1988

Session Law 88-187

Florida Senate & House of Representatives

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FLORIDA LEGISLATURE

FINAL
LEGISLATIVE BILL
INFORMATION

1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F

Re: Chapter 88-137
58 612 (Passed)
HB 896 (Substituted)

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371
S 618 GENERAL BILL by Grant (Similar H 520)
Graduation Requirements/Credits, revises high school graduation requirements to require a second semester of academic instruction each day, provides method for calculating number of academic credits which student who is transferring between schools having different credit requirements will be given credit for in school as to which he is transferring, etc. Amends 232.246, 2465 Effective Date Upon becoming law
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Judiciary--Criminal--SJ 75
04/15/88 SENATE Extension of time granted Committee Judiciary--Criminal
04/29/88 SENATE Extension of time granted Committee Judiciary--Criminal
05/13/88 SENATE Extension of time granted Committee Judiciary--Criminal
06/07/88 SENATE Died in Committee on Judiciary

S 619 GENERAL BILL by Grant (Compare H 699)
Search Warrant/ESU, ASO H 1553 provides for issuance of warrant to search private dwelling when certain laws re children are being violated in dwelling Amends 933 8 Effective Date 10/01/88
03/30/88 SENATE Prefiled
04/12/88 SENATEIntroduced, referred to Judiciary--Criminal--SJ 74
04/15/88 SENATE Extension of time granted Committee Education
05/13/88 SENATE Extension of time granted Committee Education
05/27/88 SENATE Extension of time granted Committee Education
06/07/88 SENATE Died in Committee on Education

S 620 GENERAL BILL by Hair (Similar H 1185, Compare H 699)
High School Exams/ENG, provides full-time equivalency student value for advanced placement courses, provides for consideration of International Baccalaureate examination scores in calculating annual allocation from Fla. Education Program to each school district for operation of schools Amends 226 081 Effective Date 07/01/88 or upon becoming law, whichever occurs later
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Education, Appropriations --SJ 75
04/15/88 SENATE Extension of time granted Committee Education
04/26/88 SENATE On Committee agenda --Education, 04/29/88, 2.00 pm, Room-A
04/29/88 SENATE Extension of time granted Committee Education
05/13/88 SENATE Extension of time granted Committee Education
05/27/88 SENATE Extension of time granted Committee Education
06/07/88 SENATE Died in Committee on Appropriations

S 621 GENERAL BILL by Langley (Similar S 1136, Compare ENG 101, s 1204)
PIT/Impairment/Treatment Program, provides that term of imprisonment for driving under influence may be served in residential alcoholism or drug abuse treatment program Amends 316 193 Effective Date Upon becoming law
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Judiciary--Criminal--SJ 75
04/15/88 SENATE Extension of time granted Committee Judiciary--Criminal
04/29/88 SENATE Extension of time granted Committee Judiciary--Criminal
05/13/88 SENATE Extension of time granted Committee Judiciary--Criminal
06/07/88 SENATE Died in Committee on Judiciary--Criminal, Idem./Sim./Compare bill passed, refer to SB 101 (Ch. 88-82)

S 622 GENERAL BILL/CS by Education; Johnson (Similar H 472, S 1074, Compare CS/ENG/H 1074)
School Officers/Logistics/Accounts, provides for constitutional officers to obtain comprehensive general liability insurance to University Hospital of Jacksonville, provides which coverage through certain trust funds Effective Date Upon becoming law
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Education, Appropriations --SJ 75
04/15/88 SENATE Extension of time granted Committee Education
04/29/88 SENATE Extension of time granted Committee Education
05/13/88 SENATE Extension of time granted Committee Education
05/27/88 SENATE Extension of time granted Committee Education
06/07/88 SENATE Died in Committee on Appropriations

S 623 GENERAL BILL by Crenshaw (Similar H 550)
Univ Hospital/Jacksonville/ins, authorizes Board of Regents to provide comprehensive general liability insurance to University Hospital of Jacksonville, provides which coverage through certain trust funds Effective Date Upon becoming law
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Education, Appropriations --SJ 75
04/15/88 SENATE Extension of time granted Committee Education
04/29/88 SENATE Extension of time granted Committee Education
05/13/88 SENATE Extension of time granted Committee Education
05/27/88 SENATE Extension of time granted Committee Education
06/07/88 SENATE Died in Committee on Education

S 624 RESOLUTION by Crawford (Similar H 1047)
Avon Park Baseball & Football Teams, commends Avon Park High School baseball & football teams for their outstanding accomplishments in winning 1987 Division 2A State Championships
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Rules and Calendar --SJ 75
04/15/88 SENATE Extension of time granted Committee Rules and Calendar
04/29/88 SENATE Extension of time granted Committee Rules and Calendar
05/27/88 SENATE Died in Committee on Rules and Calendar
06/07/88 SENATE Died in Committee on Rules and Calendar

S 625 GENERAL BILL by Beard (Similar H 933)
Cost Office/Logistics/Accounts, allows cert. office to obtain comprehensive general liability insurance to University Hospital of Jacksonville, provides which coverage through certain trust funds Effective Date Upon becoming law
03/31/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Transportation, Appropriations --SJ 75
04/15/88 SENATE Extension of time granted Committee Transportation
04/19/88 SENATE Comm Report Favorable with amendment(s) by Truitt/Sims
04/20/88 SENATE On Committee agenda --Transportation, 04/21/88, 2.00 pm, Room-A
04/25/88 SENATE Extension of time granted Committee Transportation
05/25/88 HOUSE Received in Message
07/06/88 HOUSE Passed, referred to HB 1653

S 626 GENERAL BILL/ENG by Jennings (Similar H 924)
Professional Service Providers/INS, allows certain providers of professional services to opt out of the alternative of self-insurance Amends 357.106 Effective Date
07/06/88 SENATE Prefiled
07/06/88 SENATE Passed, referred to HB 1653

(continued on next page)
H 893 GENERAL BILL/CS by Health & Rehabilitative Services; Lawson; Rochlin (Similar CS/ENG/S 773); Revises requirements re registration of security industry professionals & fees thereof; provides legislative intent. Amends 517 051, 12 Effective Date. Upon becoming law
03/31/88 HOUSE Prefiled
04/06/88 HOUSE Introduced, referred to Commerce, K - 12, Appropriations -HJ 85
04/15/88 HOUSE On subcommittee agenda—Education, K - 12, 04/19/88, 3:30 pm, 317C
04/22/88 HOUSE Subreferred to Subcommittee on Administration and Finance, On Committee agenda—Education, K - 12, 04/26/88, 1:45 pm, 214C—For ratification of subreferral
04/25/88 HOUSE On subcommittee agenda—Education, K - 12, 04/27/88, 3:30 pm, 214C
04/29/88 HOUSE On subcommittee agenda—Education, K - 12, 05/03/88, 3:30 pm, 214C
05/10/88 HOUSE Comm Report CS by Education, K - 12, HJ 404, CS read first time—HJ 403; Now in Appropriations -HJ 404
05/23/88 HOUSE On Committee agenda—Appropriations, 05/24/88, 8:00 am, Morris Hall
05/24/88 HOUSE Preliminary Committee Action by Appropriations Favorable; Comm Report Favorable by Appropriations, placed on Calendar -HJ 675
05/30/88 HOUSE Placed on Special Order Calendar
06/30/88 HOUSE Placed on Consent Calendar
07/06/88 HOUSE Placed on Calendar

H 897 GENERAL BILL by Abrams (Similar S 1162); Dots/Retail Sale/50 Day Care Limits, prohibits persons in business of selling dogs; (CONTINUED ON NEXT PAGE)
A bill to be entitled
An act relating to securities; amending s.
517.051, F.S.; providing limitations and
conditions for the sale of certain securities;
providing an effective date.

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

Section 1. Subsection (1) of section 517.051, Florida
Statutes, as amended by section 4 of chapter 87-237, Laws of
Florida, and by section 3 of chapter 87-316, Laws of Florida,
is amended to read:

517.051 Exempt securities.—The registration
provisions of s. 517.07 do not apply to any of the following
securities:

(1) A security issued or guaranteed by the United
States or any territory or insular possession of the United
States, by the District of Columbia, or by any state of the
United States or by any political subdivision or agency or
other instrumentality thereof; provided that no person shall
directly or indirectly offer or sell securities, other than
general obligation bonds, under this subsection if the issuer
or guarantor is are in default or has have been in default
any time after December 31, 1975, as to principal or interest:

(a) With respect to an obligation issued by the issuer
or successor of the issuer which was guaranteed by the
guarantor or successor of the guarantor; or

(b) With respect to an obligation guaranteed by the
guarantor or successor of the guarantor issued by the issuer
or successor of the issuer pledging revenues of the issuer;
other than bonds issued pursuant to part IV of chapter 154;
9-1043A-88

part-Ⅲ-part-Ⅲ-part-Ⅲ-or-part-Ⅲ-of-chapter-Ⅲ9y-and
part-Ⅲ-of-chapter-249,

except by an offering circular a-statement containing a full
and fair disclosure ef-sted-def ease as prescribed by rule of
the department.

Section 2. This act shall take effect upon becoming a
law.

SENATE SUMMARY

Revises a provision that exempts certain securities from
the security registration requirements specified in a.
517.07, F.S., resolving a conflict between ch. 87-237,
Laws of Florida, and ch. 87-316, Laws of Florida.

CODING: Words stricken are deletions; words underlined are additions.
A bill to be entitled
An act relating to securities; amending s.
517.051, F.S.; providing limitations and
conditions for the sale of certain securities;
amending s. 517.12, F.S.; providing revisions
governing registration of security industry
professionals; providing rules of construction
for ch. 517, F.S.; providing an effective date.

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

Section 1. Subsection (1) of section 517.051, Florida
Statutes, as amended by section 4 of chapter 87-237, Laws of
Florida, and by section 3 of chapter 87-316, Laws of Florida,
is amended to read:

517.051 Exempt securities.—The registration
provisions of s. 517.07 do not apply to any of the following
securities:

(1) A security issued or guaranteed by the United
States or any territory or insular possession of the United
States, by the District of Columbia, or by any state of the
United States or by any political subdivision or agency or
other instrumentality thereof; provided that no person shall
directly or indirectly offer or sell securities, other than
general obligation bonds, under this subsection if the issuer
or and guarantor is are in default or has have been in default
any time after December 31, 1975, as to principal or interest;

(a) With respect to an obligation issued by the issuer
or successor of the issuer which was guaranteed by the

CODING: Words stricken are deletions; words underlined are additions.
(b) With respect to an obligation guaranteed by the guarantor or successor of the guarantor, or successor of the issuer, or successor of the issuer pledging revenues of the issuer, other than bonds issued pursuant to part IV of chapter 594, part IX, part XIII, part IV, or part VII of chapter 594 and part II of chapter 242,

except by an offering circular or statement containing a full and fair disclosure of said default as prescribed by rule of the department.

Section 2. Subsections (6), (10), and (11) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices. --

(6) A dealer, associated person, investment adviser, or branch office, in order to obtain said registration, must file with the department a written application, in a form which the department may by rule prescribe, verified under oath. Each dealer or investment adviser must also file an irrevocable written consent to service of civil process similar to that provided for in s. 517.101. The application shall contain such information as the department may require concerning such matters as:

(a) The name of the applicant and the address of its principal office and each office in this state.

(b) The applicant’s form and place of organization; and, if the applicant is a corporation, a copy of its articles of incorporation and amendments to the articles of incorporation or, if a partnership, a copy of the partnership agreement.

CODING: Words stricken are deletions; words underlined are additions.
The applicant's proposed method of doing business and financial condition and history, including a certified financial statement showing all assets and all liabilities, including contingent liabilities of the applicant as of a date not more than 90 days prior to the filing of the application.

(d) The names and addresses of all associated persons of the applicant to be employed in this state and the offices to which they will be assigned.

(10) An applicant for registration shall pay an assessment fee of $200, in the case of a dealer or investment adviser, or $20, in the case of an associated person. An associated person not having current fingerprint cards filed with the National Association of Securities Dealers or a national securities exchange registered with the Securities and Exchange Commission shall be assessed an additional fee to cover the cost for said fingerprint cards to be processed by the department. Such fee shall be determined by rule of the department. **These shall be a fee for reissuance of a registered associated person of §20.** Each dealer and each investment adviser shall pay an assessment fee of $100 for each office in this state, except its designated principal office. Such fees become the revenue of the state, except for those assessments provided for under s. 517.131(1) until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that registration is withdrawn or not granted.

(11) If the department finds that the applicant is of good repute and character and has complied with the provisions of this chapter and the rules made pursuant hereto, it shall register the applicant. The registration of each dealer, investment adviser, associated person, and branch
office will expire on December 31 of the year in which it became effective unless the applicant has renewed its registration on or before that date. Registration may be renewed by furnishing such information as the department may require, together with payment of the fee required in subsection (10) for dealers, investment advisers, associated persons, or branch offices. Any registrant who has not renewed a registration by the time the current registration expires may request reinstatement of such registration by filing with the department, on or before January 31 of the year following the year of expiration, such information as may be required by the department, together with payment of the fee required in subsection (10) for dealers, investment advisers, associated persons, or branch offices and a late fee equal to the amount of such fee. Any reinstatement of registration granted by the department during the month of January shall be deemed effective retroactive to January 1 of that year.

Section 3. Inasmuch as chapter 517, Florida Statutes, is intended to protect investors in securities offerings and other investment transactions regulated by that chapter, its provisions are to be construed to require full and fair disclosure of all, but only, those matters material to the investor's evaluation of the offering or other transaction. It should, furthermore, be construed to impose the standards provided by law on all those seeking to participate in the state's securities industry through registration as securities dealers, investment advisors, or their associated person. To this end, it is declared to be the intent of the Legislature that the registration of associated persons required by law is specific to the securities dealer or investment advisor.
identified at the time such registration is approved.

Notwithstanding any interpretation of law to the contrary, the historical practice of the Department of Banking and Finance, reflected in its rules, that requires a new application for registration from a previously registered associated person when that person seeks to be associated with a new securities dealer or investment advisor is hereby ratified and approved as consistent with legislative intent. It is, finally, declared to be the intent of the Legislature that while approval of an application for registration of a securities dealer, investment advisor, associated person, or branch office requires a finding of the applicant's good repute and character, such finding is precluded by a determination that the applicant may be denied registration on grounds provided by law.

Section 4. This act shall take effect upon becoming a law.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 618

Committee Substitute for Senate Bill 618 makes revisions governing registration of security industry professionals. The bill also includes legislative intent language which would allow:

1) the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations; and

2) the department to deny a registration application by showing that the statutory grounds upon which a denial may be based are present. Such a showing, by the department, would preclude a finding of the applicant's good repute and character.

CODING: Words struck out are deletions; words underlined are additions.
I. SUMMARY:

A. Present Situation:

Section 517.051, F.S., exempts, from the Florida Securities Law, certain governmental obligations issued by state and local governments. Section 3 of SB 529 (1987) and Section 4 of HB 1398 (1987) amended s. 517.051, F.S. Both bills were enacted into law during the 1987 legislative session, however, SB 529 and HB 1398 each amended s. 517.051, F.S., in a substantively different manner. The different approach used in each bill results in conflicting language as well as confusion over the Legislature's intent regarding the disclosure requirements of s. 517.051, F.S.

The Division of Statutory Revision, Joint Legislative Management, proposed solution to this conflict was to include Section 4 of HB 1398 in the text of the Florida Statutes while including Section 3 of SB 529 as a footnote. However, since there are substantive differences between the two provisions, inclusion of both enactments make the disclosure requirements of s. 517.051, F.S., ripe for litigation.

The 1987 amendments to s. 517.051, F.S., were enacted to provide potential investors access to information relating to a bond issuer's and/or guarantor's past record of default. Both amendments addressed this concern by requiring disclosure of certain past and current defaults. The bills also provided definitions for the terms "guarantor" and "guaranty."

B. Effect of Proposed Changes:

SB 618 is designed to resolve the conflicts and ambiguities resulting from the 1987 enactments. This bill amends s. 517.051, F.S., to conform it with SB 529 (ch. 87-316, L.O.F.). The only difference between the SB 618 and SB 529 (1987) is that the former removes general obligation bonds from the disclosure requirements. Thus, the bill requires notification by an offering circular containing full and fair disclosure, as prescribed by department rule, whenever the issuer or guarantor has been in default any time after December 31, 1975. The department responsible for making such rules would be the Department of Banking and Finance. The bill also provides definitions for the terms "guarantor" and "issuer."

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

There will be no substantial economic impact on the public as a result of this bill.
B. Government:

The bill will slightly increase the costs associated with a governmental security issuance, if the entity is forced to provide an offering circular due to a previous default.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 517.051, F.S., exempts, from the Florida Securities Law, certain governmental obligations issued by state and local governments. Section 3 of SB 529 (1987) and Section 4 of HB 1398 (1987) amended s. 517.051, F.S. Both bills were enacted into law during the 1987 legislative session, however, SB 529 and HB 1398 each amended s. 517.051, F.S., in a substantively different manner. The different approach used in each bill results in conflictive language as well as confusion over the Legislature's intent regarding the disclosure requirements of s. 517.051, F.S.

The Division of Statutory Revision, Joint Legislative Management, proposed solution to this conflict was to include Section 4 of HB 1398 in the text of the Florida Statutes while including Section 3 of SB 529 as a footnote. However, since there are substantive differences between the two provisions, inclusion of both enactments make the disclosure requirements of s. 517.051, F.S., ripe for litigation.

The 1987 amendments to s. 517.051, F.S., were enacted to provide potential investors access to information relating to a bond issuer's and/or guarantor's past record of default. Both amendments addressed this concern by requiring disclosure of certain past and current defaults. The bills also provided definitions for the terms "guarantor" and "guaranty."

Section 517.12, F.S., concerns the registration of dealers, associated persons, investment advisors, and branch offices. An associated person is defined within s. 517.021, F.S., and includes, but is not limited to, "any natural person directly or indirectly controlling or controlled by such dealer or investment advisor, other than an employee whose function is only clerical." Section 517.12(1), F.S., requires associated persons, as well as, others to be registered with the Department of Banking and Finance before engaging in the sale of securities.

The department interprets s. 517.12, F.S., as requiring associated persons to reapply for registration when such persons change affiliations. However, in the case of Evans v. Department of Banking and Finance, (Case No. 87-4138 R) a hearing officer held that the department's action was an invalid exercise of delegated legislative authority.

In another unrelated administrative hearing, certain individuals were allowed to be registered despite statutory violations of ch. 517, F.S., since the individuals were able to demonstrate "good repute and character" under s. 517.12(11), F.S.
Both these decisions are presently being appealed by the department.

B. Effect of Proposed Changes:

Section 1 of CS/SB 618 is designed to resolve the conflicts and ambiguities resulting from the 1987 enactments. This bill amends s. 517.051, F.S., to conform it with SB 529 (ch. 87-316, L.O.F.). The only difference between the CS/SB 618 and SB 529 (1987) is that the former removes general obligation bonds from the disclosure requirements. Thus, the bill requires notification by an offering circular containing full and fair disclosure, as prescribed by department rule, whenever the issuer or guarantor has been in default any time after December 31, 1975 and such default is material to the investor's evaluation of the offering. The department responsible for making such rules would be the Department of Banking and Finance. The bill also provides definitions for the terms "guarantor" and "issuer."

CS/SB 618 also makes minor but important revisions governing registration of security industry professionals. To address the administrative hearing cases mentioned above legislative intent language is added which would allow:

1) the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations; and

2) the department to deny a registration application by showing that the statutory grounds upon which a denial may be based are present. Such a showing would preclude a finding of the applicant's good repute and character.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

There will be no substantial economic impact on the public as a result of this bill.

B. Government:

The bill will slightly increase the costs associated with a governmental security issuance, if the entity is forced to provide an offering circular due to a previous default.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
I. SUMMARY:

Committee Substitute (CS) for Senate Bill 618 amends Section 517.07, Florida Statutes, relating to the exemption of certain government securities from the security registration requirements, to merge two inconsistent provisions, and therefore, resolve a conflict between Chapter 87-237, Laws of Florida and Chapter 87-316, Laws of Florida. Intent language is added to clarify that the information required to be disclosed to investors need only include matters material to an evaluation of the offering. Additionally, the CS revises provisions of current law regarding the registration of security industry professionals.

A. PRESENT SITUATION:

Chapter 517, F.S., the Securities and Investor Protection Act, establishes the regulatory framework regarding securities transactions in the State of Florida. Section 517.051, F.S., exempts, from the Florida Securities Law, certain governmental obligations issued by state and local governments. However, current law contains two inconsistent, yet equally applicable, provisions of s. 517.051(1), F.S., which resulted from the 1987 Legislative Session.

Section 4 of House Bill 1398 and Section 3 of Senate Bill 529 were enacted into law during the past legislative session and amended s. 517.051(1), F.S., in a substantively different manner. The differing approach utilized in the bills resulted in conflictive language, as well as, confusion over the legislative intent regarding the disclosure requirements of s. 517.051, F.S.
The Division of Statutory Revision proposed a solution to this conflict which would incorporate Section 4 of House Bill 1398 in the text of Florida Statutes and place Section 3 of Senate Bill 529 in the footnotes. However, the substantive differences between the two provisions would make the inclusion of both enactments ripe for litigation.

Amendments to s. 517.051, F.S., were enacted during the 1987 Legislative Session to provide potential investors access to information relating to a bond issuer's and/or a guarantor's past record of default. Both amendments addressed this concern by requiring disclosure of certain past and current defaults. The bills also provided definitions for the terms "guarantor" and "guaranty".

Section 517.12, F.S., concerns the registration of dealers, associate persons, investment advisors, and branch officers. An associated person is defined within s. 517.021, F.S., and includes, but is not limited to, "any natural person directly or indirectly controlling or controlled by such dealer or investment advisor, other than an employee whose function is only clerical". Section 517.12(1), F.S., requires associated persons, as well as others, to be registered with the Department of Banking and Finance (department) before engaging in the sale of securities.

The department interprets s. 517.12, F.S., as requiring associated persons to reapply for registration when such persons change affiliations. However, in the case of Evans v. Department of Banking and Finance, (Case NO. 87-4138 R), a hearing officer held that the department's action was an invalid exercise of delegated legislative authority. This decision is being appealed by the department.

In another unrelated administrative hearing, certain individuals were allowed to be registered despite statutory violations of Chapter 517, F.S., since the individuals were able to demonstrate "good repute and character" under s. 517.12(11), F.S. This decision is also being appealed by the department.

B. EFFECT OF PROPOSED CHANGES:

Committee Substitute for Senate Bill 618 is designed to resolve the conflicts and ambiguities resulting from the 1987 enactments to ensure that only one version of s. 517.051, F.S., is given full force and effect. The bill amends s. 517.051(10), F.S., to generally conform it to Senate Bill 529 (Ch. 87-316, Laws of Florida). However, the bill does remove general obligation bonds from the disclosure requirements which the 1987 House Bill 1398 provided.

Under Committee Substitute for Senate Bill 618, an issuer or a guarantor of government securities, which has been in default since December 31, 1975, must provide notification by an offering circular containing full and fair disclosure, as prescribed by department rule in order to be entitled to an exemption from registration. Issuers of general obligation bonds would not have to fulfill this requirement. The exemption is self-executing in that the issuer must satisfy itself, and not the department, that it is entitled to the exemption by making the requisite disclosures to investors.
CS/SB 618 also revises present law relating to the registration of security industry professionals. To address the administrative hearing cases mentioned above, legislative intent language is created which would permit:

1) the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations; and,

2) the department to deny a registration application by showing that the statutory grounds upon which a denial may be based are present. Such a showing would preclude a finding of the applicant's good repute and character.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
None.

2. Recurring or Annualized Continuation Effects:
None.

3. Long Run Effects Other Than Normal Growth:
None.

4. Appropriations Consequences:
The CS has no fiscal impact on the state, as it merely merges two contrary, existing provisions of current Florida law.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
None.

2. Recurring or Annualized Continuation Effects:
None.

3. Long Run Effects Other Than Normal Growth:
None.
C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

CS/HB 896 will benefit the private sector by clarifying existing law.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

Statement of Substantial Changes

Senate Bill 618 was designed to resolve the conflict and ambiguities which resulted from the enactment of House and Senate bills which amended, in a substantively different manner, the law governing municipal bonds and similar securities. The CS retains the resolution of the conflict while providing intent language to clarify that only a default which is material to the investor's evaluation of the offering needs to be disclosed. Additionally, the CS provides intent language to permit the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations. Moreover, the intent language allows the department to deny a registration application by showing that statutory grounds for denial are existent.

LEGISLATIVE HISTORY:

ENACTED BILL:

Senate Bill 618 was prefiled by Senator Hair on March 13, 1988, and referred to the Committee on Commerce. On April 14, the bill was reported favorably by the Full Commerce Committee as a Committee Substitute (SJ 00104). The bill was placed on Special Order Calendar on April 26, where it passed by a vote of 34-0 (SJ 00186). CS/SB 618 was received by the House in Messages and on May 3, was referred to the Committee on Appropriations (HJ 00306). The bill was later withdrawn from the Committee on Appropriations and placed on Special Order Calendar. On May 30, the Senate bill was substituted for CS/HB 896 and it passed by a vote of 113-0 (HJ 00880).
DISPOSITION OF COMPANION:

House Bill 896 was prefilled by Representative Abrams on March 31, 1988, and was referred to the Committee on Commerce. On April 20, the bill was recommended favorably with 2 amendments by the Subcommittee on Banking and Commerce. The Full Committee on Commerce reported the bill favorably as a Committee Substitute on April 27. On May 30, House Bill 896 was laid on the table under Rule and the identical Senate bill was passed (HJ 00880).

V. AMENDMENTS:
None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Beryl Roberts

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: H. Fred Varn

Staff Director:

Staff Director:
A bill to be entitled
An act relating to securities; amending s. 517.051, F.S.; providing limitations and
conditions for the sale of certain securities;
providing an effective date.

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

Section 1. Subsection (1) of section 517.051, Florida
Statutes, as amended by section 4 of chapter 87-237, Laws of
Florida, and by section 3 of chapter 87-516, Laws of Florida,
is amended to read:

517.051 Exempt securities.--The registration
provisions of s. 517.07 do not apply to any of the following
securities:

1) A security issued or guaranteed by the United
States or any territory or insular possession of the United
States, by the District of Columbia, or by any state of the
United States or by any political subdivision or agency or
other instrumentality thereof; provided that no person shall
directly or indirectly offer or sell securities, other than
general obligation bonds, under this subsection if the issuer
or and guarantor are in default or have been in default
any time after December 31, 1975, as to principal or interest;

(a) With respect to an obligation issued by the issuer
or successor of the issuer which was guaranteed by the
guarantor or successor of the guarantor; or

(b) With respect to an obligation guaranteed by the
guarantor or successor of the guarantor issued by the issuer
or successor of the issuer pledging revenues of the issuer;
other than bonds issued pursuant to part IV of chapter 154,

CODING: Words struck through are deletions; words underlined are additions.
Section 1. (a) (8) and (9) of (9) of chapter 59, and part III, part IV, part V, or part VII of chapter 243, and except by an offering circular, a statement containing a full and fair disclosure of said default as prescribed by rule of the department.

Section 2. This act shall take effect upon becoming a law.

SENATE SUMMARY
Revises a provision that exempts certain securities from the security registration requirements specified in s. 517.07, F.S., resolving a conflict between ch. 87-237, Laws of Florida, and ch. 87-316, Laws of Florida.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words struck are deletions; words underlined are additions.
A bill to be entitled
An act relating to securities; amending s.
517.051, F.S.; providing limitations and
conditions for the sale of certain securities;
amending s. 517.12, F.S.; revising requirements
relating to registration of security industry
professionals and fees therefor; providing
legislative intent; providing an effective
date.

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

Section 1. Subsection (1) of section 517.051, Florida
Statutes, as amended by section 4 of chapter 87-237, Laws of
Florida, and by section 3 of chapter 87-316, Laws of Florida,
is amended to read:

517.051 Exempt securities.--The registration
provisions of s. 517.07 do not apply to any of the following
securities:

(1) A security issued or guaranteed by the United
States or any territory or insular possession of the United
States, by the District of Columbia, or by any state of the
United States or by any political subdivision or agency or
other instrumentality thereof, provided that no person shall
directly or indirectly offer or sell securities, other than
general obligation bonds, under this subsection if the issuer
or guarantor is in default or has been in default
any time after December 31, 1975, as to principal or interest;
(a) With respect to an obligation issued by the issuer
or successor of the issuer which was guaranteed by the
guarantor or successor of the guarantor; or

CODING: Words stricken are deletions; words underlined are additions.
(b) With respect to an obligation guaranteed by the guarantor or successor of the guarantor issued by the issuer, or successor of the issuer pledging revenues of the issuer, other than bonds issued pursuant to part IV of chapter 154, part III of chapter 49, or part VII of chapter 159, and part II of chapter 243, except by an offering circular or statement containing a full and fair disclosure of said default as prescribed by rule of the department.

Section 2. Subsections (6), (10), and (11) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.--

(6) A dealer, associated person, investment adviser, or branch office, in order to obtain initial registration, must file with the department a written application, in a form which the department may by rule prescribe, verified under oath. Each dealer or investment adviser must also file an irrevocable written consent to service of civil process similar to that provided for in s. 517.101. The application shall contain such information as the department may require concerning such matters as:

(a) The name of the applicant and the address of its principal office and each office in this state.

(b) The applicant's form and place of organization, and, if the applicant is a corporation, a copy of its articles of incorporation and amendments to the articles of incorporation or, if a partnership, a copy of the partnership agreement.

CODING: Words stricken are deletions; words underlined are additions.
(c) The applicant's proposed method of doing business and financial condition and history, including a certified financial statement showing all assets and all liabilities, including contingent liabilities of the applicant as of a date not more than 90 days prior to the filing of the application.

(d) The names and addresses of all associated persons of the applicant to be employed in this state and the offices to which they will be assigned.

(10) An applicant for registration shall pay an assessment fee of $200, in the case of a dealer or investment adviser, or $20, in the case of an associated person. An associated person not having current fingerprint cards filed with the National Association of Securities Dealers or a national securities exchange registered with the Securities and Exchange Commission shall be assessed an additional fee to cover the cost for said fingerprint cards to be processed by the department. Such fee shall be determined by rule of the department. There shall be a fee for reissuance of a registered-associated-person-of-$20. Each dealer and each investment adviser shall pay an assessment fee of $100 for each office in this state, except its designated principal office. Such fees become the revenue of the state, except for those assessments provided for under s. 517.131(1) until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that registration is withdrawn or not granted.

(11) If the department finds that the applicant is of good repute and character and has complied with the provisions of this chapter section and the rules made pursuant hereto, it shall register the applicant. The registration of each dealer, investment adviser, associated person, and branch

CODING: Words struck are deletions; words underlined are additions.
office will expire on December 31 of the year in which it became effective unless the applicant has renewed its registration on or before that date. Registration may be renewed by furnishing such information as the department may require, together with payment of the fee required in subsection (10) for dealers, investment advisers, associated persons, or branch offices. Any registrant who has not renewed a registration by the time the current registration expires may request reinstatement of such registration by filing with the department, on or before January 31 of the year following the year of expiration, such information as may be required by the department, together with payment of the fee required in subsection (10) for dealers, investment advisers, associated persons, or branch offices and a late fee equal to the amount of such fee. Any reinstatement of registration granted by the department during the month of January shall be deemed effective retroactive to January 1 of that year.

Section 3. Inasmuch as chapter 517, Florida Statutes, is intended to protect investors in securities offerings and other investment transactions regulated by that chapter, its provisions are to be construed to require full and fair disclosure of all, but only, those matters material to the investor's evaluation of the offering or other transaction. It should, furthermore, be construed to impose the standards provided by law on all those seeking to participate in the state's securities industry through registration as securities dealers, investment advisers, or their associated persons. To this end, it is declared to be the intent of the Legislature that the registration of associated persons required by law is specific to the securities dealer or investment advisor.
identified at the time such registration is approved.

Notwithstanding any interpretation of law to the contrary, the
historical practice of the Department of Banking and Finance,
reflected in its rules, that requires a new application for
registration from a previously registered associated person
when that person seeks to be associated with a new securities
dealer or investment advisor is hereby ratified and approved
as consistent with legislative intent. It is, finally,
declared to be the intent of the Legislature that while
approval of an application for registration of a securities
dealer, investment advisor, associated person, or branch
office requires a finding of the applicant's good repute and
character, such finding is precluded by a determination that
the applicant may be denied registration on grounds provided
by law.

Section 4. This act shall take effect upon becoming a
law.

***************************************************************

HOUSE SUMMARY

Revises a provision that exempts certain securities from
the security registration requirements specified in s.
517.07, F.S., resolving a conflict between ch. 87-237,
Laws of Florida, and ch. 87-316, Laws of Florida.
Revises requirements relating to registration of security
industry professionals and fees therefor. Provides
legislative intent.

This publication was produced at an average cost of 1.12 cents
per single page in compliance with the Rules and for
the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

House Bill 896 amends s. 517.07, Florida Statutes, relating to the exemption of certain government securities from the security registration requirements, to merge two inconsistent provisions, and therefore, resolves a conflict between Chapter 87-237, Laws of Florida and Chapter 87-316, Laws of Florida.

A. PRESENT SITUATION:

Chapter 517, F.S., the Securities and Investor Protection Act, establishes the regulatory framework regarding security transactions in the State of Florida. Section 517.051, F.S., exempts, from the Florida Securities Law, certain governmental obligations issued by state and local governments. However, current law contains two inconsistent, yet equally applicable provisions of s. 517.051(1), F.S., which resulted from the 1987 Legislative Session.

Section 4 of House Bill 1398 and Section 3 of Senate Bill 529 were enacted into law during the past legislative session, and they amended s. 517.051(1), F.S., in a substantively different manner. The differing approach utilized in the bills resulted in conflictive language as well as confusion over the legislative intent regarding the disclosure requirements of s. 517.051, F.S.

The Division of Statutory Revision proposed a solution to this conflict which would incorporate Section 4 of House Bill 1398 into the text of Florida Statutes and place Section 3 of Senate Bill 529 in the footnotes. However, the substantive differences between the two provisions would make the inclusion of both enactments ripe for litigation.

Amendments to s. 517.051, F.S., were enacted during the 1987 legislative session to provide potential investors access to information relating to a bond issuer's and/or a guarantor's past record of default.
Both amendments addressed this concern by requiring disclosure of certain past and current defaults. The bills also provided definitions for the terms "guarantor" and "guaranty".

B. EFFECT OF PROPOSED CHANGES:

House Bill 896 is designed to resolve the conflicts and ambiguities resulting from the 1987 enactments to ensure that there is only one version of s. 517.051, F.S., to be given full force and effect. This bill amends s. 517.051(10), F.S., to generally conform it to Senate Bill 529 (Ch. 87-316, Laws of Florida). However, this bill does remove general obligation bonds from the disclosure requirements which the 1987 house bill provided.

Under the proposed legislation, an issuer or a guarantor of government securities, which has been in default since December 31, 1975, must provide notification by an offering circular containing full and fair disclosure, as prescribed by the Department of Banking and Finance (department) rule in order to be entitled to an exemption from registration. Issuers of general obligation bonds would not have to fulfill this requirement. The exemption is self-executing in that the issuer must satisfy itself, and not the department, that it is entitled to the exemption by making the requisite disclosures to investors.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

House Bill 896 has no fiscal impact on the state, as it merely merges two contrary, existing provisions of current Florida law.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.
3. Long Run Effects Other Than Normal Growth:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
1. Direct Private Sector Costs:
None.
2. Direct Private Sector Benefits:
House Bill 896 will benefit the private sector by clarifying existing law.

3. Effects on Competition, Private Enterprise, and Employment Markets:
None.

D. FISCAL COMMENTS:
None.

III. LONG RANGE CONSEQUENCES:
None.

IV. COMMENTS:
None.

V. AMENDMENTS:
None.

VI. SIGNATURES:
SUBSTANTIVE COMMITTEE:
Prepared by: Bery Roberts

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:
Committee Substitute (CS) for House Bill 896 amends s. 517.07, Florida Statutes, relating to the exemption of certain government securities from the security registration requirements, to merge two inconsistent provisions, and therefore, resolves a conflict between Chapter 87-237, Laws of Florida and Chapter 87-316, Laws of Florida. Intent language is added to clarify that the information required to be disclosed to investors need only include matters material to an evaluation of the offering. Additionally, the CS revises provisions of current law regarding the registration of security industry professionals.

A. PRESENT SITUATION:

Chapter 517, F.S., the Securities and Investor Protection Act, establishes the regulatory framework regarding securities transactions in the State of Florida. Section 517.051, F.S., exempts, from the Florida Securities Law, certain governmental obligations issued by state and local governments. However, current law contains two inconsistent, yet equally applicable provisions of s. 517.051(1), F.S., which resulted from the 1987 Legislative Session.

Section 4 of House Bill 1398 and Section 3 of Senate Bill 529 were enacted into law during the past legislative session and they amended s. 517.051(1), F.S., in a substantively different manner. The differing approach utilized in the bills resulted in conflictive language as well as confusion over the legislative intent regarding the disclosure requirements of s. 517.051, F.S.

The Division of Statutory Revision proposed a solution to this conflict which would incorporate Section 4 of House Bill 1398 in the text of Florida Statutes and place Section 3 of Senate Bill 529 in the footnotes. However, the substantive differences between the two provisions would make the inclusion of both enactments ripe for litigation.
Amendments to s. 517.051, F.S., were enacted during the 1987 Legislative Session to provide potential investors access to information relating to a bond issuer's and/or a guarantor's past record of default. Both amendments addressed this concern by requiring disclosure of certain past and current defaults. The bills also provided definitions for the terms "guarantor" and "guaranty".

Section 517.12, F.S., concerns the registration of dealers, associate persons, investment advisors, and branch officers. An associated person is defined within s. 517.021, F.S., and includes, but is not limited to, "any natural person directly or indirectly controlling or controlled by such dealer or investment advisor, other than an employee whose function is only clerical". Section 517.12(1), F.S., requires associated persons, as well as others, to be registered with the Department of Banking and Finance (department) before engaging in the sale of securities.

The department interprets s. 517.12, F.S., as requiring associated persons to reapply for registration when such persons change affiliations. However, in the case of Evans v. Department of Banking and Finance, (Case NO. 87-4138 R) a hearing officer held that the department's action was an invalid exercise of delegated legislative authority. This decision is being appealed by the department.

In another unrelated administrative hearing, certain individuals were allowed to be registered despite statutory violations of Chapter 517, F.S., since the individuals were able to demonstrate "good repute and character" under s. 517.12(11), F.S. This decision is also being appealed by the department.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 896 is designed to resolve the conflicts and ambiguities resulting from the 1987 enactments to ensure that only one version of s. 517.051, F.S., is given full force and effect. The CS amends s. 517.051(10), F.S., to generally conform it to Senate Bill 529 (Ch. 87-316, Laws of Florida). However, the CS does remove general obligation bonds from the disclosure requirements which the 1987 House Bill 1398 provided.

Under the CS, an issuer or a guarantor of government securities, which has been in default since December 31, 1975, must provide notification by an offering circular containing full and fair disclosure, as prescribed by department rule in order to be entitled to an exemption from registration. Issuers of general obligation bonds would not have to fulfill this requirement. The exemption is self-executing in that the issuer must satisfy itself, and not the department, that it is entitled to the exemption by making the requisite disclosures to investors.

CS/HB 896 also revises present law relating to the registration of security industry professionals. To address the administrative hearing cases mentioned above, legislative intent language is created which would permit:

1) the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations; and,
2) the department to deny a registration application by showing that the statutory grounds upon which a denial may be based are present. Such a showing would preclude a finding of the applicant's good repute and character.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:
   1. Non-recurring or First Year Start-Up Effects:
      None.
   2. Recurring or Annualized Continuation Effects:
      None.
   3. Long Run Effects Other Than Normal Growth:
      None.
   4. Appropriations Consequences:
      The CS has no fiscal impact on the state, as it merely merges two contrary, existing provisions of current Florida law.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
   1. Non-recurring or First Year Start-Up Effects:
      None.
   2. Recurring or Annualized Continuation Effects:
      None.
   3. Long Run Effects Other Than Normal Growth:
      None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
   1. Direct Private Sector Costs:
      None.
   2. Direct Private Sector Benefits:
      CS/HB 896 will benefit the private sector by clarifying existing law.
3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

Statement of Substantial Changes

House Bill 896 was designed to resolve the conflict and ambiguities which resulted from the enactment of House and Senate bills which amended, in a substantively different manner, the law governing municipal bonds and similar securities. The CS retains the resolution of the conflict while providing intent language to clarify that only a default which is material to the investor's evaluation of the offering needs to be disclosed. Additionally, the CS provides intent language to permit the department to continue its standing practice of requiring reapplication for registration when associated persons change affiliations. Moreover, the intent language allows the department to deny a registration application by showing that statutory grounds for denial are existent.

V. AMENDMENTS:

None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Beryl Roberts

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: H. Fred Varn

1529
STANDARD FORM 3/88
Committee on Commerce
House of Representatives

Date of Meeting: April 27, 1988
Place: 317 Capitol

BILL NO.: HB 896

FINAL ACTION:
- Favorable
- Favorable with Amendments
- Favorable with Substitute
- Unfavorable

VOTE:

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<th>NAY</th>
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Total Yea 17
Total Nay 0

Chairman
Ron C. Johnson

APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
</tr>
</thead>
</table>

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

(FILE WITH THE CLERK AND ATTACH SUBCOMMITTEE REPORT IF APPLICABLE)
TO: Chairman, Committee on Commerce

Subcommittee on Banking & Commerce
Date of Meeting 4/20/88
Time 10:00 A.M.
Place 317 C

BILL NO. 4B 896

FINAL ACTION: Favorable
Favorable with 2 Amendments
Favorable with Proposed Substitute
Unfavorable

VOTE:

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<th>NAYS</th>
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<td>X</td>
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<td>Rep. Frishe</td>
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<td>X</td>
<td>Rep. Renke</td>
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<tr>
<td>X</td>
<td>Rep. Trammell (Chair)</td>
<td></td>
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</table>

Total Yeas 6
Total Nays 0

APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

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<thead>
<tr>
<th>Name</th>
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<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michael Underwood</td>
<td>Dept. of Banking</td>
<td>1302 The Capitol, Tallahassee</td>
</tr>
</tbody>
</table>

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee:

Date:

Received by: