

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

STATE BOARD OF ADMINISTRATION

DEPARTMENT OF REVENUE

FLORIDA LAND & WATER ADJUDICATORY COMMISSION

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
May 3, 2011, commencing at 9:00 a.m.

Reported by:
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Registered Professional Reporter
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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

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P R O C E E D I N G S

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(Agenda items commenced at 9:30 a.m.)

GOVERNOR SCOTT: Now we're going to go to the State Board of Administration. The first agenda is presented by Ash Williams. Good morning, Ash.

MR. WILLIAMS: Good morning, Governor, Trustees. To start out this morning, I just wanted to share with you, as of Friday's close, month end April, the Florida Retirement System Trust Fund stood at \$131.2 billion. That's up 23.8 percent net fiscal year to date.

GOVERNOR SCOTT: That's great.

MR. WILLIAMS: Thank you. Item 1, request approval of the minutes of our April 5 meeting.

GOVERNOR SCOTT: Is there a motion to approve Item 1?

ATTORNEY GENERAL BONDI: Move to approve minutes.

GOVERNOR SCOTT: Is there a second?

CFO ATWATER: Second. Still thinking about the returns.

COMMISSIONER PUTNAM: We're pooling our money.

GOVERNOR SCOTT: Moved and seconded. Show Item 1 approved without objection.

1 MR. WILLIAMS: Thank you. Item 2, request
2 approval of a fiscal determination of an amount not
3 exceeding \$7,990,000 Florida Housing Finance
4 Corporation Multifamily Mortgage Revenue Bonds.

5 GOVERNOR SCOTT: Is there a motion to approve
6 Item 2?

7 ATTORNEY GENERAL BONDI: Move to approve.

8 GOVERNOR SCOTT: Is there a second?

9 CFO ATWATER: Second.

10 GOVERNOR SCOTT: Moved and seconded. Show Item
11 2 approved without objection.

12 MR. WILLIAMS: Thank you. Item 3, request
13 approval of a draft letter to the Joint Legislative
14 Auditing Committee, affirming that the SBA Trustees
15 have reviewed and approved the monthly Florida PRIME
16 and Fund B management summary reports and actions
17 taken, if any, to address material impacts. There
18 were no such impacts for Florida PRIME or Pool B for
19 the quarter.

20 GOVERNOR SCOTT: Is there a motion to approve
21 Item 3?

22 ATTORNEY GENERAL BONDI: Move to approve.

23 GOVERNOR SCOTT: Is there a second?

24 CFO ATWATER: Second.

25 GOVERNOR SCOTT: Moved and seconded. Show Item

1 3 approved without objection.

2 MR. WILLIAMS: Thank you. Item 4, request
3 approval of the 2011-12 premium formula for the
4 Florida Hurricane Catastrophe Fund and the proposed
5 2011-12 rates. I would say, by way of background on
6 this item, the process followed is identical to that
7 followed since 1995. It's worked quite well.

8 The process includes extensive input from the
9 Florida Hurricane Catastrophe Fund Advisory Council
10 and is based on an actuarially sound rating process
11 that is bottom-up in its derivation, using models
12 approved by the Commission on Hurricane Loss
13 Projection Methodology, long name. But at any rate,
14 it's a sound recommendation, and I would recommend
15 its adoption.

16 GOVERNOR SCOTT: Is there a motion to approve
17 Item 4?

18 CFO ATWATER: So moved.

19 GOVERNOR SCOTT: Is there a second?

20 ATTORNEY GENERAL BONDI: Second.

21 GOVERNOR SCOTT: Moved and seconded. Show Item
22 4 approved without objection.

23 MR. WILLIAMS: Thank you. Item 5, request
24 approval of and authority to file a notice of
25 proposed rule for the reimbursement premium formula.

1 GOVERNOR SCOTT: Is there a motion to approve
2 Item 5?

3 CFO ATWATER: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 ATTORNEY GENERAL BONDI: Second.

6 GOVERNOR SCOTT: Moved and seconded. Show Item
7 5 approved without objection.

8 MR. WILLIAMS: Thank you. Item 6, we request
9 approval to repeal a number of obsolete rules. This
10 is technical and cleanup in nature.

11 GOVERNOR SCOTT: Is there a motion to approve
12 Item 6?

13 ATTORNEY GENERAL BONDI: Move to approve.

14 GOVERNOR SCOTT: Is there --

15 CFO ATWATER: Second.

16 GOVERNOR SCOTT: -- a second? Moved and
17 seconded. Show Item 6 approved without objection.

18 MR. WILLIAMS: Thank you.

19 GOVERNOR SCOTT: Thank you, Ash. Have a good
20 day.

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1 GOVERNOR SCOTT: All right. The next agenda is
2 the Department of Revenue, presented by Lisa
3 Vickers.

4 MS. VICKERS: Governor, members of the Cabinet,
5 good morning.

6 GOVERNOR SCOTT: Good morning.

7 MS. VICKERS: The Department of Revenue has
8 four items for your consideration this morning.
9 Item 1 is a request for permission to publish notice
10 of proposed rule-making for general tax rules
11 related to refunds of tax paid on fuel used for
12 off-road use, specifically for pumping off cargo,
13 the treatment of trade-ins for transactions subject
14 to sales tax and the removal of obsolete language
15 related to adjustments of federal income tax for
16 corporate income tax purposes.

17 These rule amendments are being proposed to
18 reflect recent court decisions and law changes, and
19 we recommend approval.

20 GOVERNOR SCOTT: Is there a motion on Item 1?

21 ATTORNEY GENERAL BONDI: Move to approve.

22 GOVERNOR SCOTT: Second? Is there a second?

23 COMMISSIONER PUTNAM: Second.

24 GOVERNOR SCOTT: Moved and seconded. Show Item
25 1 approved without objection.

1 MS. VICKERS: Thank you. Item 2 is a request
2 for approval to begin rule-making to amend Rule
3 12D-9.019, related to the ability of a petitioner to
4 request to be heard immediately in a value
5 adjustment board hearing and to have his or her
6 petition rescheduled if a scheduled hearing is not
7 being held within a reasonable time.

8 Section 194.032(2) provides the maximum amount
9 of time a petitioner may be required to wait before
10 the petitioner may request to be heard immediately.
11 This provision was related to an earlier requirement
12 that taxpayers exhaust their administrative remedies
13 prior to filing in circuit court.

14 In 1974 that requirement was invalidated by a
15 court case. But the Joint Administrative Committee
16 comprised of six Senators and six members of the
17 House of Representatives unanimously voted in favor
18 of an objection to department's rule.

19 Based on a recommendation of the committee
20 staff, they agreed that despite the decision
21 overturning the requirement to exhaust
22 administrative remedies, the language limiting a
23 taxpayer's wait time to no more than four hours
24 could be read independent of that requirement to
25 provide an outside limit of what is reasonable under

1 certain circumstances to require a taxpayer to wait.

2 As a side note, the Department has recommended
3 for two legislative sessions changes to the statutes
4 to remove those provisions from law. And in the
5 current session the sponsor of that legislation
6 again rejected removing the four-hour requirement
7 from the law.

8 If the agency chooses to address the
9 committee's objection, it has only 45 days to
10 initiate the rule amendments, which is why we
11 brought this issue forward to you today. In the
12 alternative, the agency can reject the objection, in
13 which case the committee will file a notice of
14 objection with the Department of State, may submit a
15 recommendation to the Legislature to address the
16 issue and may request the Department temporarily
17 suspend the rule.

18 Because the proposed amendment provides some
19 additional protection to taxpayers, meaning that our
20 rule that requires that they wait no more than a
21 reasonable time be limited in any case to no more
22 than four hours, we recommend going forward with
23 this rule revision as recommended by that
24 legislative committee.

25 I think you have received some correspondence

1 from a constituent who disagrees with the Department
2 making these changes to the rule. I don't believe
3 they have appeared today. There was some question
4 as to whether they would want to testify.

5 I think the concern is that the four-hour
6 requirement was tied in the past to a requirement
7 that a petitioner exhaust their administrative
8 remedies, which is no longer a requirement. But I
9 think that the Joint Administrative Procedures
10 Committee is looking at it as at least some
11 additional protection so that a clerk could never
12 say that it's reasonable to make somebody wait six
13 hours or seven hours for their hearing. At least
14 you have that outside limit of four hours.

15 It doesn't change the fact that it has to be a
16 reasonable amount of time. So in some cases, if
17 someone is there, they have to get back to work and
18 they can't wait any longer and it's only been an
19 hour, it would be reasonable to find good cause to
20 reschedule their hearing under those circumstances.

21 GOVERNOR SCOTT: Thank you very much. Is there
22 a motion on Item 2?

23 CFO ATWATER: So moved.

24 GOVERNOR SCOTT: Is there a second?

25 ATTORNEY GENERAL BONDI: Second.

1 GOVERNOR SCOTT: Moved and seconded. Show Item
2 2 approved without objection.

3 MS. VICKERS: Thank you. Item 3, we request
4 authority to adopt and approve to file and certify
5 proposed rules in the following areas: Implementing
6 law changes, expanding the tax credits available to
7 taxpayers who make contributions to nonprofit
8 scholarship funding organizations and an update of
9 those rules, implementing instructions and guidance
10 for taxpayers seeking refunds under the
11 Manufacturing and Spaceport Investment Incentive
12 Program, and reinstatement of language related to
13 exempt status of germicides used to treat sewage
14 that was inadvertently omitted from provisions of
15 the rules when we amended those provisions earlier.
16 We recommend adoption.

17 GOVERNOR SCOTT: Is there a motion on Item 3?

18 ATTORNEY GENERAL BONDI: Move to approve.

19 GOVERNOR SCOTT: Is there a second?

20 COMMISSIONER PUTNAM: Second.

21 GOVERNOR SCOTT: Moved and seconded. Show Item
22 3 approved without objection.

23 MS. VICKERS: Our final rule, we request
24 authority to adopt and file with the Secretary of
25 State amendments to rules related to the remittance

1 requirement for local governments related to red
2 light camera penalties and the electronic remittance
3 of fees and charges collected by the clerks of
4 court.

5 As you know, there's legislation pending for
6 the repeal of the red light camera penalties. It
7 takes about 180 days to begin a rule-making process.
8 We started this rule-making process in order to
9 provide guidance on how the state portion of those
10 fees are remitted to the State and distributed into
11 the various trust funds.

12 We recommend we go forward with approval. This
13 rule does some other things in terms of guidance on
14 how clerks' fees are remitted through the Department
15 of Revenue. If that legislation becomes law, of
16 course, we'll come back and amend this rule.

17 GOVERNOR SCOTT: Great. Thank you. Is there a
18 motion on Item 4?

19 COMMISSIONER PUTNAM: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 ATTORNEY GENERAL BONDI: Second.

22 GOVERNOR SCOTT: Moved and seconded. Show Item
23 4 approved without objection.

24 MS. VICKERS: Thank you.

25 GOVERNOR SCOTT: Thanks a lot. Have a good

1 day.

2 MS. VICKERS: You too.

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1 GOVERNOR SCOTT: The next agenda is the Florida
2 Land and Water Adjudicatory Commission, presented by
3 Phillip Miller. Good morning.

4 MR. MILLER: Good morning, Governor, members of
5 the Commission. We have three items on our agenda
6 today. Item 1 is the minutes of the November 9,
7 2010 meeting.

8 GOVERNOR SCOTT: Is there a motion on Item 1?

9 ATTORNEY GENERAL BONDI: Move to approve.

10 GOVERNOR SCOTT: Is there a second?

11 CFO ATWATER: Second.

12 GOVERNOR SCOTT: Moved and seconded. Show Item
13 1 approved without objection.

14 MR. MILLER: Thank you. Item 2 relates to a
15 petition to merge the Main Street Community
16 Development District and the Rivers Edge Community
17 Development District. The two districts petitioning
18 for merger are located in St. Johns County. After
19 merger, the surviving district, Rivers Edge, will
20 consist of approximately 4,176 acres.

21 The petition contains the required merger
22 agreement, which provides that, one, the existing
23 bond indebtedness will continue to be secured by
24 existing debt assessment liens; two, bond counsel is
25 of the opinion that the merger will not in and of

1 itself have an adverse effect on the terms and
2 conditions of the outstanding bonds; three, the
3 board of supervisors will continue to serve the same
4 terms, positions and election time table; and, four,
5 the merger will not adversely affect the rights of
6 creditors or contractual relationships.

7 The proposed merger is expected to eliminate
8 redundant overhead costs and other expenses, promote
9 greater efficiency and reduce commercial and
10 residential assessments in the district.

11 The merger petition was forwarded to the
12 Division of Administrative Hearings for an
13 administrative hearing and report. The
14 administrative law judge conducted a hearing and
15 issued a report indicating the hearing record
16 supports the petition.

17 Staff requests authorization to initiate
18 rule-making to amend Commission Rule 42FFF-1.002,
19 Florida Administrative Code, to reflect the merger
20 of the districts. This item will be brought back to
21 the Commission at the conclusion of the rule-making
22 process to request authorization to file the rule
23 for final adoption.

24 We have the district's legal representative,
25 Tucker Mackie, available for any questions on the

1 merger.

2 GOVERNOR SCOTT: Thank you. Are there any
3 questions?

4 ATTORNEY GENERAL BONDI: Just one, Governor.
5 It's my understanding this saves quite a bit of
6 money, this and the next one as well, correct?

7 MR. MILLER: Yes. There are savings in the
8 administrative expenses of the district.

9 GOVERNOR SCOTT: Any other questions? Is there
10 a motion to approve Item 2?

11 ATTORNEY GENERAL BONDI: Move to approve.

12 GOVERNOR SCOTT: Is there a second?

13 CFO ATWATER: Second.

14 GOVERNOR SCOTT: Moved and seconded. Show Item
15 2 approved without objection.

16 MR. MILLER: Thank you. Item 3 relates to a
17 petition to merge the Westchase Community
18 Development District and the Westchase East
19 Community Development District. The two districts
20 petitioning for merger are located in Hillsborough
21 County and were initially created by local
22 government ordinance.

23 The districts are built out and resident-owned
24 and controlled. The petition for merger was filed
25 for commission action due to the fact that upon

1 merger, the surviving district will consist of
2 1,713 acres. This exceeds the 1,000-acre threshold
3 in law. So the Commission has to approve a rule to
4 merge the districts.

5 The petition for merger contained a required
6 merger agreement, which provides, one, the existing
7 bond indebtedness will continue to be secured by
8 existing debt assessment liens; two, bond counsel is
9 of the opinion that the merger will not have an
10 adverse effect on the terms and conditions of the
11 outstanding bonds; three, the board of supervisors
12 will continue to serve the same terms, positions and
13 election time table; and, four, the merger will not
14 adversely affect the rights of creditors or
15 contractual relationships.

16 The proposed merger is expected to streamline
17 decision-making and governance, eliminate
18 duplication and overlap in the management and
19 administration of the district and to reduce
20 commercial and residential assessments or allow
21 enhanced facilities and services to be provided by
22 the district.

23 The merger petition was forwarded to the
24 Division of Administrative Hearings. The
25 administrative law judge issued a report indicating

1 the hearing record supports the petition for merger.
2 Staff requests authorization to initiate rule-making
3 to create Rule Chapter 42000-1 to reflect the merger
4 of the districts.

5 Again, the item will be brought back to the
6 Commission at the conclusion of the rule-making
7 process to request authorization to file for final
8 adoption. And we have the district's legal
9 representative, Erin McCormick, available for any
10 questions on this merger.

11 GOVERNOR SCOTT: Are there any questions? All
12 right. Is there a motion to approve Item 3?

13 ATTORNEY GENERAL BONDI: Move.

14 GOVERNOR SCOTT: Second?

15 COMMISSIONER PUTNAM: Second.

16 GOVERNOR SCOTT: Moved and seconded. Show Item
17 3 approved without objection.

18 MR. MILLER: Thank you, Governor. That
19 concludes our agenda.

20 GOVERNOR SCOTT: This concludes our Cabinet
21 meeting. We are adjourned. Have a great day.

22 (Whereupon, the meeting was concluded at 9:45
23 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, Jo Langston, Registered Professional Reporter,
do hereby certify that the foregoing pages 4 through 19,
both inclusive, comprise a true and correct transcript of
the proceeding; that said proceeding was taken by me
stenographically and transcribed by me as it now appears;
that I am not a relative or employee or attorney or counsel
of the parties, or a relative or employee of such attorney
or counsel, nor am I interested in this proceeding or its
outcome.

IN WITNESS WHEREOF, I have hereunto set my hand
this 11th day of May 2011.

JO LANGSTON
Registered Professional Reporter