 24 hours of a juvenile justice program's
686 failure to meet minimum thresholds for program continuation
687 during an evaluation.
688 5. Submit a report to the Governor, the appropriate
689 substantive and fiscal committees of the Legislature, and the

690 secretary of the department on or before January 1st each year
691 that contains, at a minimum, for each juvenile justice program:
692 a. A comprehensive description of the population served by
693 the program.
694 b. A specific description of the services provided by the
695 program.
696 c. Program cost.
697 d. A comparison of expenditures to federal and state
698 funding.
699 e. Immediate and long-range program concerns.
700 f. Recommendations to maintain, expand, improve, modify, or
701 eliminate the program.
702 (b) Monitor the development and implementation of long-
703 range juvenile justice program policies, including prevention,
704 early intervention, diversion, adjudication, and commitment.
705 (c) Review and recommend programmatic and fiscal policies
706 governing the operation of juvenile justice programs.
707 (d) Serve as a clearinghouse, in coordination with the
708 department, to provide information and assistance to the juvenile
709 justice circuit boards and juvenile justice county councils.
710 (e) Advise the President of the Senate, the Speaker of the
711 House of Representatives, the Governor, and the department on
712 matters relating to this chapter.
713 (f) Conduct such other activities as the commission may
714 determine are necessary and appropriate to monitor the
715 effectiveness of the delivery of juvenile justice under this
716 chapter.
717 (g) Submit an annual report to the Governor, the
718 appropriate substantive and fiscal committees of the Legislature,

719 and the secretary of the department no later than January 1st of
720 each year that summarizes the meetings and activities of the
721 commission during the preceding year and includes any
722 recommendations of the commission for the following year.
723 (6) PROGRAM TERMINATION.--
724 (a) If a juvenile justice program operated by the
725 department fails to meet minimum thresholds for program
726 continuation during an evaluation under paragraph (5)(a), the
727 program's operations shall be:
728 1. Immediately terminated if the program has a deficiency
729 in a critical life safety aspect of its operations, as defined in
730 commission rule, or if the department has failed to train and
731 certify program employees as required in s. 985.4055.
732 2. Terminated if the department fails to achieve compliance
733 with the minimum thresholds for program continuation within 6
734 months, unless there are documented extenuating circumstances as
735 defined in commission rule.
736 (b) Each juvenile justice program contract entered into by
737 the department must:
738 1. Provide for evaluations under paragraph (5)(a).
739 2. State that if a provider fails to meet the established
740 minimum thresholds for program continuation that such failure
741 shall cause the department to cancel the provider's contract:
742 a. Immediately if the provider has a deficiency in a
743 critical life safety aspect of its operations, as defined in
744 commission rule, or has failed to train and certify its employees
745 as required in s. 985.4055.
746 b. If the provider fails to achieve compliance with the
747 minimum thresholds for program continuation within 6 months,

748 except as provided in s. 985.3091(6)(b), unless there are
749 documented extenuating circumstances as defined in commission
750 rule.
751 3. State that, upon cancellation of a contract under this
752 paragraph, that the provider's operations shall immediately
753 cease, that the department will immediately discontinue any state
754 payments to the provider, and that the provider shall be
755 ineligible to contract with the department for the cancelled
756 service for a period of 12 months.
757 (7) RULEMAKING.--The commission shall adopt rules pursuant
758 to ss. 120.536(1) and 120.54 to implement the provisions of this
759 section.
760 Section 13. Paragraphs (a) and (e) of subsection (4) and
761 subsections (5), (6), and (7) of section 985.412, Florida
762 Statutes, are amended to read:
763 985.412 Department data collection and reporting ~~Quality~~
764 ~~assurance and cost-effectiveness~~.--
765 (4)(a) The department ~~of Juvenile Justice~~, in consultation
766 with the Office of Economic and Demographic Research, and
767 contract service providers, shall develop a cost-effectiveness
768 model and apply the model to each commitment program. Program
769 recidivism rates shall be a component of the model. The cost-
770 effectiveness model shall compare program costs to client
771 outcomes and program outputs. It is the intent of the Legislature
772 that continual development efforts take place to improve the
773 validity and reliability of the cost-effectiveness model and to
774 integrate the standard methodology developed under s. 985.401(4)
775 for interpreting program outcome evaluations.

776 (e) Contingent upon specific appropriation, the department,
777 in consultation with the Office of Economic and Demographic
778 Research, and contract service providers, shall:
779 1. Construct a profile of each commitment program that uses
780 ~~the results of the quality assurance report required by this~~
781 ~~section,~~ the cost-effectiveness report required in this
782 subsection~~,~~ and other reports available to the department.
783 2. Target, for a more comprehensive evaluation, any
784 commitment program that has achieved consistently high, low, or
785 disparate ratings in the reports required under subparagraph 1.
786 3. Identify the essential factors that contribute to the
787 high, low, or disparate program ratings.
788 4. Use the results of these evaluations in developing or
789 refining juvenile justice programs or program models, client
790 outcomes and program outputs, provider contracts, ~~quality~~
791 ~~assurance standards,~~ and the cost-effectiveness model.
792 ~~(5) The department shall:~~
793 ~~(a) Establish a comprehensive quality assurance system for~~
794 ~~each program operated by the department or operated by a provider~~
795 ~~under contract with the department. Each contract entered into by~~
796 ~~the department must provide for quality assurance.~~
797 ~~(b) Provide operational definitions of and criteria for~~
798 ~~quality assurance for each specific program component.~~
799 ~~(c) Establish quality assurance goals and objectives for~~
800 ~~each specific program component.~~
801 ~~(d) Establish the information and specific data elements~~
802 ~~required for the quality assurance program.~~

803 ~~(e) Develop a quality assurance manual of specific,~~
804 ~~standardized terminology and procedures to be followed by each~~
805 ~~program.~~
806 ~~(f) Evaluate each program operated by the department or a~~
807 ~~provider under a contract with the department and establish~~
808 ~~minimum thresholds for each program component. If a provider~~
809 ~~fails to meet the established minimum thresholds, such failure~~
810 ~~shall cause the department to cancel the provider's contract~~
811 ~~unless the provider achieves compliance with minimum thresholds~~
812 ~~within 6 months or unless there are documented extenuating~~
813 ~~circumstances. In addition, the department may not contract with~~
814 ~~the same provider for the canceled service for a period of 12~~
815 ~~months. If a department-operated program fails to meet the~~
816 ~~established minimum thresholds, the department must take~~
817 ~~necessary and sufficient steps to ensure and document program~~
818 ~~changes to achieve compliance with the established minimum~~
819 ~~thresholds. If the department-operated program fails to achieve~~
820 ~~compliance with the established minimum thresholds within 6~~
821 ~~months and if there are no documented extenuating circumstances,~~
822 ~~the department must notify the Executive Office of the Governor~~
823 ~~and the Legislature of the corrective action taken. Appropriate~~
824 ~~corrective action may include, but is not limited to:~~
825 ~~1. Contracting out for the services provided in the~~
826 ~~program;~~
827 ~~2. Initiating appropriate disciplinary action against all~~
828 ~~employees whose conduct or performance is deemed to have~~
829 ~~materially contributed to the program's failure to meet~~
830 ~~established minimum thresholds;~~
831 ~~3. Redesigning the program; or~~

832 ~~4. Realigning the program.~~
833
834 ~~The department shall submit an annual report to the President of~~
835 ~~the Senate, the Speaker of the House of Representatives, the~~
836 ~~Minority Leader of each house of the Legislature, the appropriate~~
837 ~~substantive and fiscal committees of each house of the~~
838 ~~Legislature, and the Governor, no later than February 1 of each~~
839 ~~year. The annual report must contain, at a minimum, for each~~
840 ~~specific program component: a comprehensive description of the~~
841 ~~population served by the program; a specific description of the~~
842 ~~services provided by the program; cost; a comparison of~~
843 ~~expenditures to federal and state funding; immediate and long-~~
844 ~~range concerns; and recommendations to maintain, expand, improve,~~
845 ~~modify, or eliminate each program component so that changes in~~
846 ~~services lead to enhancement in program quality. The department~~
847 ~~shall ensure the reliability and validity of the information~~
848 ~~contained in the report.~~
849 (5) ~~(6)~~ The department shall collect and analyze available
850 statistical data for the purpose of ongoing evaluation of all
851 programs. The department shall provide the Legislature with
852 necessary information and reports to enable the Legislature to
853 make informed decisions regarding the effectiveness of, and any
854 needed changes in, services, programs, policies, and laws.
855 ~~(7) No later than November 1, 2001, the department shall~~
856 ~~submit a proposal to the Legislature concerning funding~~
857 ~~incentives and disincentives for the department and for providers~~
858 ~~under contract with the department. The recommendations for~~
859 ~~funding incentives and disincentives shall be based upon both~~
860 ~~quality assurance performance and cost-effectiveness performance.~~

861 ~~The proposal should strive to achieve consistency in incentives~~
862 ~~and disincentives for both department-operated and contractor-~~
863 ~~provided programs. The department may include recommendations for~~
864 ~~the use of liquidated damages in the proposal; however, the~~
865 ~~department is not presently authorized to contract for liquidated~~
866 ~~damages in non-hardware-secure facilities until January 1, 2002.~~
867 Section 14. Subsections (4) and (5) of section 958.04,
868 Florida Statutes, are amended to read:
869 958.04 Judicial disposition of youthful offenders.--
870 (4) Due to severe prison overcrowding, the Legislature
871 declares the construction of a ~~basic~~ training and respect program
872 facility is necessary to aid in alleviating an emergency
873 situation.
874 (5) The department shall provide a special training program
875 for staff selected for the ~~basic~~ training and respect program.
876 Section 15. Section 958.046, Florida Statutes, is amended
877 to read:
878 958.046 Placement in county-operated ~~boot camp~~ programs for
879 youthful offenders.--In counties where there are county-operated
880 youthful offender ~~boot camp~~ programs, other than programs ~~boot~~
881 ~~camps~~ described in s. 958.04 or s. 985.3091 ~~985.309~~, the court
882 may sentence a youthful offender to such a program ~~boot camp~~. In
883 county-operated youthful offender ~~boot camp~~ programs, juvenile
884 offenders shall not be commingled with youthful offenders.
885 Section 16. Paragraph (i) of subsection (3) of section
886 985.31, Florida Statutes, is amended to read:
887 985.31 Serious or habitual juvenile offender.--
888 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
889 TREATMENT.--

890 (i) The treatment and placement recommendations shall be
891 submitted to the court for further action pursuant to this
892 paragraph:
893 1. If it is recommended that placement in a serious or
894 habitual juvenile offender program or facility is inappropriate,
895 the court shall make an alternative disposition pursuant to s.
896 985.3091 ~~985.309~~ or other alternative sentencing as applicable,
897 using ~~utilizing~~ the recommendation as a guide.
898 2. If it is recommended that placement in a serious or
899 habitual juvenile offender program or facility is appropriate,
900 the court may commit the child to the department for placement in
901 the restrictiveness level designated for serious or habitual
902 delinquent children programs.
903 Section 17. Section 985.314, Florida Statutes, is amended
904 to read:
905 985.314 Commitment programs for juvenile felony
906 offenders.--
907 (1) Notwithstanding any other law and regardless of the
908 child's age, a child who is adjudicated delinquent, or for whom
909 adjudication is withheld, for an act that would be a felony if
910 committed by an adult, shall be committed to:
911 (a) A sheriff's training and respect ~~boot camp~~ program
912 under s. 985.3091 ~~s. 985.309~~ if the child has participated in an
913 early delinquency intervention program as provided in s. 985.305.
914 (b) A program for serious or habitual juvenile offenders
915 under s. 985.31 or an intensive residential treatment program for
916 offenders less than 13 years of age under s. 985.311, if the
917 child has participated in an early delinquency intervention

918 program and has completed a sheriff's training and respect ~~boot~~
919 ~~camp~~ program.
920 (c) A maximum-risk residential program, if the child has
921 participated in an early delinquency intervention program, has
922 completed a sheriff's training and respect ~~boot camp~~ program, and
923 has completed a program for serious or habitual juvenile
924 offenders or an intensive residential treatment program for
925 offenders less than 13 years of age. The commitment of a child to
926 a maximum-risk residential program must be for an indeterminate
927 period, but may not exceed the maximum term of imprisonment that
928 an adult may serve for the same offense.
929 (2) In committing a child to the appropriate program, the
930 court may consider an equivalent program of similar intensity as
931 being comparable to a program required under subsection (1).
932 Section 18. Paragraph (b) of subsection (4) of section
933 985.315, Florida Statutes, is amended to read:
934 985.315 Educational and career-related programs.--
935 (4)
936 (b) Evaluations of juvenile educational and career-related
937 programs shall be conducted according to the following
938 guidelines:
939 1. Systematic evaluations ~~and quality assurance monitoring~~
940 shall be implemented, in accordance with ss. 985.4056(5)(a) and
941 ~~s.~~ 985.412(1) and ~~,~~ (2)~~, and (5)~~, to determine whether the
942 programs are related to successful postrelease adjustments.
943 2. Operations and policies of the programs shall be
944 reevaluated to determine if they are consistent with their
945 primary objectives.
946 Section 19. This act shall take effect July 1, 2006.

PCB FC 06-11

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-11 Sexually Violent Predators
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		DeBeaugrine	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill contains a number of provisions related to the Jimmy Ryce Act which allows for the civil commitment of sexually violent predators in a secure treatment facility. Specific provisions are as follows:

- limits continuances in court proceedings.
- allows commitment to a secure forensic mental health facility for persons who are deemed incompetent to participate in court proceedings or treatment.
- requires the Justice Administrative Commission to maintain a registry of experts who can provide examinations and expert testimony in these proceedings.

This bill could increase workload for the courts, State Attorneys and Public Defenders. The limitation of continuances would require faster processing of cases. There could also be increased utilization of secure forensic mental health facility beds. The House version of the General Appropriations Act (GAA) contains $18 million of additional funding for workload for State Attorneys and Public Defenders. A portion of the increase is earmarked to expedite sexually violent predator civil proceedings. The proposed House GAA also contains funding for 24 new secure forensic mental health beds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Background:

Current law allows civil commitment of sexually violent predators in a secure treatment facility. Sexually violent predators are individuals that have committed a qualifying sex offense and suffer from a mental abnormality that makes the person likely to engage in acts of sexual violence if not confined to a secure treatment facility.

The process starts when the agency having custody of a person who has committed a qualifying offense notifies a multi-disciplinary team at the Department of Children and Family Services and the state attorney of the individual's pending release. The law generally requires this notification 545 days prior to the person's anticipated release date. After the multi-disciplinary review, the state attorney decides whether to file for civil commitment. If the state attorney decides to file for civil commitment, a probable cause hearing is held. If the court finds probable cause, the individual is required to be held in a secure facility until proceedings are concluded. The civil commitment trial is supposed to commence within 30 days[1].

The Department of Children and Family Services (DCF) is also responsible for administering the secure treatment facility. Currently, individuals who are committed or detained are housed at a secure facility in DeSoto County. The facility is owned by the state but run by Liberty Behavioral Health Corporation under contract with the DCF.

According to the DCF, 327 of the 539 people housed at the secure treatment facility in DeSoto County are detained awaiting trial[2]. This indicates that the process often takes longer than the 545 days contemplated by law.

In January of 2006, the Miami Herald ran a series of articles acknowledging this problem as well as several others[3]. Many of the problems were related to management of the facility, such as a lack of control over residents. One of the problems noted is that many detained and committed individuals refuse treatment. Although the articles refer to this as a loophole, the residents' civil status makes it very difficult, if not impossible, for the state to compel treatment. Finally, a number of individuals at the facility have serious mental illness and may be more appropriately treated in a mental health facility.

On February 16, 2006, the House Fiscal Council held a two hour workshop to discuss these and other problems with the state's sexually violent predator commitment program. Testimony revealed that the DCF is seeking to re-bid the contract for operation of the program, citing problems with the current vendor. Testimony also focused on recent security undertaken after DCF officials asked for help from the Department of Corrections to regain control of the facility from the residents.

Testimony and discussion at this meeting also revealed some of the reasons for the large numbers of detainees being held in the absence of formal commitment by a court. Given the high stakes involved, there is often little incentive for either party to reach conclusion. Defendants realize that civil commitment can be indefinite. The state realizes that a potentially dangerous person is kept out of society as long as the person is in detainee status. There was discussion of the lack of available expert

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[1] See part V of Chapter 394, Florida Statutes for further details.
[2] Bill analysis prepared by the Department of Children and Family Services on 3/28/2006
[3] Articles appeared in January 29-31, 2006 editions of the Miami Herald.

witnesses to conduct examinations and provide testimony. Current law allows unlimited delays by providing for continuances upon request by either party or the court[4].

There are currently no specialized mental health services available at the facility for a number of individuals who have serious mental illness. Current law makes no specific provision for alternate confinement and treatment for these individuals.

Impact of bill:

The bill provides for a limit of one 90 day continuance upon request of either party unless the court determines that a manifest injustice would otherwise occur. The bill also provides for transfer of a person to a secure forensic mental health facility if there is evidence of serious mental illness that render the person incompetent to proceed with a civil proceeding or to participate in treatment. Finally, the bill requires the Justice Administrative Commission (JAC) to maintain a registry of professionals available to provide examinations and expert testimony at civil commitment proceedings. The JAC will not be required to verify the professional qualifications of individuals who request to be listed on the registry.

C. SECTION DIRECTORY:

Section 1. Amends s. 394.916, F.S., to limit continuances and provide for transfer to a secure forensic mental health facility for individuals who are incompetent to proceed.
Section 2. Creates s. 394.9171, F.S., to allow for transfer to a forensic mental health facility for certain mentally ill individuals.
Section 3. Creates s. 394.932, F.S., to require the Justice Administrative Commission to maintain a registry of mental health and other experts.
Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   There could be increased workload to the Courts, State Attorneys, and Public Defenders associated with moving cases through the legal process in a more expedited fashion. The House version of the General Appropriations Act contains $18 million for additional workload for State Attorneys and Public Defenders statewide. Proviso language associated with these funds requires assignment of additional FTE to help clear existing backlogs of these cases. HB 113, if passed, would provide authorization and funding for 66 additional judges and associated support staff.

   The Justice Administrative Commission (JAC) would experience additional workload associated with maintaining the registry required in section 3 of the bill. The JAC, however, is not required to verify information provided by individuals that wish to be listed on the registry.

   The Department of Children and Family Services could experience increased utilization of secure forensic mental health treatment beds. This would be offset by a corresponding reduction in utilization of beds at the violent sexual predator civil commitment treatment facility. The House version of the General Appropriations Act contains $3.3 million for 24 additional secure forensic mental health beds at the Florida State Hospital.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[4] See s. 394.916, F.S.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to expend funds or take actions requiring the expenditure of funds. Neither does it reduce the authority of cities and counties to raise revenue or reduce the share of a state tax. Therefore, the provisions of Article VII, Section 18 do not appear to apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to sexually violent predators; amending s. 394.916, F.S.; providing that a trial in a proceeding to commit a sexually violent predator may be continued once if specified conditions are met; providing that no additional continuances may be granted unless a court finds that a manifest injustice would occur; providing for a determination of competency to proceed in such a commitment trial; providing for placement of incompetent persons in secure forensic mental health facilities until competence is restored; creating s. 394.9171, F.S.; providing for committed sexually violent predators to petition for transfer to commitment to secure forensic mental health facilities; provides that such a transfer is the equivalent of an involuntary inpatient placement under a specified provision; creating s. 394.932, F.S.; requiring the Justice Administrative Commission to maintain a registry of mental health and other experts; providing for advertising of the registry; requiring the commission to advise registry users that it is their responsibility to verify a listed person's qualifications; providing for electronic publication; providing an effective date.

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

Section 1. Subsection (2) of section 394.916, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

30 394.916 Trial; counsel and experts; indigent persons;
31 competence to proceed; jury.--
32 (2) The trial may be continued once upon the request of
33 either party for not more than 90 days upon ~~and~~ a showing of good
34 cause, or by the court on its own motion in the interests of
35 justice, when the person will not be substantially prejudiced. No
36 additional continuances may be granted unless the court finds
37 that a manifest injustice would otherwise occur.
38 (6) Upon the filing of a suggestion of incompetency, or
39 upon the court's own motion, the court shall hold a hearing to
40 determine by clear and convincing evidence whether the person is
41 competent to proceed. In considering whether the person is
42 competent to proceed, the court shall consider the factors in s.
43 916.12(3) and any other factors deemed relevant by the experts.
44 If the court determines that the person is incompetent to
45 proceed, the person shall be placed in a secure forensic mental
46 health facility operated under chapter 916 until such time as the
47 person's competence to proceed is restored.
48 Section 2. Section 394.9171, Florida Statutes, is created
49 to read:
50 394.9171 Transfer to secure forensic mental health
51 facility.--At any time after commitment, a person committed under
52 this part may petition the court for transfer to a secure
53 forensic mental health facility operated under chapter 916. If
54 the court finds that the committed person's mental condition is
55 such that the person is incapable of meaningful participation in
56 the sex offender treatment, then the person shall be transferred
57 to a secure forensic mental health facility operated under
58 chapter 916 until such time as the person's competence to proceed

59 is restored. Such transfer shall be the equivalent of an
60 involuntary inpatient placement pursuant to s. 394.467.
61 Section 3. Section 394.932, Florida Statutes, is created to
62 read:
63 394.932 Registry of experts.--The Justice Administrative
64 Commission shall maintain a registry of mental health and other
65 experts who are available and willing to provide examinations and
66 expert testimony in proceedings held under this part. The
67 commission shall advertise the registry in professional trade
68 publications on a periodic basis and shall list the name and
69 contact information for all persons holding themselves out to be
70 qualified to provide examinations and expert testimony pursuant
71 to this part upon request. It shall be the sole responsibility of
72 parties using the services of a person listed on the registry to
73 verify the qualifications of that person. The commission shall
74 advise all parties that use the registry that it has not verified
75 the professional qualifications of the persons listed on the
76 registry and that it is the party's responsibility to verify the
77 person's professional qualifications. The commission may
78 electronically publish the names and contact information of
79 persons requesting to be listed on the registry.
80 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-12 Employee Benefits
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Dobbs	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill directs the resolution of the collective bargaining issues at impasse for FY 2006-2007 regarding state employees. The economic issues will be resolved based on the spending decisions included in the General Appropriations Act for FY 2006-2007. The noneconomic issues will be resolved consistent with the current personnel rules and any legislation modifying the terms and conditions of state employment.

This bill creates two unnumbered sections of law that are effective upon becomming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Chapter 447, F.S., specifies the process for collective bargaining for public employees. The bargaining agent and the negotiator for the state must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees within the bargaining unit. Any collective bargaining agreement reached must be reduced to writing, signed by the chief executive officer for the state and the bargaining agent for the union, and submitted to the members of the bargaining unit for ratification.

Upon execution of the collective bargaining agreement, the Governor must request the legislative body to appropriate amounts sufficient to fund the provisions of the agreement. If the Legislature appropriates funds that are not sufficient to fund the agreement, the agreement must be administered on the basis of the amounts actually appropriated.

Typically, at the state level, an agreement is not reached. In that instance, and pursuant to s. 216.163(6), F.S., an impasse is declared on all unresolved issues when the Governor's budget recommendations are released to the Legislature. Within five days of the start of the impasse period, each party is required to notify the presiding officers of the Legislature of the unresolved issues. A joint select committee of members of the Florida House of Representatives and the Senate is appointed to review the positions of the parties. The committee's recommendation to the Legislature regarding the resolution of those issues is presented to the presiding officers no later than ten days before the start of the regular legislative session. During the session, the Legislature may take action to address the issues. Any actions taken by the Legislature are binding upon the parties.

Following the resolution of the impasse issues, the parties are required to reduce to writing an agreement that includes those issues agreed to by the parties as well as those issues resolved by the Legislature. The agreement must be signed by the chief executive officer and the bargaining agent and then presented to the members of the bargaining unit for ratification.

If the members ratify the agreement, all the provisions of the agreement take effect. If the members do not ratify the agreement, the issues resolved by the Legislature take effect for the first fiscal year which was subject of the negotiations.

The certified bargaining units for state employees and the respective bargaining agents include:

American Federation of State, County and Municipal Employees, Council 79
Administrative and Clerical Unit
Operational Services Unit
Human Services Unit
Professional Unit

Florida Nurses Association
Professional Health Care Unit

International Union of Police Association
Law Enforcement Unit

Police Benevolent Association
Security Services Unit
Special Agent Unit
Lottery Law Enforcement Unit

Florida State Fire Service Association
Fire Service Unit

Federation of Physicians and Dentists
Supervisory Nonprofessional Unit
Physicians Unit
State Employees Attorneys Guild

Federation of Public Employees
Lottery Administrative and Support Unit

The bill provides that all economic collective bargaining issues at impasse for the 2006-2007 fiscal year regarding state employees will be resolved pursuant to the spending decisions contained in the General Appropriations Act for the 2006-2007 fiscal year.

The bill also provides that all noneconomic collective bargaining issues at impasse for the 2006-2007 fiscal year regarding state employees will be resolved consistent with the current personnel rules and any legislation passed during the 2006 session.

C. SECTION DIRECTORY:

Section 1. Provides that all economic collective bargaining issues at impasse for the 2006-2007 fiscal year regarding state employees will be resolved pursuant to the spending decisions contained in the General Appropriations Act for the 2006-2007 fiscal year.

Section 2. Provides that all noneconomic collective bargaining issues at impasse for the 2006-2007 fiscal year regarding state employees will be resolved consistent with the current personnel rules and any legislation passed during the 2006 session.

Section 3. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to employee benefits; providing for the resolution of certain collective bargaining issues at impasse between the State of Florida and certified bargaining units of state employees; providing an effective date.

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

Section 1. All economic collective bargaining issues at impasse for the 2006-2007 fiscal year between the State of Florida and the legal representatives of the certified bargaining units for state employees shall be resolved pursuant to the instructions provided in House Bill 5001, 2006 Regular Session, and the relevant provisions of any legislation enacted to implement House Bill 5001.

Section 2. All noneconomic collective bargaining issues at impasse for the 2006-2007 fiscal year between the State of Florida and the legal representatives of the certified bargaining units for state employees shall be resolved consistent with the personnel rules in effect on March 21, 2006, and the relevant provisions of any legislation modifying the terms and conditions of state employment.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-13 Retirement
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1040

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Dobbs	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill amends s. 121.71, Florida Statutes, to establish the required employer payroll contribution rates for each membership class and subclass of the defined benefit plan of the Florida Retirement System for the fiscal year beginning July 1, 2006.

The change in contribution rates will increase the contributions for all employers by $550 million and will require the use of $285 million of the actuarial surplus in the Florida Retirement System Trust Fund to meet all of the actuarial liabilities for the fiscal year.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the more than 600,000 active, 31,000 DROP, and 310,000 retired and vested members of its more than 850 employers.

In 1998 the FRS Trust Fund began to experience a surplus of assets over liabilities for the first time in the history of the payroll contribution rate structure and the fund continues to have a surplus.

The table below shows the contribution rates effective July 1, 2005, and July 1, 2006, for each class or subclass as established by the 2005 Legislature.

Retirement Class	Current 7/1/2005 Rates	Current 7/1/2006 Rates
Regular Class	6.67%	9.53%
Special Risk Class	17.37%	21.91%
Special Risk Admin. Support Class	8.76%	12.39%
Elected Officers' Class – Judicial Subclass	17.49%	20.43%
Elected Officers' Class – Leg.-Atty.-Cab. Sub	11.33%	14.86%
Elected Officers' Class – County	14.07%	17.00%
Senior Management Service Class	9.29%	13.27%
Deferred Retirement Option Program (DROP)	8.22%	11.74%

These contributions are paid into the Florida Retirement System Contributions Clearing Trust Fund. Amounts necessary to pay the benefits due under the defined contribution program are transferred into the participants' accounts (for retirement benefits) and into the disability account of the FRS Trust Fund (for disability benefits). The remainder of these contributions is transferred to the FRS Trust Fund to pay for the benefits due under the defined benefit program.

Based on the 2005 Actuarial Valuation of the Florida Retirement System, the System has an actuarial surplus of $9.0 billion as of June 30, 2005. Actuarial liabilities increased by $7.3 billion between July 1, 2004, and July 1, 2005, while the actuarial value increased $4.8 billion during the same period.

Effects of bill

The bill amends s. 121.71, F.S., to increase employer payroll contribution rates for the Florida Retirement System over the FY 2005-2006 rates as follows:

Retirement Class	Current 7/1/2005 Rates	**Proposed 7/1/2006 Rates**	Current 7/1/2006 Rates
Regular Class	6.67%	**8.69%**	9.53%
Special Risk Class	17.37%	**19.76%**	21.91%
Special Risk Admin. Support Class	8.76%	**11.39%**	12.39%
Elected Officers' Class – Judicial Subclass	17.49%	**18.40%**	20.43%
Elected Officers' Class – Leg.-Atty.-Cab. Sub	11.33%	**13.32%**	14.86%
Elected Officers' Class – County	14.07%	**15.37%**	17.00%
Senior Management Service Class	9.29%	**11.96%**	13.27%
Deferred Retirement Option Program (DROP)	8.22%	**9.80%**	11.74%

The proposed rates are below the Normal Cost rates, however, the rates are within the parameters of the Rate Stabilization Mechanism (RSM). The rates are similar to the rates endorsed by the State Board of Administration in their March 21, 2006 letter to the President of the Senate and the Speaker of the House of Representatives.

The proposed rates will require the use of $285 million of the actuarial surplus in the Florida Retirement System Trust Fund to meet all of the actuarial liabilities for the fiscal year.

C. SECTION DIRECTORY:

Section 1 amends s. 121.71, F.S., to set the statutorily mandated employer contribution rates for Fiscal Year 2006-2007 and Fiscal Year 2007-2008.

Section 2 provides a declaration of important state interest.

Section 3 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See D. Fiscal Comments.

2. Expenditures:

   See D. Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See D. Fiscal Comments.

2. Expenditures:

See D. Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will increase the employer contribution rates for Fiscal Year 2006-2007 above the Fiscal Year 2005-2006 rates, thereby increasing the total contributions by $550 million. The General Revenue portion of this increase is $106 million with another $237.7 million distributed to the School Boards. The fiscal impact by employer type is as follows:

State	$100,333,000
School Boards	237,733,000
State Universities	20,204,000
Community Colleges	15,743,000
Counties	151,406,000
Other	24,851,000
Total	$550,270,000

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply to this bill because it requires counties or municipalities to spend funds or to take an action requiring the expenditure of funds; however, an exemption applies. The bill contains a statement of important state interest and the provisions of the bill apply to all persons similarly situated. State government, school boards, and all local governments, not just counties and municipalities, are required to pay the increased contribution rates. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

Article X, Section 14, Florida Constitution, requires all public sector pension plans to pre-fund all promised pension benefits in a sound actuarial manner to avoid the intergenerational transfer of unfunded risk.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to retirement; amending s. 121.71, F.S.;
3 revising the payroll contribution rates for the membership
4 classes of the Florida Retirement System for the state
5 fiscal years effective July 1, 2006, and July 1, 2007;
6 providing a declaration of important state interest;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 121.71, Florida Statutes, is amended to
12 read:
13 121.71 Uniform rates; process; calculations; levy.--
14 (1) In conducting the system actuarial study required under
15 s. 121.031, the actuary shall follow all requirements specified
16 thereunder to determine, by Florida Retirement System employee
17 membership class, the dollar contribution amounts necessary for
18 the forthcoming fiscal year for the defined benefit program. In
19 addition, the actuary shall determine, by Florida Retirement
20 System membership class, based on an estimate for the forthcoming
21 fiscal year of the gross compensation of employees participating
22 in the optional retirement program, the dollar contribution
23 amounts necessary to make the allocations required under ss.
24 121.72 and 121.73. For each employee membership class and
25 subclass, the actuarial study shall establish a uniform rate
26 necessary to fund the benefit obligations under both Florida
27 Retirement System retirement plans, by dividing the sum of total
28 dollars required by the estimated gross compensation of members
29 in both plans.

30 (2) Based on the uniform rates set forth in subsection (3),
31 employers shall make monthly contributions to the Division of
32 Retirement, which shall initially deposit the funds into the
33 Florida Retirement System Contributions Clearing Trust Fund. A
34 change in a contribution rate is effective the first day of the
35 month for which a full month's employer contribution may be made
36 on or after the beginning date of the change.
37 (3) Required employer retirement contribution rates for
38 each membership class and subclass of the Florida Retirement
39 System for both retirement plans are as follows:
40

Membership Class	Percentage of Gross Compensation, Effective July 1, 2006 ~~2005~~	Percentage of Gross Compensation, Effective July 1, 2007 ~~2006~~
41 Regular Class	8.69% ~~6.67%~~	9.55% ~~9.53%~~
42 Special Risk Class	19.76% ~~17.37%~~	21.96% ~~21.91%~~
43 Special Risk Administrative Support Class	11.39% ~~8.76%~~	12.65% ~~12.39%~~

44

Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.32%	~~11.33%~~	14.80%	~~14.86%~~
Elected Officers' Class - Justices, Judges	18.40%	~~17.49%~~	20.44%	~~20.43%~~
Elected Officers' Class - County Elected Officers	15.37%	~~14.07%~~	17.08%	~~17.00%~~
Senior Management Class	11.96%	~~9.29%~~	13.29%	~~13.27%~~
DROP	9.80%	~~8.22%~~	10.89%	~~11.74%~~

(4) The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

Section 2. The Legislature finds that a proper and

56 legitimate state purpose is served when employees and retirees of
57 the state and its political subdivisions, and the dependents,
58 survivors, and beneficiaries of such employees and retirees, are
59 extended the basic protections afforded by governmental
60 retirement systems. These persons must be provided benefits that
61 are fair and adequate and that are managed, administered, and
62 funded in an actuarially sound manner, as required by Section 14,
63 Article X of the State Constitution, and part VII of chapter 112,
64 Florida Statutes. Therefore, the Legislature determines and
65 declares that this act fulfills an important state interest.
66 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-14 Fuel Tax Collection TF
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Dixon	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends section 206.9945, Florida Statutes, modifying the transfer of funds from the Fuel Tax Collection Trust Fund within the Department of Highway Safety and Motor Vehicles. The bill changes the fuel tax distribution by decreasing the transfer of funds to the Inland Protection Trust Fund and increasing the distribution to the Florida Coastal Protection Trust Fund. The Inland Protection and the Coastal Protection trust funds are within the Department of Environmental Protection.

The bill provides for an estimated $2.7 million decrease in revenue to the Inland Protection Trust Fund and an increase of the same estimated amount to the Florida Coastal Protection Trust Fund in the Department of Environmental Protection. Due to the increasing growth of revenues in the Inland Protection Trust Fund, there will be no reduction to any programs due to this change in funding. This transfer of revenue will allow the Florida Coastal Protection Trust Fund to continue supporting law enforcement activities at the Fish and Wildlife Conservation Commission and emergency response activities at the Department of Environmental Protection.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

The Florida Coastal Protection Trust Fund (CPTF) was created in s. 376.11, F.S., to provide immediate financial resources for cleanup and rehabilitation after a pollutant discharge, to prevent further damage by the pollutant, and to pay for damages, cleanup and restoration of waterfowl, wildlife, and other natural resources. In addition, the fund supports marine law enforcement at the Fish and Wildlife Conservation Commission (FWC) and emergency cleanup response teams at the Department of Environmental Protection for the purpose of cleaning oil and other toxic materials from coastal waters.

Revenues to support activities funded from the CPTF include penalties, judgments, damages recovered pursuant to s. 376.121, F.S.; pollutant excise tax revenues levied and collected pursuant to s. 206.9935 (1), F.S.; the tax on commercial motor vehicles levied pursuant to s. 207.003, F.S., and distributed pursuant to s. 206.9945 (1) (a), F.S.; and interest earnings. Estimated revenues for the 2005-2006 fiscal year total $7.7 million and include $67,000 from the commercial motor vehicle tax distribution.

Beginning in the 2003-2004 fiscal year, revenues were insufficient to support ongoing activities in the CPTF. The 2003-2004 General Appropriations Act eliminated the Derelict Vessel Removal program ($366,311) at the FWC, and $565,000 in budget authority was transferred from the CPTF to another FWC trust fund in order to continue law enforcement activities at the same level of funding. The 2004-2005 General Appropriations Act further reduced the CPTF appropriations at the FWC and the DEP by $2.5 million due to insufficient recurring revenue to support ongoing activities. Other available agency trust fund revenues were used to supplant this shortfall.

For the 2005-2006 fiscal year, the recurring budget from the CPTF is $8.4 million while recurring revenues is $7.4 million. Without further reductions or transfers, the fund is projected to be in deficit in the coming years.

The Inland Protection Trust Fund (IPTF) was created in s. 376.3071, F.S., to serve as a repository of funds for environmental cleanup of inland contamination related to underground storage tanks of petroleum products. Authorized uses of the fund include investigative and assessment activities; restoration or replacement of potable water supplies; cleanup and rehabilitation; maintenance and monitoring of contaminated sites.

Revenues to support the activities funded from the Inland Protection Trust Fund include: registration fees pursuant to s. 376.303 and 376.3072, F.S., for every in-ground or stationary above-ground petroleum storage tank having a capacity of 550 or more gallons; excise taxes on petroleum products pollutants in accordance with s. 206.9935 (3), F.S.; the commercial motor vehicle tax levied pursuant to s. 207.003, F.S., and distributed pursuant to s. 206.9945 (3), F.S.; interest earnings not to exceed $10 million from the Coastal Protection Trust Fund when needed pursuant to s. 376.11, F.S.; and interest earnings.

Total revenues for the Inland Protection Trust Fund are estimated to be $227.2 million which includes $2.6 million from the commercial motor vehicle tax distribution for the 2005-2006 fiscal year. The recurring revenues deposited into the fund have been increasing at an average rate of 4 percent over the last three years.

This bill amends s. 206.9945, F.S., and transfers the current commercial motor vehicle tax revenues distributed to the Inland Protection Trust Fund to the Florida Coastal Protection Trust Fund.

This change will increase the amount of the commercial motor vehicle tax revenue distributed to the Florida Coastal Protection Trust Fund by an estimated $2.7 million on a recurring basis. The same amount will be decreased from the Inland Protection Trust Fund.

C. SECTION DIRECTORY:

Section 1. Amends s. 206.9945, F.S., relating to the transfer of commercial motor vehicle tax revenues to the CPTF.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The bill provides for an estimated $2.7 million decrease in revenue to the Inland Protection Trust Fund and an increase of the same estimated amount to the Florida Coastal Protection Trust Fund in the Department of Environmental Protection. Due to the increasing growth of revenues in the Inland Protection Trust Fund, there will be no reduction to any programs due to this change in funding. This transfer of revenue will allow the Florida Coastal Protection Trust Fund to continue supporting law enforcement activities at the Fish and Wildlife Conservation Commission and emergency response activities at the Department of Environmental Protection.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to distributions from the Fuel Tax
3 Collection Trust Fund; amending s. 206.9945, F.S.;
4 providing for the distribution of funds to the Florida
5 Coastal Protection Trust Fund; specifying that provisions
6 relative to the distribution of funds to the Inland
7 Protection Trust Fund do not apply to the distribution of
8 funds to the Florida Coastal Protection Trust Fund;
9 providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Subsection (1) of section 206.9945, Florida
14 Statutes, is amended to read:
15 206.9945 Funds collected; disposition; department
16 authority.--
17 (1) The department shall deposit all funds received and
18 collected by it under this part into the Fuel Tax Collection
19 Trust Fund to be transferred, less the costs of administration
20 and less the service charges to be deducted pursuant to s.
21 215.20, as follows:
22 (a) Moneys collected pursuant to s. 206.9935(1) <u>and tax</u>
23 <u>revenues collected pursuant to s. 207.003 at the rates specified</u>
24 <u>in s. 206.9935(3)</u> shall be transferred to the Florida Coastal
25 Protection Trust Fund as provided in s. 376.11;
26 (b) Moneys collected pursuant to s. 206.9935(2) shall be
27 transferred to the Water Quality Assurance Trust Fund as provided
28 in s. 376.307; and
29 (c) Moneys collected pursuant to s. 206.9935(3), less any

30 refunds granted under s. 206.9942, shall be transferred to the
31 Inland Protection Trust Fund as provided in s. 376.3071. This
32 paragraph does not apply to moneys collected pursuant to s.
33 207.003 and transferred pursuant to paragraph (a).
34 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-15 Court Technology Trust Fund
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Brazzell HB	Kelly CH
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

PCB FC 06-15 creates the Court Technology Trust Fund. This trust fund is required to implement certain provisions of PCB JA 06-01. PCB JA 06-01 provides that $2.05 from the recording fee of $4.00 per page pursuant to s. 28.24(12)(e)1., F.S., shall be deposited in the Court Technology Trust Fund to provide support for technology-related planning efforts and for disbursement as grants-in-aid to counties that comply with certain other provisions of that PCB.

This bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Currently, funds generated by the $4.00 per page recording fee pursuant to s. 28.24(12)(e)1., F.S., are distributed to clerks, the Florida Association of Court Clerks and Comptroller, and boards of county commissioners.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

PCB FC 06-15 creates s. 25.3857, F.S., providing for the creation of the Court Technology Trust Fund. This trust fund is required to implement certain provisions of PCB JA 06-01. PCB JA 06-01 provides that $2.05 of the funds generated by the $4.00 per page recording fee pursuant to s. 28.24(12)(e)1., F.S., shall be deposited in the Court Technology Trust Fund to support technology planning and for disbursement as

grants-in-aid to counties that comply with certain other provisions of that PCB. PCB FC 06-15 provides that the Court Technology Trust Fund is subject to review and termination by July 1, 2010.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

PCB JA 06-01 provides that $2.05 of the funds generated by the $4.00 per page recording fee pursuant to s. 28.24(12)(e)1., F.S., shall be deposited in the Court Technology Trust Fund to support technology planning and for disbursement as grants-in-aid to counties that comply with certain other provisions of that PCB.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

A bill to be entitled

An act relating to the Court Technology Trust Fund; creating s. 25.3847, F.S.; creating the Court Technology Trust Fund within the state courts system; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing an effective date.

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

Section 1. Section 25.3847, Florida Statutes, is created to read:

25.3847 Court Technology Trust Fund.--

(1) The Court Technology Trust Fund is created within the state courts system.

(2) The fund is established for the purpose of providing state financial assistance to counties to offset the cost of the counties' financial responsibility to provide court-related technology for the trial courts, state attorneys, and public defenders. Revenues to be deposited in the fund and the uses of the revenues shall be as described in s. 28.24(12)(e)1.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Court Technology Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-16 Operating TF/State Court System
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2348

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Hughes	Kelly
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Operating Trust Fund within the state courts system effective July 1, 2006. The fund is established as a depository for funds to be used for supporting the programs and other appropriate purposes of the judicial branch. Funds that will be credited to the Operating Trust Fund include cost recovery for state-funded services in the circuit courts, Supreme Court filing fees, and district court filing fees.

The bill creates s. 25.3844, F.S. The bill amends the following sections of the Florida Statutes: 25.241(5), 25.383, 29.0195, and 35.22(6).

The bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Currently, revenues received as cost recovery for state funded services in the circuit courts, Supreme Court filing fees, and district court filing fees are accounted for in the Grants and Donations Trust Fund.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Operating Trust Fund within the state courts system allowing the state courts system to rearrange existing revenues and expenditures in compliance with s. 215.32, F.S, which requires agencies to use or create certain trust funds for specified purposes.

The bill amends ss. 25.241(5), 25.383, 29.0195, and 35.22(6), F.S., to change the fund in which certain fees are to be deposited from the Grants and Donations Trust Fund to the newly created Operating Trust Fund in the state courts system.

The Operating Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to the Operating Trust Fund; creating s.
3 25.3844, F.S.; creating the Operating Trust Fund within
4 the state courts system; providing for sources of funds
5 and purposes; providing for future review and termination
6 or re-creation of the trust fund; amending ss. 25.241,
7 25.383, 29.0195, and 35.22, F.S.; conforming provisions;
8 directing certain fees collected by the Clerk of the
9 Supreme Court, the trial court administrator of each
10 circuit, and the clerk of each district court and certain
11 fees paid to the Supreme Court by court reporters to be
12 deposited into the trust fund in lieu of another trust
13 fund; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Section 25.3844, Florida Statutes, is created to
18 read:
19 25.3844 Operating Trust Fund.--
20 (1) The Operating Trust Fund is created within the state
21 courts system.
22 (2) The fund is established for use as a depository of fees
23 and related revenue for the purpose of supporting the program
24 operations of the judicial branch and for such other purposes as
25 may be appropriate and shall be expended only pursuant to
26 legislative appropriation or an approved amendment to the
27 agency's operating budget pursuant to the provisions of chapter
28 216.
29 (3) In accordance with s. 19(f)(2), Art. III of the State

30 Constitution, the Operating Trust Fund shall, unless terminated
31 sooner, be terminated on July 1, 2010. Before its scheduled
32 termination, the trust fund shall be reviewed as provided in s.
33 215.3206(1) and (2).
34 Section 2. Subsection (5) of section 25.241, Florida
35 Statutes, is amended to read:
36 25.241 Clerk of Supreme Court; compensation; assistants;
37 filing fees, etc.--
38 (5) The Clerk of the Supreme Court is hereby required to
39 prepare a statement of all fees collected each month and remit
40 such statement, together with all fees collected by him or her,
41 to the Chief Financial Officer. The Chief Financial Officer shall
42 deposit $250 of each $300 filing fee and all other fees collected
43 into the General Revenue Fund. The Chief Financial Officer shall
44 deposit $50 of each filing fee collected into the state court's
45 Operating ~~Grants and Donations~~ Trust Fund to fund court
46 improvement projects as authorized in the General Appropriations
47 Act.
48 Section 3. Section 25.383, Florida Statutes, is amended to
49 read:
50 25.383 Standards for court reporters; procedures; rules of
51 professional conduct, discipline, and training.--The Supreme
52 Court shall establish minimum standards and procedures for
53 qualifications, certification, discipline, and training for court
54 reporters. The Supreme Court shall determine the amount of fees
55 to charge applicants for certification and renewal of
56 certification. Fees shall be set in an amount necessary to
57 recover the full cost of administering the certification process.
58 All proceeds from fees collected pursuant to this section shall

59 be deposited into the Operating ~~Grants and Donations~~ Trust Fund
60 within the state courts. The Supreme Court may appoint or employ
61 such personnel as are necessary to assist the court in exercising
62 its powers and performing its duties under this section.
63 Section 4. Section 29.0195, Florida Statutes, is amended to
64 read:
65 29.0195 Recovery of expenditures for state-funded
66 services.--The trial court administrator of each circuit shall
67 recover expenditures for state-funded services when those
68 services have been furnished to a user of the state court system
69 who possesses the present ability to pay. The rate of
70 compensation for such services shall be the actual cost of the
71 services, including the cost of recovery. The trial court
72 administrator shall deposit moneys recovered under this section
73 in the Operating ~~Grants and Donations~~ Trust Fund within the state
74 court system. The trial court administrator shall recover the
75 costs of court reporter services and transcription; court
76 interpreter services, including translation; and any other
77 service for which state funds were used to provide a product or
78 service within the circuit. This section does not authorize cost
79 recovery from entities described in ss. 29.005, 29.006, and
80 29.007.
81 Section 5. Subsection (6) of section 35.22, Florida
82 Statutes, is amended to read:
83 35.22 Clerk of district court; appointment; compensation;
84 assistants; filing fees; teleconferencing.--
85 (6) The clerk of each district court of appeal is required
86 to deposit all fees collected in the State Treasury to the credit
87 of the General Revenue Fund, except that $50 of each $300 filing

88 fee collected shall be deposited into the state court's Operating
89 ~~Grants and Donations~~ Trust Fund to fund court improvement
90 projects as authorized in the General Appropriations Act. The
91 clerk shall retain an accounting of each such remittance.
92 Section 6. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-17 Federal Grants TF/State Court System
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Napier	Kelly
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Federal Grants Trust Fund within the state courts system effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.

The bill creates s. 25.3842, F.S.

This bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Federal grant funds are currently accounted for in several grants and donations trust funds. Section 215.32, F.S., which was adopted by the 2005 Legislature, specifies that the source of grants and donations trust funds shall be from private and public non-federal sources. By maintaining funds from federal sources in its grants and donations trust fund, the state courts system is not in compliance with this section.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Federal Grants Trust Fund within the state courts system allowing the state courts system to rearrange existing revenues and expenditures in compliance with s. 215.32, F.S, which requires agencies to use or create certain trust funds for specified purposes.

The bill provides that the Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), F.S.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

A bill to be entitled

An act relating to the Federal Grants Trust Fund; creating s. 25.3842, F.S.; creating the Federal Grants Trust Fund within the state courts system; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing an effective date.

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

Section 1. Section 25.3842, Florida Statutes, is created to read:

25.3842 Federal Grants Trust Fund.--

(1) The Federal Grants Trust Fund is created within the state courts system.

(2) The fund is established for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues. Moneys to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. This act shall take effect July 1, 2006.

PCB FC 06-18

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-18 Administrative Trust Fund - Department of Corrections
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2340

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Napier MN	Kelly ck
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Administrative Trust Fund within the Department of Corrections effective July 1, 2006. This fund is established as a depository for funds to be used for department-wide management activities. Funds that will be credited to the Administrative Trust Fund will consist of indirect cost reimbursements from grantors, administrative assessments against trust funds, interest earnings, and other appropriate administrative fees.

The bill creates s. 20.3151, F.S.

This bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Indirect cost funds are currently accounted for in several grants and donations trust funds within the Department of Corrections.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Administrative Trust Fund within the Department of Corrections allowing the department to rearrange existing revenues and expenditures in compliance with 215.32, F.S. which requires agencies to use or create certain trust funds for specified purposes.

The bill provides any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

The Administrative Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Administrative Trust Fund; creating
3 s. 20.3151, F.S.; creating the Administrative Trust Fund
4 within the Department of Corrections; providing for
5 sources of funds and purposes; providing for annual
6 carryforward of funds; providing for future review and
7 termination or re-creation of the trust fund; providing an
8 effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 20.3151, Florida Statutes, is created to
13 read:
14 20.3151 Administrative Trust Fund.--
15 (1) The Administrative Trust Fund is created within the
16 Department of Corrections.
17 (2) The fund is established for use as a depository for
18 funds to be used for management activities that are department-
19 wide in nature and funded by indirect cost earnings or
20 assessments against trust funds. Moneys to be credited to the
21 trust fund include indirect cost reimbursements from grantors,
22 administrative assessments against trust funds, interest
23 earnings, and other appropriate administrative fees.
24 (3) Notwithstanding the provisions of s. 216.301 and
25 pursuant to s. 216.351, any balance in the trust fund at the end
26 of any fiscal year shall remain in the trust fund at the end of
27 the year and shall be available for carrying out the purposes of
28 the trust fund.
29 (4) In accordance with s. 19(f)(2), Art. III of the State

30 Constitution, the Administrative Trust Fund shall, unless
31 terminated sooner, be terminated on July 1, 2010. Before its
32 scheduled termination, the trust fund shall be reviewed as
33 provided in s. 215.3206(1) and (2).
34 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-19 Federal Grants Trust Fund - Department of Corrections
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Napier	Kelly
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Federal Grants Trust Fund within the Department of Corrections effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.

The bill creates s. 945.21503, F.S.

The bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Currently, federal grants are accounted for in several grants and donations trust funds. Section 215.32, F.S., specifies that the source of grants and donations trust funds shall be from private and public non-federal sources.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Federal Grants Trust Fund within the Department of Corrections allowing the department to rearrange existing revenues and expenditures in compliance with 215.32, F.S, which requires agencies to use or create certain trust funds for specified purposes.

The Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to Federal Grants Trust Fund; creating s.
3 945.21503, F.S.; creating the Federal Grants Trust Fund
4 within the Department of Corrections; providing for
5 sources of funds and purposes; providing for future review
6 and termination or re-creation of the trust fund;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 945.21503, Florida Statutes, is created
12 to read:
13 945.21503 Federal Grants Trust Fund.--
14 (1) The Federal Grants Trust Fund is created within the
15 Department of Corrections.
16 (2) The fund is established for use as a depository for
17 funds to be used for allowable grant activities funded by
18 restricted program revenues. Moneys to be credited to the trust
19 fund shall consist of grants and funding from the Federal
20 Government, interest earnings, and cash advances from other trust
21 funds.
22 (3) In accordance with s. 19(f)(2), Art. III of the State
23 Constitution, the Federal Grants Trust Fund shall, unless
24 terminated sooner, be terminated on July 1, 2010. Before its
25 scheduled termination, the trust fund shall be reviewed as
26 provided in s. 215.3206(1) and (2).
27 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-20 Administrative Trust Fund - Department of Law Enforcement
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2344

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Hughes	Kelly
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Administrative Trust Fund within the Department of Law Enforcement effective July 1, 2006. The fund is established as a depository for funds to be used for department-wide management activities. Funds that will be credited to the Administrative Trust Fund will consist of indirect cost reimbursements from the Federal Government and possible future assessments against other funds.

The bill creates s. 943.367, F.S.

The bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Indirect cost reimbursements are currently accounted for in several grants and donations trust funds within the Department of Law Enforcement.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Administrative Trust Fund within the Department of Law Enforcement allowing the department to rearrange existing revenues and expenditures in compliance with 215.32, F.S, which requires agencies to use or create certain trust funds for specified purposes.

The bill provides that any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

The Administrative Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to Administrative Trust Fund; creating s. 943.367, F.S.; creating the Administrative Trust Fund within the Department of Law Enforcement; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

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

Section 1. Section 943.367, Florida Statutes, is created to read:

943.367 Administrative Trust Fund.--

(1) The Administrative Trust Fund is created within the Department of Law Enforcement.

(2) The fund is established for use as a depository for funds to be used for management activities that are department-wide in nature and funded by indirect cost earnings or assessments against trust funds. Moneys to be credited to the trust fund include indirect cost reimbursements from grantors, administrative assessments against trust funds, interest earnings, and other appropriate administrative fees.

(3) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(4) In accordance with s. 19(f)(2), Art. III of the State

30 Constitution, the Administrative Trust Fund shall, unless
31 terminated sooner, be terminated on July 1, 2010. Before its
32 scheduled termination, the trust fund shall be reviewed as
33 provided in s. 215.3206(1) and (2).
34 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES TRUST FUND CREATION STAFF ANALYSIS

BILL #: PCB FC 06-21 Federal Grants Trust Fund - Department of Law Enforcement
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 2346

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Hughes	Kelly
1)			
2)			
3)			
4)			
5)			

I. SUMMARY

The bill creates the Federal Grants Trust Fund within the Department of Law Enforcement effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the Federal Government.

The bill creates s. 943.366, F.S.

The bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Federal grant funds are currently accounted for in several grants and donations trust funds within the Department of Law Enforcement. Section 215.32, F.S., specifies that the source of grants and donations trust funds shall be from private and public non-federal sources.

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Federal Grants Trust Fund within the Department of Law Enforcement allowing the department to rearrange existing revenues and expenditures in compliance with 215.32, F.S, which requires agencies to use or create certain trust funds for specified purposes.

The Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to the Federal Grants Trust Fund; creating s. 943.366, F.S.; creating the Federal Grants Trust Fund within the Department of Law Enforcement; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing an effective date.

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

Section 1. Section 943.366, Florida Statutes, is created to read:

943.366 Federal Grants Trust Fund.--

(1) The Federal Grants Trust Fund is created within the Department of Law Enforcement.

(2) The fund is established for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues. Moneys to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2010. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. This act shall take effect July 1, 2006.

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

V

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FC 06-22 Trust Funds Modification & Termination
SPONSOR(S): Fiscal Council
TIED BILLS: **IDEN./SIM. BILLS:** PCB/SB 826

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Fiscal Council		Belcher/Davis	Kelly
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill makes changes to certain trust funds pursuant to section 215.3206, F.S., which requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. This bill terminates two trust funds within the Department of Agriculture and Consumer Services, renames one trust fund within the Department of Agriculture and Consumer Services, renames one trust fund within the Department of the Lottery, renames one trust fund within the Division of Administrative Hearings within the Department of Management Services, and transfers eight accounts between trust funds in the Department of Management Services.

The bill takes effect on July 1, 2006 with some exceptions as noted within the bill. The bill states that the renaming and transferring of trust funds will take effect on July 1, 2007, to provide agencies the opportunity to adjust their accounting records.

The bill substantially amends the following sections of the Florida Statutes: 215.20, 550.2625, 550.2633, 570.382, 215.22, 589.277, 24.114, 24.120, 24.121, 403.518, 403.5365, 403.9421, 552.40, 282.22, 287.042, 287.057 and 287.1345. Sections 550.0351, 43.16, and 570.07, Florida Statutes, are reenacted for the purpose of incorporating amendments to sections listed above.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Section 215.32, Florida Statutes, defines operations or operating trust fund as a depository for funds to be used for program operations funded by program revenues, with the exception of administrative activities when the operations or operating trust fund is a proprietary fund. It also defines an administrative trust fund as a depository for funds to be used for management activities that are departmental in nature and funded by indirect cost earnings and assessments against trust funds. Proprietary funds are excluded from the requirement of using an administrative trust fund.

Article III, Section 19(f) of the Florida Constitution requires all agency trust funds to terminate every four years unless recreated. The Legislature, through the Legislative Budget Instructions, has placed agency funds on a review cycle to facilitate the trust fund review and recreation. An analysis of the trust funds under the jurisdictions of the Agriculture and Environment Appropriations Committee and State Administration Appropriations Committee resulted in the following findings:

Department Agriculture and Consumer Services

The Florida Preservation 2000 Trust Fund provides a funding source for purchase of environmental forest lands in areas of critical state concern. This trust fund is no longer in use and has been replaced by the Florida Forever Program Trust Fund.

The Quarter Horse Racing Promotion Trust Fund collects revenues that are restricted for use in supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses, Appaloosa horses, and Arabian horses. A separate trust fund is not needed for the Florida Arabian, Appaloosa, and Quarter Horse Industries since they no longer race in Florida. Accounts could continue in the General Inspection Trust Fund in the event these industries begin racing in the future.

The Contracts and Grants Trust Fund is named inconsistent with its intended use as defined by section 215.32 (2), Florida Statutes[1]. This fund should be renamed to conform to the definitions and for general accounting practices.

The bill terminates the following trust funds which are either obsolete or are consolidated with other trust funds in the Department of Agriculture and Consumer Services:

- Quarter Horse Racing Promotion Trust Fund, FLAIR number 42-2-564. All current balances remaining in Quarter Horse Racing Promotion Trust Fund, FLAIR Number 42-2-564, and all revenues of, are transferred to the General Inspection Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-321
- Florida Preservation 2000 Trust Fund, FLAIR number 42-2-332. All current balances remaining in Florida Preservation 2000 Trust Funds, FLAIR number 42-2-332, and all revenues of, are transferred to the Florida Forever Program Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-349.

[1] That law provides uniform definitions and uses for the most commonly used trust funds within state agencies, and anticipates that state accounts and Florida law will be conformed to those definitions over time.

The bill renames the following trust funds in the Department of Agriculture and Consumer Services:

- Contracts and Grants Trust Fund, FLAIR number 42-2-133, is renamed as the Federal Grants Trust Fund.

Department of the Lottery

The Administrative Trust Fund supports department operations and distributes lottery proceeds to the Educational Enhancement Trust Fund. Pursuant to the definitions provided in 215.32 (2), Florida Statutes, this fund needs to be renamed to the Operating Trust Fund.

The bill renames the following trust funds in the Department of the Lottery:

- Administrative Trust Fund, FLAIR number 36-2-021, is renamed as the Operating Trust Fund.

Department of Management Services

Various revenues are being deposited into trust funds inconsistent with their intended uses within the Department of Management Services. Specified uses of trust funds are as defined by of section 215.32 (2), Florida Statutes. To conform to the definitions provided and to comply with generally accepted accounting principles, the accounts should be redirected from the Grants and Donations Trust Fund to the Operating Trust Fund.

The bill transfers the following accounts in the Department of Management Services:

- Motor Vehicle Grants and Donations account, FLAIR number 72-2-339103 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Purchasing Oversight Grants and Donations account, FLAIR number 72-2-339069 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Private Prison Monitoring Grants and Donations account, FLAIR number 72-2-339111 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Office of Supplier Diversity Grants and Donations account, FLAIR number 72-2-339069 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Commission on Human Relations Grants and Donations account, FLAIR number 72-2-39045 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Wireless (Inter-Operability Federal Grant) Grants and Donations account, FLAIR number 72-2-339070 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Facilities / Tenant Improvement Grants and Donations account, FLAIR number 7200-2-339084 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.
- Human Services / ADA Working Group Grants and Donations account, FLAIR number 7200-2-339130 is transferred to the Operating Trust Fund, FLAIR number 72-2-510, within the Department of Management Services.

Division of Administrative Hearings in the Department of Management Services

The Administrative Trust Fund is named inconsistent with its intended use as defined by section 215.32 (2), Florida Statutes. This fund needs to be renamed to conform to the definitions and for general accounting practices.

The bill renames the following trust funds in the Department of Management Services:

- Administrative Trust Fund, FLAIR number 7297-2-021, within the Division of Administrative Hearings of the Department of Management Services, is renamed as the Operating Trust Fund.

C. SECTION DIRECTORY:

Section 1 Terminates trust funds which are either obsolete or are consolidated with other trust funds in the Department of Agriculture and Consumer Services.

Section 2 Renames trust funds in the Department of Agriculture and Consumer Services, Department of Lottery, and Department of Management Services.

Section 3 Transfers accounts in the Department of Management Services.

Section 4 Revises subsection (2) and (4) of section 215.20, Florida Statutes, to remove the references to the Florida Quarter Horse Racing Promotion Trust Fund and the Florida Reservation 2000 Trust Fund.

Section 5 Revises subsections (7) and (8) of section 550.2625, Florida Statutes, redirecting any future deposits from the Florida Quarter Horse Racing Promotion Trust Fund to the General Inspection Trust Fund. Deletes the inappropriate use of the term "fund" as a way to refer to accounts within this section.

Section 6 Revises subsection (2) of section 550.2633, Florida Statutes, redirecting any future deposits from the Florida Quarter Horse Racing Promotion Trust Fund to the General Inspection Trust Fund. Deletes the inappropriate use of the term "fund" as a way to refer to accounts within this section.

Section 7 Revises subsection (2) and (5) of section 570.382, Florida Statutes, to redirect future deposits to the terminated Florida Quarter Horse Racing Promotion Trust Fund to the General Inspection Trust Fund. Deletes the inappropriate use of the term "fund" as a way to refer to accounts within this section.

Section 8 Revises subsection (1) of section 215.22, Florida Statutes, to remove the reference to the Florida Preservation 2000 Trust Fund.

Section 9 Revises subsection (2) of section 589.277, Florida Statutes, changing a reference to the Federal Grants Trust Fund.

Section 10 Revises subsection (3) of section 24.114, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 11 Revises subsection (1) of section 24.120, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 12 Revises subsections (3) and (4) of section 24.121, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 13 Revises subsection (1) of section 403.518, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 14 Revises subsection (1) of section 403.5365, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 15 Revises subsection (5) of section 403.9421, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 16 Revises subsection (11) of section 552.40, Florida Statutes, effective July 1, 2007, to reflect a name change from the Administrative Trust Fund to the Operating Trust Fund.

Section 17 Revises subsection (4) of section 282.22, Florida Statutes, effective July 1, 2007, to reflect a name change from Grants and Donations Trust Fund to the Operating Trust Fund.

Section 18 Revises subsections (1) and (15) of section 287.042, Florida Statutes, effective July 1, 2007, to reflect a name change from the Grants and Donations Trust Fund to the Operating Trust Fund. It also makes a grammar change.

Section 19 Revises subsection (23) of section 287.057, Florida Statutes, effective July 1, 2007, to reflect a name change from the Grants and Donations Trust Fund to the Operating Trust Fund.

Section 20 Revises section 287.1345, Florida Statutes, effective July 1, 2007, to reflect a name change from Grants and Donations Trust Fund to the Operating Trust Fund.

Section 21 Reenacts section 550.0351, Florida Statutes, to incorporate the amendments made by this bill to section 550.2625, Florida Statutes.

Section 22 Reenacts section 43.16, Florida Statutes, to incorporate the amendments made by this bill to section 287.057, Florida Statutes.

Section 23 Reenacts section 570.07, Florida Statutes, to incorporate the amendments made by this bill to section 287.057, Florida Statutes.

Section 24 States that except as otherwise provided in the bill, the bill shall take effect 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:

None.

D. FISCAL COMMENTS:

The termination, consolidation, or renaming of the specific trust funds in the bill will not affect state operations and should increase management efficiency and accounting compliance. Upon termination

of the Quarter Horse Racing Promotion Trust Fund, the bill transfers an estimated $7,614 to the General Inspection Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to trust funds; terminating certain
3 specified trust funds within the Department of Agriculture
4 and Consumer Services and transferring the funds to other
5 trust funds in the department; renaming trust funds within
6 the Department of Agriculture and Consumer Services, the
7 Department of the Lottery, and the Division of
8 Administrative Hearings of the Department of Management
9 Services; transferring certain accounts within the Grants
10 and Donations Trust Fund of the Department of Management
11 Services to the Operating Trust Fund of the Department of
12 Management Services; amending ss. 215.20, 550.2625,
13 550.2633, 570.382, 215.22, 589.277, 24.114, 24.120,
14 24.121, 403.518, 403.5365, 403.9421, 552.40, 282.22,
15 287.042, 287.057, and 287.1345, F.S.; conforming
16 provisions to changes made by the act; reenacting s.
17 550.0351(4), F.S., relating to charity racing days, to
18 incorporate the amendments made to s. 550.2625, F.S., in a
19 reference thereto; reenacting ss. 43.16(1) and 570.07(41),
20 F.S., relating to exempting the Justice Administrative
21 Commission from certain fees and authorizing the use of
22 the on-line procurement system of the Department of
23 Agriculture and Consumer Services, respectively, to
24 incorporate the amendments made to s. 287.057, F.S., in
25 references thereto; providing effective dates.
26
27 Be It Enacted by the Legislature of the State of Florida:
28
29 Section 1. <u>(1) The following trust funds within the</u>

30 Department of Agriculture and Consumer Services are terminated:
31 (a) The Florida Quarter Horse Racing Promotion Trust Fund,
32 FLAIR number 42-2-564. All current balances remaining in the
33 Florida Quarter Horse Racing Promotion Trust Fund, FLAIR number
34 42-2-564, and all revenues of the fund shall be transferred to
35 the General Inspection Trust Fund within the Department of
36 Agriculture and Consumer Services, FLAIR number 42-2-321.
37 (b) The Florida Preservation 2000 Trust Fund, FLAIR number
38 42-2-332. All current balances remaining in the Florida
39 Preservation 2000 Trust Fund, FLAIR number 42-2-332, and all
40 revenues of the fund shall be transferred to the Florida Forever
41 Program Trust Fund within the Department of Agriculture and
42 Consumer Services, FLAIR number 42-2-349.
43 (2) The Department of Agriculture and Consumer Services
44 shall pay any outstanding debts and obligations of the terminated
45 funds as soon as practicable, and the Chief Financial Officer
46 shall close out and remove the terminated funds from various
47 state accounting systems using generally accepted accounting
48 principles concerning warrants outstanding, assets, and
49 liabilities.
50 Section 2. Effective July 1, 2007, the following trust
51 funds in the following agencies are renamed:
52 (1) The Contracts and Grants Trust Fund, FLAIR number 42-2-
53 133, within the Department of Agriculture and Consumer Services
54 is renamed the Federal Grants Trust Fund.
55 (2) The Administrative Trust Fund, FLAIR number 36-2-021,
56 within the Department of the Lottery is renamed the Operating
57 Trust Fund.
58 (3) The Administrative Trust Fund, FLAIR number 7297-2-021,

59 within the Division of Administrative Hearings of the Department
60 of Management Services is renamed the Operating Trust Fund.
61 Section 3. Effective July 1, 2007, the following accounts
62 with the Grants and Donations Trust Fund, FLAIR number 72-2-339,
63 within the Department of Management Services are transferred to
64 the Operating Trust Fund, FLAIR number 72-2-510, within the
65 Department of Management Services: 72-2-339045; 72-2-339069; 72-
66 2-339070; 72-2-339084; 72-2-339103; 72-2-339105; 72-2-339111; and
67 72-2-339130. The Department of Management Services shall adjust,
68 under s. 215.32(2)(b), Florida Statutes, its internal accounting
69 consistent with the requirements of this section and shall take
70 any other budgetary action necessary to implement this section.
71 Section 4. Paragraph (a) of subsection (2) and paragraph
72 (c) of subsection (4) of section 215.20, Florida Statutes, are
73 amended to read:
74 215.20 Certain income and certain trust funds to contribute
75 to the General Revenue Fund.--
76 (2) Notwithstanding the provisions of subsection (1):
77 (a) The trust funds of the Department of Citrus and the
78 Department of Agriculture and Consumer Services, including funds
79 collected in the General Inspection Trust Fund for marketing
80 orders and in the Florida Citrus Advertising Trust Fund, shall be
81 subject to a 3-percent service charge, which is hereby
82 appropriated to the General Revenue Fund. This paragraph does not
83 apply to the Conservation and Recreation Lands Program Trust
84 Fund, ~~the Florida Quarter Horse Racing Promotion Trust Fund,~~ the
85 Citrus Inspection Trust Fund, the Florida Forever Program Trust
86 Fund, ~~the Florida Preservation 2000 Trust Fund,~~ the Market
87 Improvements Working Capital Trust Fund, the Pest Control Trust

88 Fund, the Plant Industry Trust Fund, or other funds collected in
89 the General Inspection Trust Fund in the Department of
90 Agriculture and Consumer Services.
91 (4) The income of a revenue nature deposited in the
92 following described trust funds, by whatever name designated, is
93 that from which the appropriations authorized by subsection (3)
94 shall be made:
95 (c) Within the Department of Agriculture and Consumer
96 Services:
97 1. The Conservation and Recreation Lands Program Trust
98 Fund.
99 ~~2. The Florida Quarter Horse Racing Promotion Trust Fund.~~
100 2.~~3.~~ The General Inspection Trust Fund and subsidiary
101 accounts thereof, unless a different percentage is authorized by
102 s. 570.20.
103 3.~~4.~~ The Division of Licensing Trust Fund.
104
105 The enumeration of the foregoing moneys or trust funds shall not
106 prohibit the applicability thereto of s. 215.24 should the
107 Governor determine that for the reasons mentioned in s. 215.24
108 the money or trust funds should be exempt herefrom, as it is the
109 purpose of this law to exempt income from its force and effect
110 when, by the operation of this law, federal matching funds or
111 contributions or private grants to any trust fund would be lost
112 to the state.
113 Section 5. Subsections (7) and (8) of section 550.2625,
114 Florida Statutes, are amended to read:
115 550.2625 Horseracing; minimum purse requirement, Florida
116 breeders' and owners' awards.--

117 (7)(a) Each permitholder that conducts race meets under
118 this chapter and runs Appaloosa races shall pay to the division a
119 sum equal to the breaks plus a sum equal to 1 percent of the
120 total contributions to each pari-mutuel pool conducted on each
121 Appaloosa race. The ~~Such~~ payments shall be remitted to the
122 division by the 5th day of each calendar month for sums accruing
123 during the preceding calendar month.
124 (b) The division shall deposit these collections to the
125 credit of the General Inspection ~~Florida Quarter Horse Racing~~
126 ~~Promotion~~ Trust Fund in a special account to be known as the
127 "Florida Appaloosa Racing Promotion Account ~~Fund~~." The Department
128 of Agriculture and Consumer Services shall administer the funds
129 and adopt suitable and reasonable rules for the administration
130 thereof. The moneys in the Florida Appaloosa Racing Promotion
131 Account ~~Fund~~ shall be allocated solely for supplementing and
132 augmenting purses and prizes and for the general promotion of
133 owning and breeding of racing Appaloosas in this state; and the
134 ~~such~~ moneys may not be used to defray any expense of the
135 Department of Agriculture and Consumer Services in the
136 administration of this chapter.
137 (8)(a) Each permitholder that conducts race meets under
138 this chapter and runs Arabian horse races shall pay to the
139 division a sum equal to the breaks plus a sum equal to 1 percent
140 of the total contributions to each pari-mutuel pool conducted on
141 each Arabian horse race. The ~~Such~~ payments shall be remitted to
142 the division by the 5th day of each calendar month for sums
143 accruing during the preceding calendar month.
144 (b) The division shall deposit these collections to the
145 credit of the General Inspection ~~Florida Quarter Horse Racing~~

146 ~~Promotion~~ Trust Fund in a special account to be known as the
147 "Florida Arabian Horse Racing Promotion Account ~~Fund~~." The
148 Department of Agriculture and Consumer Services shall administer
149 the funds and adopt suitable and reasonable rules for the
150 administration thereof. The moneys in the Florida Arabian Horse
151 Racing Promotion Account ~~Fund~~ shall be allocated solely for
152 supplementing and augmenting purses and prizes and for the
153 general promotion of owning and breeding of racing Arabian horses
154 in this state; and the ~~such~~ moneys may not be used to defray any
155 expense of the Department of Agriculture and Consumer Services in
156 the administration of this chapter, except that the moneys
157 generated by Arabian horse registration fees received pursuant to
158 s. 570.382 may be used as provided in paragraph (5)(b) of that
159 section.
160 Section 6. Subsection (2) of section 550.2633, Florida
161 Statutes, is amended to read:
162 550.2633 Horseracing; distribution of abandoned interest in
163 or contributions to pari-mutuel pools.--
164 (2) All moneys or other property which has escheated to and
165 become the property of the state as provided herein and which is
166 held by a permitholder authorized to conduct pari-mutuel pools in
167 this state shall be paid annually by the permitholder to the
168 recipient designated in this subsection within 60 days after the
169 close of the race meeting of the permitholder. Section 550.1645
170 notwithstanding, the ~~such~~ moneys shall be paid by the
171 permitholder as follows:
172 (a) Funds from any harness horse races shall be paid to the
173 Florida Standardbred Breeders and Owners Association and shall be
174 used for the payment of breeders' awards, stallion awards,

175 stallion stakes, additional purses, and prizes for, and for the
176 general promotion of owning and breeding of, Florida-bred
177 standardbred horses, as provided for in s. 550.2625.
178 (b) Except as provided in paragraph (c), funds from quarter
179 horse races shall be paid to the Florida Quarter Horse Breeders
180 and Owners Association and shall be allocated solely for
181 supplementing and augmenting purses and prizes and for the
182 general promotion of owning and breeding of racing quarter horses
183 in this state, as provided for in s. 550.2625.
184 (c) Funds for Arabian horse races conducted under a quarter
185 horse racing permit shall be deposited into the General
186 Inspection ~~Florida Quarter Horse Racing Promotion~~ Trust Fund in a
187 special account to be known as the "Florida Arabian Horse Racing
188 Promotion Account ~~Fund~~" and shall be used for the payment of
189 breeders' awards and stallion awards as provided for in s.
190 570.382.
191 Section 7. Section 570.382, Florida Statutes, is amended to
192 read:
193 570.382 Arabian horse racing; breeders' and stallion
194 awards; Arabian Horse Council; horse registration fees; Florida
195 Arabian Horse Racing Promotion Account ~~Fund~~.--
196 (1) LEGISLATIVE FINDINGS.--It is the finding of the
197 Legislature that:
198 (a) Breed improvement is an important factor in encouraging
199 Arabian horse racing in this state.
200 (b) Acquisition and maintenance of Arabian horse breeding
201 farms in this state will greatly enhance the tax revenues derived
202 by the state and counties.
203 (c) Many jobs will be created through the encouragement of

204 the Arabian horse breeding industry in this state, thereby
205 supplying much needed taxes and revenues to the state and
206 counties.
207 (d) By encouraging Arabian horse breeding farms, better
208 horses will be available for racing, thereby increasing the pari-
209 mutuel handle which will increase taxes for the state and
210 counties.
211 (2) POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE AND
212 CONSUMER SERVICES.--The Department of Agriculture and Consumer
213 Services shall administer this section and have the following
214 powers and duties:
215 (a) To establish a registry for Florida-bred Arabian horses
216 on a voluntary basis.
217 (b) To make Arabian horse breeders' and stallion awards
218 available to qualified individuals from funds derived from the
219 Florida Arabian Horse Racing Promotion Account ~~Fund~~ under the
220 authority of ss. 550.2625(8) and 550.2633 and under rules
221 adopted.
222 (c) To establish a stallion award program. In order for the
223 owner of the sire of a Florida-bred Arabian horse to be eligible
224 for a stallion award, the following requirements must be met:
225 1. The stallion shall stand permanently in the state.
226 2. If the stallion is dead, it shall have stood permanently
227 in the state for the year immediately prior to its death.
228 3. The removal of a stallion from this state for the
229 purpose of breeding shall bar the owner of the stallion from
230 receiving a stallion award for offspring sired in the state in
231 the breeding season commencing January 1st of the year of the
232 stallion's removal.

233 4. If a removed stallion is returned to the state, all
234 offspring sired in the state subsequent to the stallion's return
235 shall make the owner eligible for the stallion award.
236 (d) To maintain complete records documenting:
237 1. The date a stallion arrived in the state for the first
238 time.
239 2. Whether the stallion remained in the state permanently.
240 3. The location of the stallion.
241 4. Whether the stallion is still standing in the state.
242 5. Awards earned, received, and distributed.
243 (3) ARABIAN HORSE COUNCIL.--
244 (a) There is created an Arabian Horse Council consisting of
245 seven members as follows:
246 1. A representative of the Department of Agriculture and
247 Consumer Services designated by the commissioner.
248 2. Six members appointed by the Department of Agriculture
249 and Consumer Services, the majority of whom must be Florida
250 breeders of racing Arabian horses.
251 (b) Each member shall serve for a term of 4 years from date
252 of appointment.
253 (c) At the first organizational meeting of the council,
254 there shall be elected a chair from the membership, and each 2
255 years thereafter the council shall elect a chair from its then-
256 constituted membership. The member representing the Department of
257 Agriculture and Consumer Services shall be secretary of the
258 council.
259 (d) Members of the council shall receive no compensation
260 for their services, except that they shall receive per diem and
261 travel expenses as provided in s. 112.061 when actually engaged

262 in the business of the council.
263 (e) The council shall have the following powers and duties:
264 1. To recommend rules.
265 2. To receive and report to the Department of Agriculture
266 and Consumer Services complaints or violations of this section.
267 3. To assist the Department of Agriculture and Consumer
268 Services in the collection of information that the Department of
269 Agriculture and Consumer Services deems necessary to the proper
270 administration of this section.
271 (4) FRAUDULENT ACTS AND MISREPRESENTATIONS.--Any person who
272 registers unqualified horses or misrepresents information in any
273 way shall be denied any future participation in breeders' and
274 stallion awards, and all horses misrepresented will no longer be
275 deemed to be Florida-bred.
276 (5) REGISTRATION FEES TRUST FUND.--
277 (a) To provide funds to defray the necessary expenses
278 incurred by the Department of Agriculture and Consumer Services
279 in the administration of this section:
280 1. Owners who participate in this program for Florida-bred
281 Arabian foals under 1 year of age shall pay to the Department of
282 Agriculture and Consumer Services a registration fee in the
283 amount of $25 per horse.
284 2. Owners who participate in this program for Florida-bred
285 Arabian yearlings from 1 to 2 years of age shall pay to the
286 Department of Agriculture and Consumer Services a registration
287 fee in the amount of $50 per horse.
288 3. Owners who participate in this program for Florida-bred
289 Arabian horses 2 years of age or over shall pay to the Department
290 of Agriculture and Consumer Services a registration fee in the

291 amount of $250 per horse.
292 4. The Department of Agriculture and Consumer Services
293 shall charge the stallion owner a reasonable fee set by rule, not
294 to exceed $100 annually, to cover all costs incurred for the
295 stallion award program.
296 (b) The fees collected under this subsection shall be
297 deposited in the General Inspection ~~Florida Quarter Horse Racing~~
298 ~~Promotion~~ Trust Fund in a special account to be known as the
299 "Florida Arabian Horse Racing Promotion Account ~~Fund~~," and the
300 necessary expenses incurred by the Department of Agriculture and
301 Consumer Services in the administration of this section shall be
302 paid out of the account ~~fund~~ only up to the amount of deposited
303 registration fees.
304 Section 8. Paragraph (m) of subsection (1) of section
305 215.22, Florida Statutes, is amended to read:
306 215.22 Certain income and certain trust funds exempt.--
307 (1) The following income of a revenue nature or the
308 following trust funds shall be exempt from the appropriation
309 required by s. 215.20(1):
310 (m) The following trust funds administered by the
311 Department of Agriculture and Consumer Services:
312 1. The Citrus Inspection Trust Fund.
313 2. The Florida Forever Program Trust Fund.
314 ~~3. The Florida Preservation 2000 Trust Fund.~~
315 3.~~4.~~ The Market Improvements Working Capital Trust Fund.
316 4.~~5.~~ The Pest Control Trust Fund.
317 5.~~6.~~ The Plant Industry Trust Fund.
318 Section 9. Subsection (2) of section 589.277, Florida
319 Statutes, is amended to read:

320 589.277 Tree planting programs.--
321 (2) Contributions from governmental and private sources for
322 tree planting programs may be accepted into the Federal ~~Contracts~~
323 ~~and~~ Grants Trust Fund.
324 Section 10. Effective July 1, 2007, subsection (3) of
325 section 24.114, Florida Statutes, is amended to read:
326 24.114 Bank deposits and control of lottery transactions.--
327 (3) Each retailer is liable to the department for any and
328 all tickets accepted or generated by any employee or
329 representative of that retailer, and the ~~such~~ tickets shall be
330 deemed to have been purchased by the retailer unless returned to
331 the department within the time and in the manner prescribed by
332 the department. All moneys received by ~~such~~ retailers from the
333 sale of lottery tickets, less the amount retained as compensation
334 for the sale of tickets and the amount paid out as prizes by the
335 retailer, shall be held in trust prior to delivery to the
336 department or electronic transfer to the Operating ~~Administrative~~
337 Trust Fund.
338 Section 11. Effective July 1, 2007, section 24.120, Florida
339 Statutes, is amended to read:
340 24.120 Financial matters; Operating ~~Administrative~~ Trust
341 Fund; interagency cooperation.--
342 (1) There is hereby created in the State Treasury an
343 Operating ~~Administrative~~ Trust Fund to be administered in
344 accordance with chapters 215 and 216 by the department. All money
345 received by the department which remains after payment of prizes
346 and initial compensation paid to retailers shall be deposited
347 into the Operating ~~Administrative~~ Trust Fund. All moneys in the
348 trust fund are appropriated to the department for the purposes

349 specified in this act.
350 (2) Moneys available for the payment of prizes on a
351 deferred basis shall be invested by the State Board of
352 Administration in accordance with a trust agreement approved by
353 the secretary and entered into between the department and the
354 State Board of Administration in accordance with ss. 215.44-
355 215.53. The investments authorized by this subsection shall be
356 done in a manner designed to preserve capital and to ensure the
357 integrity of the lottery disbursement system by eliminating the
358 risk of payment of funds when due and to produce equal annual
359 sums of money over the required term of the investments.
360 (3) Any action required by law to be taken by the Chief
361 Financial Officer shall be taken within 2 business days after the
362 department's request therefor. If the request for ~~such~~ action is
363 not approved or rejected within that time ~~such~~ period, the
364 request shall be deemed to be approved. The department shall
365 reimburse the Chief Financial Officer for any additional costs
366 involved in providing the level of service required by this
367 subsection.
368 (4) The department shall cooperate with the Chief Financial
369 Officer, the Auditor General, and the Office of Program Policy
370 Analysis and Government Accountability by giving employees
371 designated by any of them access to facilities of the department
372 for the purpose of efficient compliance with their respective
373 responsibilities.
374 (5) With respect to any reimbursement that the department
375 is required to pay to any state agency, the department may enter
376 into an agreement with a ~~such~~ state agency under which the
377 department shall pay to the ~~such~~ state agency an amount

378 reasonably anticipated to cover the ~~such~~ reimbursable expenses in
379 advance of the ~~such~~ expenses being incurred.
380 (6) The Department of Management Services may authorize a
381 sales incentive program for employees of the department for the
382 purpose of increasing the sales volume and distribution of
383 lottery tickets. Payments pursuant to the ~~such~~ program shall not
384 be construed to be lump-sum salary bonuses.
385 Section 12. Effective July 1, 2007, subsections (3) and (4)
386 of section 24.121, Florida Statutes, are amended to read:
387 24.121 Allocation of revenues and expenditure of funds for
388 public education.--
389 (3) The funds remaining in the Operating ~~Administrative~~
390 Trust Fund after transfers to the Educational Enhancement Trust
391 Fund shall be used for the payment of administrative expenses of
392 the department. These expenses shall include all costs incurred
393 in the operation and administration of the lottery and all costs
394 resulting from any contracts entered into for the purchase or
395 lease of goods or services required by the lottery, including,
396 but not limited to:
397 (a) The compensation paid to retailers;
398 (b) The costs of supplies, materials, tickets, independent
399 audit services, independent studies, data transmission,
400 advertising, promotion, incentives, public relations,
401 communications, security, bonding for retailers, printing,
402 distribution of tickets, and reimbursing other governmental
403 entities for services provided to the lottery; and
404 (c) The costs of any other goods and services necessary for
405 effectuating the purposes of this act.
406 (4) The unencumbered balance that ~~which~~ remains in the

407 Operating ~~Administrative~~ Trust Fund at the end of each fiscal
408 year shall be transferred to the Educational Enhancement Trust
409 Fund.
410 Section 13. Effective July 1, 2007, paragraphs (b), (c),
411 and (d) of subsection (1) of section 403.518, Florida Statutes,
412 are amended to read:
413 403.518 Fees; disposition.--
414 (1) The department shall charge the applicant the following
415 fees, as appropriate, which shall be paid into the Florida Permit
416 Fee Trust Fund:
417 (b) An application fee, which shall not exceed $200,000.
418 The fee shall be fixed by rule on a sliding scale related to the
419 size, type, ultimate site capacity, increase in generating
420 capacity proposed by the application, or the number and size of
421 local governments in whose jurisdiction the electrical power
422 plant is located.
423 1. Sixty percent of the fee shall go to the department to
424 cover any costs associated with reviewing and acting upon the
425 application, to cover any field services associated with
426 monitoring construction and operation of the facility, and to
427 cover the costs of the public notices published by the
428 department.
429 2. Twenty percent of the fee or $25,000, whichever is
430 greater, shall be transferred to the Operating ~~Administrative~~
431 Trust Fund of the Division of Administrative Hearings of the
432 Department of Management Services.
433 3. Upon written request with proper itemized accounting
434 within 90 days after final agency action by the board or
435 withdrawal of the application, the department shall reimburse the

436 Department of Community Affairs, the Fish and Wildlife
437 Conservation Commission, and any water management district
438 created pursuant to chapter 373, regional planning council, and
439 local government in the jurisdiction of which the proposed
440 electrical power plant is to be located, and any other agency
441 from which the department requests special studies pursuant to s.
442 403.507(2)(a)7. The ~~Such~~ reimbursement shall be authorized for
443 the preparation of any studies required of the agencies by this
444 act, and for agency travel and per diem to attend any hearing
445 held pursuant to this act, and for local governments to
446 participate in the proceedings. In the event the amount available
447 for allocation is insufficient to provide for complete
448 reimbursement to the agencies, reimbursement shall be on a
449 prorated basis.
450 4. If any sums are remaining, the department shall retain
451 them for its use in the same manner as is otherwise authorized by
452 this act; provided, however, that if the certification
453 application is withdrawn, the remaining sums shall be refunded to
454 the applicant within 90 days after withdrawal.
455 (c) A certification modification fee, which shall not
456 exceed $30,000. The fee shall be submitted to the department with
457 a formal petition for modification to the department pursuant to
458 s. 403.516. This fee shall be established, disbursed, and
459 processed in the same manner as the application fee in paragraph
460 (b), except that the Division of Administrative Hearings shall
461 not receive a portion of the fee unless the petition for
462 certification modification is referred to the Division of
463 Administrative Hearings for hearing. If the petition is so
464 referred, only $10,000 of the fee shall be transferred to the

465 Operating ~~Administrative~~ Trust Fund of the Division of
466 Administrative Hearings of the Department of Management Services.
467 The fee for a modification by agreement filed pursuant to s.
468 403.516(1)(b) shall be $10,000 to be paid upon the filing of the
469 request for modification. Any sums remaining after payment of
470 authorized costs shall be refunded to the applicant within 90
471 days of issuance or denial of the modification or withdrawal of
472 the request for modification.
473 (d) A supplemental application fee, not to exceed $75,000,
474 to cover all reasonable expenses and costs of the review,
475 processing, and proceedings of a supplemental application. This
476 fee shall be established, disbursed, and processed in the same
477 manner as the certification application fee in paragraph (b),
478 except that only $20,000 of the fee shall be transferred to the
479 Operating ~~Administrative~~ Trust Fund of the Division of
480 Administrative Hearings of the Department of Management Services.
481 Section 14. Effective July 1, 2007, paragraph (b) of
482 subsection (1) of section 403.5365, Florida Statutes, is amended
483 to read:
484 403.5365 Fees; disposition.--The department shall charge
485 the applicant the following fees, as appropriate, which shall be
486 paid into the Florida Permit Fee Trust Fund:
487 (1) An application fee of $100,000, plus $750 per mile for
488 each mile of corridor in which the transmission line right-of-way
489 is proposed to be located within an existing electrical
490 transmission line right-of-way or within any existing right-of-
491 way for any road, highway, railroad, or other aboveground linear
492 facility, or $1,000 per mile for each mile of transmission line
493 corridor proposed to be located outside the ~~such~~ existing right-

494 of-way.
495 (b) Twenty percent of the fees specified under this
496 section, except postcertification fees, shall be transferred to
497 the Operating ~~Administrative~~ Trust Fund of the Division of
498 Administrative Hearings of the Department of Management Services.
499 Section 15. Effective July 1, 2007, paragraph (b) of
500 subsection (5) of section 403.9421, Florida Statutes, is amended
501 to read:
502 403.9421 Fees; disposition.--The department shall charge
503 the applicant the following fees, as appropriate, which shall be
504 paid into the Florida Permit Fee Trust Fund:
505 (5) In administering fee revenues received under this
506 section, the department shall allocate the funds as follows:
507 (b) Sixteen percent of the fees specified under this
508 section, except for postcertification fees, shall be transferred
509 to the Operating ~~Administrative~~ Trust Fund of the Division of
510 Administrative Hearings to cover its costs associated with
511 reviewing and hearing applications, amendments, modifications,
512 and disputes related to ss. 403.9401-403.9425.
513 Section 16. Effective July 1, 2007, subsection (11) of
514 section 552.40, Florida Statutes, is amended to read:
515 552.40 Administrative remedy for alleged damage due to the
516 use of explosives in connection with construction materials
517 mining activities.--
518 (11) The filing fees paid pursuant to subsection (1) shall
519 be deposited into the Operating ~~Administrative~~ Trust Fund of the
520 Division of Administrative Hearings to defray the expenses and
521 costs associated with the administration of ss. 552.32-552.44.
522 Section 17. Effective July 1, 2007, subsection (4) of

523 section 282.22, Florida Statutes, is amended to read:
524 282.22 State Technology Office; production, dissemination,
525 and ownership of materials and products.--
526 (4) All proceeds from the sale of such materials and
527 products or other money collected pursuant to this section shall
528 be deposited into the Operating ~~Grants and Donations~~ Trust Fund
529 of the office and, when properly budgeted as approved by the
530 Legislature and the Executive Office of the Governor, used to pay
531 the cost of producing and disseminating materials and products to
532 carry out the intent of this section.
533 Section 18. Effective July 1, 2007, paragraph (h) of
534 subsection (1) and paragraphs (b) and (c) of subsection (15) of
535 section 287.042, Florida Statutes, are amended to read:
536 287.042 Powers, duties, and functions.--The department
537 shall have the following powers, duties, and functions:
538 (1)
539 (h) The department may collect fees for the use of its
540 electronic information services. The fees may be imposed on an
541 individual transaction basis or as a fixed subscription for a
542 designated period of time. At a minimum, the fees shall be
543 determined in an amount sufficient to cover the department's
544 projected costs of the ~~such~~ services, including overhead in
545 accordance with the policies of the Department of Management
546 Services for computing its administrative assessment. All fees
547 collected under ~~pursuant to~~ this paragraph shall be deposited in
548 the Operating ~~Grants and Donations~~ Trust Fund for disbursement as
549 provided by law.
550 (15)
551 (b) Each agency that has been appropriated or has existing

552 funds for the ~~such~~ purchases, shall, upon contract award by the
553 department, transfer their portion of the funds into the
554 department's Operating ~~Grants and Donations~~ Trust Fund for
555 payment by the department. These funds shall be transferred by
556 the Executive Office of the Governor pursuant to the agency
557 budget amendment request provisions in chapter 216.
558 (c) Agencies that sign the ~~such~~ joint agreements are
559 financially obligated for their portion of the agreed-upon funds.
560 If any agency becomes more than 90 days delinquent in paying the
561 ~~such~~ funds, the department shall certify to the Chief Financial
562 Officer the amount due, and the Chief Financial Officer shall
563 transfer the amount due to the Operating ~~Grants and Donations~~
564 Trust Fund of the department from any of the agency's available
565 funds. The Chief Financial Officer shall report all of these ~~such~~
566 transfers and the reasons for the ~~such~~ transfers to the Executive
567 Office of the Governor and the legislative appropriations
568 committees.
569 Section 19. Effective July 1, 2007, paragraph (c) of
570 subsection (23) of section 287.057, Florida Statutes, is amended
571 to read:
572 287.057 Procurement of commodities or contractual
573 services.--
574 (23)
575 (c)1. The department may impose and shall collect all fees
576 for the use of the on-line procurement systems. The ~~Such~~ fees may
577 be imposed on an individual transaction basis or as a fixed
578 percentage of the cost savings generated. At a minimum, the fees
579 must be set in an amount sufficient to cover the projected costs
580 of the ~~such~~ services, including administrative and project

581 service costs in accordance with the policies of the department.
582 All fees and surcharges collected under this paragraph shall be
583 deposited in the Operating ~~Grants and Donations~~ Trust Fund as
584 provided by law.
585 2. If the department contracts with a provider for on-line
586 procurement, the department, pursuant to appropriation, shall
587 compensate the provider from the ~~such~~ fees after the department
588 has satisfied all ongoing costs. The provider shall report
589 transaction data to the department each month so that the
590 department may determine the amount due and payable to the
591 department from each vendor.
592 3. All fees that are due and payable to the state on a
593 transactional basis or as a fixed percentage of the cost savings
594 generated are subject to s. 215.31 and must be remitted within 40
595 days after receipt of payment for which the ~~such~~ fees are due.
596 For any fees that are not remitted within 40 days, the vendor
597 shall pay interest at the rate established under s. 55.03(1) on
598 the unpaid balance from the expiration of the 40-day period until
599 the fees are remitted.
600 Section 20. Effective July 1, 2007, section 287.1345,
601 Florida Statutes, is amended to read:
602 287.1345 Surcharge on users of state term contracts;
603 deposit of proceeds collected.--The department may impose a
604 surcharge upon users of state term contracts in order to fund the
605 costs, including overhead, of its procurement function. The
606 department may provide for the state term contract vendor to
607 collect the surcharge or directly collect the fee from the public
608 agency or eligible user involved. For the purpose of compensating
609 vendors for expenses incurred in collecting the ~~such~~ fees, the

610 department may authorize a vendor to retain a portion of the
611 fees. The vendor may withhold the portion retained from the
612 amount of fees to be remitted to the department. The department
613 may negotiate the retainage as a percentage of the ~~such~~ fees
614 charged to users, as a flat amount, or as any other method the
615 department deems feasible. Vendors shall maintain accurate sales
616 summaries for purchases made from state term contracts and shall
617 provide the summaries to the department on a quarterly basis. Any
618 contract remedies relating to the collection of the ~~such~~ fees
619 from users through vendors are enforceable, including, but not
620 limited to, liquidated damages, late fees, and the costs of
621 collection, including attorney's fees. The fees collected
622 pursuant to this section shall be deposited into the Operating
623 ~~Grants and Donations~~ Trust Fund of the department and are subject
624 to appropriation as provided by law. The Executive Office of the
625 Governor may exempt transactions from the payment of the
626 surcharge if payment of the ~~such~~ surcharge would cause the state,
627 a political subdivision, or unit of local government to lose
628 federal funds or in other cases where the ~~such~~ exemption is in
629 the public interest. The fees collected pursuant to this section
630 and interest income on the ~~such~~ fees shall not be deemed to be
631 income of a revenue nature for purposes of chapter 215.
632 Section 21. For the purpose of incorporating the amendments
633 made by this act to section 550.2625, Florida Statutes, in a
634 reference thereto, subsection (4) of section 550.0351, Florida
635 Statutes, is reenacted to read:
636 550.0351 Charity racing days.--
637 (4) The total of all profits derived from the conduct of a
638 charity day performance must include all revenues derived from

639 the conduct of that racing performance, including all state taxes
640 that would otherwise be due to the state, except that the daily
641 license fee as provided in s. 550.0951(1) and the breaks for the
642 promotional trust funds as provided in s. 550.2625(3), (4), (5),
643 (7), and (8) shall be paid to the division. All other revenues
644 from the charity racing performance, including the commissions,
645 breaks, and admissions and the revenues from parking, programs,
646 and concessions, shall be included in the total of all profits.
647 Section 22. Effective July 1, 2007, for the purpose of
648 incorporating the amendments made by this act to section 287.057,
649 Florida Statutes, in a reference thereto, subsection (1) of
650 section 43.16, Florida Statutes, is reenacted to read:
651 43.16 Justice Administrative Commission; membership, powers
652 and duties.--
653 (1) There is hereby created a Justice Administrative
654 Commission, with headquarters located in the state capital. The
655 necessary office space for use of the commission shall be
656 furnished by the proper state agency in charge of state
657 buildings. For purposes of the fees imposed on agencies pursuant
658 to s. 287.057(23), the Justice Administrative Commission shall be
659 exempt from such fees.
660 Section 23. Effective July 1, 2007, for the purpose of
661 incorporating the amendments made by this act to section 287.057,
662 Florida Statutes, in a reference thereto, subsection (41) of
663 section 570.07, Florida Statutes, is reenacted to read:
664 570.07 Department of Agriculture and Consumer Services;
665 functions, powers, and duties.--The department shall have and
666 exercise the following functions, powers, and duties:
667 (41) Notwithstanding the provisions of s. 287.057(23)(a)

668 that require all agencies to use the on-line procurement system
669 developed by the Department of Management Services, the
670 department may continue to use its own on-line system. However,
671 vendors utilizing such system shall be prequalified as meeting
672 mandatory requirements and qualifications and shall remit fees
673 pursuant to s. 287.057(23), and any rules implementing s.
674 287.057.
675 Section 24. Except as otherwise expressly provided in this
676 act, this act shall take effect July 1, 2006.