

Tab 1	SB 338 by Rodriguez ; Energy Efficiency Savings in State Agencies					
Tab 2	SB 952 by Perry ; (Similar to H 00605) Senior Management Service Class					
689234	A	S	RCS	GO, Perry	Delete L.27 - 35:	01/21 04:49 PM
Tab 3	SM 974 by Pizzo ; (Similar to H 00127) Jean-Jacques Dessalines Day					
Tab 4	SB 1276 by Albritton ; (Compare to H 01201) Department of Citrus					
Tab 5	SB 7014 by BI ; (Identical to H 07003) OGSR/Payment Instrument Transaction Information/Office of Financial Regulation					
Tab 6	SB 7022 by IS ; (Identical to H 07001) OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles					
Tab 7	SPB 7042 by GO ; State University Facility Designations					
Tab 8	SPB 7044 by GO ; State-administered Retirement Systems					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Hooper, Chair
Senator Rader, Vice Chair

MEETING DATE: Tuesday, January 21, 2020

TIME: 2:30—4:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 338 Rodriguez	Energy Efficiency Savings in State Agencies; Revising the energy consumption information each state agency is required to provide to the Department of Management Services to include transportation fleet energy consumption information; requiring the state energy management plan to include recommendations for state agencies to improve energy efficiency by transitioning, retrofitting, or replacing certain inefficient facilities and fleets, etc. GO 01/21/2020 Favorable AEG AP	Favorable Yeas 5 Nays 0
2	SB 952 Perry (Similar H 605)	Senior Management Service Class; Providing that participation in the Senior Management Service Class of the Florida Retirement System is compulsory for each appointed criminal conflict and civil regional counsel and specified staff of the regional counsel beginning on a specified date; authorizing certain additional positions that may be included in the class, etc. GO 01/21/2020 Fav/CS CJ AP	Fav/CS Yeas 4 Nays 0
3	SM 974 Pizzo (Similar HM 127)	Jean-Jacques Dessalines Day; Urging Congress to recognize October 17 as Jean-Jacques Dessalines Day, etc. GO 01/21/2020 Favorable JU RC	Favorable Yeas 4 Nays 0
4	SB 1276 Albritton (Compare H 1201)	Department of Citrus; Establishing the Friends of Florida Citrus Program within the Department of Citrus; creating the Friends of Florida Citrus Advisory Council adjunct to the department; authorizing the Department of Citrus to loan department employees to or share department employees with specified state and federal entities, etc. AG 01/14/2020 Favorable GO 01/21/2020 Favorable AP	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Tuesday, January 21, 2020, 2:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 7014 Banking and Insurance (Identical H 7003)	OGSR/Payment Instrument Transaction Information/Office of Financial Regulation; Amending a provision relating to an exemption from public records requirements for certain payment instrument transaction information held by the Office of Financial Regulation; removing the scheduled repeal of the exemption, etc. GO 01/21/2020 Favorable RC	Favorable Yeas 4 Nays 0
6	SB 7022 Infrastructure and Security (Identical H 7001, Compare S 1030)	OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles; Amending a provision which provides an exemption from public records requirements for certain e-mail addresses collected by the Department of Highway Safety and Motor Vehicles; removing the scheduled repeal of the exemption, etc. GO 01/21/2020 Favorable RC	Favorable Yeas 4 Nays 0
Consideration of proposed bill:			
7	SPB 7042	State University Facility Designations; Requiring the Board of Governors to adopt regulations regarding the naming or renaming of state university facilities; specifying elements that must be addressed in the naming or renaming process; providing applicability; deleting a prohibition against the naming of facilities in a certain manner, etc.	Submitted and Reported Favorably as Committee Bill Yeas 4 Nays 0
Consideration of proposed bill:			
8	SPB 7044	State-administered Retirement Systems; Revising required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System; providing a declaration of important state interest, etc.	Submitted and Reported Favorably as Committee Bill Yeas 4 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 338

INTRODUCER: Senator Rodriguez

SUBJECT: Energy Efficiency Savings in State Agencies

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 338 amends s. 255.257, F.S., to revise the energy consumption and cost information each state agency is required to provide to the Department of Management Services to include state transportation fleets. The bill also provides that the state energy management plan must include recommendations for state agencies to use new technology to reduce energy usage by transitioning, retrofitting, or replacing government-owned and government-leased facilities and transportation fleets.

The bill requires the Department of Management Services, in consultation with the Department of Agriculture and Consumer Services, to develop a formula to determine the savings generated by implementing the state energy management plan and to use the calculated value of such savings to encourage and fund other energy efficiency and climate change resiliency efforts within the state.

The bill takes effect on July 1, 2020.

II. Present Situation:

In 2008, the Legislature passed a comprehensive energy package,¹ which contained the Florida Energy Conservation and Sustainable Buildings Act (ss. 255.251-255.2575, F.S.) (the Act). The Act provides that:

Operating and maintenance expenditures associated with energy equipment and with energy consumed in state-financed and leased buildings represent a significant cost over the life of the building. Energy conserved by appropriate

¹ Chapter 2008-227, L.O.F.

building design not only reduces the demand for energy but also reduces costs for building operation.²

Section 255.252(4), F.S., provides that it is the policy of the state “to operate and maintain state facilities in a manner that minimizes energy consumption and maximizes building sustainability and to operate facilities leased by the state so as to minimize energy use.”

Section 255.257, F.S., requires each state agency to collect data related to energy consumption and cost for (i) all state-owned facilities and (ii) metered state-leased facilities. Each agency must report the collected data annually to the Department of Management Services (DMS). These data are used in the “computation of the effectiveness of the state energy management plan and the effectiveness of the energy management program of each of the state agencies.”³

The state energy management plan (SEMP) is required to include a description of actions that state agencies shall take to reduce consumption of electricity and nonrenewable energy sources used for space heating and cooling, ventilation, lighting, water heating, and transportation.⁴ Additionally, the SEMP is required to contain the following elements:

- Data-gathering requirements;
- Building energy audit procedures;
- Uniform data analysis procedures;
- Employee energy education program measures;
- Energy consumption reduction techniques;
- Training program for state agency energy management coordinators; and
- Guidelines for building managers.⁵

The most recent report issued by the DMS summarizing SEMP submissions from Florida’s 21 state agencies states that (i) Florida’s agencies own facilities encompassing approximately 46 million gross square feet of space; and (ii) that the combined annual energy consumption is approximately 3.8 billion kBTU (thousand British thermal units), at a combined annual costs of approximately \$113 million.⁶

Based on current state term contracts, DMS reports that the lowest vendor quote of a gas vehicle versus a similar energy efficient model to be as follows:

- 2020 Ford Fusion (4dr Sdn S FWD (POG)) = \$17,106.
- 2020 Ford Fusion (4dr Sdn SE Hybrid FWD (POL)) = \$23,395.⁷
- 2020 Nissan Leaf (S Hatchback (17010)) = \$26,166⁸

² Section 255.252(1), F.S.

³ Section 255.257(1), F.S.

⁴ Section 255.257(3), F.S.

⁵ *Id.*

⁶ See *State Energy Management Plan Annual Summary Report Fiscal Year 2017-18*, available at https://www.dms.myflorida.com/content/download/144726/966212/SEMP_FY2017-18_FINAL.pdf (last visited October 22, 2019).

⁷ There is not an all electric version of the Fusion.

⁸ Email from Andrew Forst, Deputy Director of Legislative Affairs, Department of Management Services (December 12, 2019)(on file with the Senate Committee on Governmental Oversight and Accountability).

Additionally, DMS notes that all-electric vehicles have limited use due to their restricted range and a lack of infrastructure (charging stations) around the state.

III. Effect of Proposed Changes:

Section 1 amends s. 225.257, F.S., to add information on state transportation fleets to the energy consumption and cost information each state agency is required to provide to the DMS.

This section further requires the SEMP to include recommendations for state agencies to use new technology to reduce energy usage by transitioning, retrofitting, or replacing government-owned and government-leased facilities and transportation fleets (the “recommendations”).

Additionally, the bill requires the DMS, in consultation with the Department of Agriculture and Consumer Services, to develop a formula to determine the savings to this state’s taxpayers through the implementation of the SEMP and the recommendations. The DMS is further required to use the calculated value of such savings to encourage and fund other energy efficiency and climate change resiliency efforts within this state.

Section 2 provides that the act shall take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill does not impact state or local taxes or fees.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is likely that state agencies will incur some minimal costs in the collection of data related to energy consumption and costs for state transportation fleets.

VI. Technical Deficiencies:

The bill does not include cost considerations outside of the “energy consumption” context such as those related to the initial costs, operation, and maintenance of transportation fleet vehicles. This may be something to consider adding to the bill’s requirements.

The bill provides that the calculated value of savings (from the implementation of the SEMP and recommendations for energy reducing technology) shall “fund other energy efficiency and climate change resiliency efforts.” The bill does not provide direction or a framework for how the funding of these efforts shall operate. Additionally, the bill lacks a definition for “other efficiency and climate change resiliency efforts.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends 255.257 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Rodriguez

37-00487-20

2020338__

1 A bill to be entitled
2 An act relating to energy efficiency savings in state
3 agencies; amending s. 255.257, F.S.; revising the
4 energy consumption information each state agency is
5 required to provide to the Department of Management
6 Services to include transportation fleet energy
7 consumption information; requiring the state energy
8 management plan to include recommendations for state
9 agencies to improve energy efficiency by
10 transitioning, retrofitting, or replacing certain
11 inefficient facilities and fleets; requiring the
12 department, in consultation with the Department of
13 Agriculture and Consumer Services, to develop a
14 formula to calculate the savings to taxpayers as a
15 result of state agencies implementing the
16 recommendations in the state energy management plan;
17 requiring that such savings be used to encourage and
18 fund other energy efficiency and climate change
19 resiliency efforts in this state; making technical
20 changes; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 255.257, Florida Statutes, is amended to
25 read:

26 255.257 Energy management; buildings occupied by state
27 agencies.—

28 (1) ENERGY CONSUMPTION AND COST DATA.—Each state agency
29 shall collect data on energy consumption and cost for all state-

37-00487-20

2020338__

30 owned facilities, ~~and~~ metered state-leased facilities, and state
31 transportation fleets. ~~Such~~ ~~These~~ data will be used in the
32 computation of the effectiveness of the state energy management
33 plan and the effectiveness of the energy management program of
34 each of the state agencies. Each state agency shall report the
35 collected data ~~shall be reported~~ annually to the department in a
36 format prescribed by the department.

37 (2) ENERGY MANAGEMENT COORDINATORS.—Each state agency, the
38 Florida Public Service Commission, the Department of Military
39 Affairs, and the judicial branch shall appoint a coordinator
40 whose responsibility shall be to advise the head of the state
41 agency on matters relating to energy consumption in facilities
42 under the control of that head or in space occupied by the
43 various units comprising that state agency, in vehicles operated
44 by that state agency, and in other energy-consuming activities
45 of the state agency. The coordinator shall implement the energy
46 management program agreed upon by the state agency concerned and
47 assist the department in the development of the state energy
48 management plan.

49 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
50 Department of Management Services, in coordination with the
51 Department of Agriculture and Consumer Services, shall include
52 at least all of the following elements in ~~Further develop~~ the
53 state energy management plan ~~consisting of, but not limited to,~~
54 ~~the following elements:~~

- 55 (a) Data-gathering requirements. ~~†~~
56 (b) Building energy audit procedures. ~~†~~
57 (c) Uniform data analysis and reporting procedures. ~~†~~
58 (d) Employee energy education program measures. ~~†~~

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2020338__

59 (e) Energy consumption reduction techniques.~~†~~

60 (f) A training program for state agency energy management
61 coordinators.~~†~~~~and~~

62 (g) Guidelines for building managers.

63 (h) ~~The plan shall include~~ A description of actions that
64 state agencies shall take to reduce consumption of electricity
65 and nonrenewable energy sources used for space heating and
66 cooling, ventilation, lighting, water heating, and
67 transportation.

68 (i) Recommendations for state agencies to use new
69 technology to reduce energy usage by transitioning,
70 retrofitting, or replacing government-owned and government-
71 leased facilities and transportation fleets.

72 (4) ENERGY SAVINGS FORMULA.—The department, in consultation
73 with the Department of Agriculture and Consumer Services, shall
74 develop a formula to determine the savings to this state's
75 taxpayers through the implementation of the state energy
76 management plan and recommendations under subsection (3). The
77 department shall use the calculated value of such savings to
78 encourage and fund other energy efficiency and climate change
79 resiliency efforts within this state.

80 (5)~~(4)~~ ADOPTION OF STANDARDS.—

81 (a) Each state agency shall use a sustainable building
82 rating system or a national model green building code for each
83 new building and renovation to an existing building.

84 (b) A ~~No~~ state agency may not ~~shall~~ enter into new leasing
85 agreements for office space that does not meet Energy Star
86 building standards, except when the appropriate state agency
87 head determines that ~~no~~ other viable or cost-effective

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2020338__

88 alternatives do not exist ~~alternative exists~~.

89 (c) Each ~~All~~ state agency ~~agencies~~ shall develop energy
90 conservation measures and guidelines for new and existing office
91 space where state agencies occupy more than 5,000 square feet.
92 These conservation measures shall focus on programs that may
93 reduce energy consumption and, when established, provide a net
94 reduction in occupancy costs.

95 Section 2. This act shall take effect July 1, 2020.

Ponder, Virginia

From: Ponder, Virginia
Sent: Tuesday, January 21, 2020 10:51 AM
To: Redig, Tamra
Subject: FW: SB 338

From: Forst, Andrew <Andrew.Forst@dms.myflorida.com>
Sent: Thursday, December 12, 2019 3:01 PM
To: Ponder, Virginia <Ponder.Virginia@flsenate.gov>
Cc: McVaney, Joe <McVaney.Joe@flsenate.gov>; Farrill, Cody <Cody.Farrill@dms.myflorida.com>; Jefferson, Tyler <Tyler.Jefferson@dms.myflorida.com>
Subject: RE: SB 338

Good Afternoon Virginia,

Sorry again for not having responded sooner. Please see below responses to your questions:

1. Could you provide information on how much DMS currently pays per vehicle and the approximate cost to DMS of a similar model that is more energy efficient?

Since the cost of a gas vehicle vs. a similar hybrid vehicle can vary we used a Ford Fusion as our example in this case. It is a smaller sedan, but very fuel efficient and fits the mandate of statute (s. 287.151, F.S.) and rule (60B-1.002) that vehicles the state purchases be the "smallest, most economical that can perform the job."

The following vehicles are on the current state term contract (STC):

The **2020 Ford Fusion 4dr Sdn S FWD (POG)** – Lowest price vendor quote = **\$17,106.**

The **2020 Ford Fusion 4dr Sdn SE Hybrid FWD (POL)** – Lowest price vendor quote = **\$23,395**
(+\$6,289)

The **2020 Nissan Leaf S Hatchback (17010)** – Lowest price vendor quote = **\$26,166** **(+\$9,060)**

There is not an all-electric version of the Fusion (which is why the Nissan Leaf is included above). In most cases an all-electric vehicle is going to be limited in its use for the state due to their limited range and infrastructure (charging stations) around the state. Edmunds provides a decent reference for the true cost to own over 5 years and here are links to the 3 models referenced above:

2020 Ford Fusion 4dr Sdn S FWD (POG)

Cost over 5 years: \$34850

2020 Ford Fusion 4dr Sdn SE Hybrid FWD (POL)

Cost over 5 years: \$34986 (This is deceptive because at retail they are only showing an acquisition cost difference of \$3000, not \$6300)

\$37986 in reality The gap should close more over 10 years with fuel cost

savings, but after 7-8 the hybrid battery cost for replacement is extremely high.

2020 Nissan Leaf S Hatchback (17010)

Cost over 5 years: \$42927

2. Has DMS conducted any studies or analysis directed to transitioning or retrofitting facilities and transportation fleets to reduce energy usage?

To our knowledge, DMS has not conducted any studies or analyses directed at transitioning or retrofitting facilities and transportation fleets to reduce energy usage. For federal Energy Policy Act (EP-ACT) reporting, the state may need to use infrastructure costs credits to remain compliant because the E85 Alternative Fuel Vehicles (AFVs) are becoming less available from vendors and we are required to buy 75% AFVs in major metropolitan areas.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=2ahUKEwjng5nm5q3mAhXuRd8KHRjSB5gQFjADegQIBBAC&url=https%3A%2F%2Ffloridadep.gov%2Ffile%2F13441%2Fdownload%3Ftoken%3D9254tPdH&usg=AOvVaw0znm_mj8umtX-AuK9zsaZC

<https://afdc.energy.gov/states/fl>

Sometime in FY 12/13 or FY 13/14, DMS/REDM requested funding for recommissioning the mechanical systems in some of our larger buildings. As a result of that effort, DMS/REDM was able to reduce its energy budget from approximately \$19 Million to approximately \$15.5 Million. DMS/REDM has continued the emphasis on mechanical efficiencies and has maintained the reduced budget amount to date.

Please let us know if you need anything else.

Thank you,

Andrew Forst, MAAPP, FCCM | Deputy Legislative Affairs Director

Office of the Secretary

850-922 -6535 (office)

Florida Department of Management Services

We Serve Those Who Serve Florida

How Are We Doing? Click Here to Take the DMS Customer Satisfaction Survey



From: Farrill, Cody <Cody.Farrill@dms.myflorida.com>

Sent: Tuesday, December 10, 2019 10:14 AM

To: Ponder, Virginia <Ponder.Virginia@flsenate.gov>; Forst, Andrew <Andrew.Forst@dms.myflorida.com>

Cc: McVaney, Joe <mcvaney.joe@flsenate.gov>

Subject: Re: SB 338

Virginia- Andrew and I will circle back with our team and get back to you.

Cody Farrill | Deputy Chief of Staff

Office of the Secretary

Florida Department of Management Services

(850) 487-7001 (o) | (850) 545-4693 (cell)

This email is being sent from a mobile device

From: Ponder, Virginia <Ponder.Virginia@flsenate.gov>
Sent: Tuesday, December 10, 2019 10:01:58 AM
To: Farrill, Cody <Cody.Farrill@dms.myflorida.com>; Forst, Andrew <Andrew.Forst@dms.myflorida.com>
Cc: McVaney, Joe <mcvaney.joe@flsenate.gov>
Subject: RE: SB 338

Good Morning:

Do you all have any information directed to my request below?

Thanks,
Virginia

From: Ponder, Virginia
Sent: Monday, November 4, 2019 5:36 PM
To: 'Farrill, Cody' <Cody.Farrill@dms.myflorida.com>; Forst, Andrew <Andrew.Forst@dms.myflorida.com>
Cc: McVaney, Joe <McVaney.Joe@flsenate.gov>
Subject: SB 338

Good Afternoon:

I am seeking information related to SB 338.

Section 1 (lines 68-71) of the bill contemplates transitioning to or the purchase of energy efficient motor vehicles. Could you provide information on how much DMS currently pays per vehicle and the approximate cost to DMS of a similar model that is more energy efficient?

Also, has DMS conducted any studies or analysis directed to transitioning or retrofitting facilities and transportation fleets to reduce energy usage?

Thank you,
Virginia

Virginia Langston Ponder
Florida Senate
Committee on Governmental Oversight and Accountability
404 S. Monroe Street
330 Knott Building
Tallahassee, FL 32399-1100
(850) 487-5181
Ponder.virginia@flsenate.gov



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ

37th District

October 21, 2019

Chair Hooper
Committee on Governmental Oversight and Accountability
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to Hooper.Ed@flsenate.gov

Chair Hooper,

I respectfully request that you place SB 338 Energy Efficiency Savings in State Agencies on the agenda of the Committee on Governmental Oversight and Accountability at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read "JR", written over a white background.

Senator José Javier Rodríguez
District 37

CC:

Joe McVaney, Staff Director
Tamra Redig, Administrative Assistant
Brian Flaherty, Legislative Assistant to Senator Hooper
Mari Riba, Legislative Assistant to Senator Hooper
Charles Smith, Legislative Assistant to Senator Hooper

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
- 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/20/20

Meeting Date

338

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CARLEN

Job Title _____

Address 104-2 Crest St

Phone _____

Street

225

FL

32307

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SERRA CLUB FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20

Meeting Date

338

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E College Ave. #1200

Phone _____

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Solar Energy Industry Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

338

Bill Number (if applicable)

Topic Energy Efficiency SAVINGS in State Agencies

Amendment Barcode (if applicable)

Name JONATHAN Webber

Job Title Deputy Director

Address 1700 N. Monroe St. #11286

Phone

Street

Tallahassee

FL

State

32301

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

1-21-2020

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB338

Bill Number (if applicable)

Topic Energy Savings in State Agencies

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Activist

850

Address

Phone 322-7599

Street

Tallahassee FL 32303

Email amalielatz@mac.com

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against

(The Chair will read this information into the record.)

Representing Environmental Caucus of Florida (Post Partisan)

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 952

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Perry

SUBJECT: Senior Management Service Class

DATE: January 21, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Fav/CS
2.			CJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 952 makes certain managerial employees of the criminal conflict and civil regional counsel offices members of the Senior Management Service Class (SMSC) (rather than the Regular Class) of the Florida Retirement System. For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent service credit. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary.

Any employee shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member's employer.

The bill increases the personnel costs incurred by the five offices of the criminal conflict and civil regional counsel by roughly \$300,000 annually for the positions enumerated in the bill for membership in the SMSC.

The bill takes effect July 1, 2020.

II. Present Situation:

Criminal Conflict and Civil Regional Counsel

In 2007, the Legislature created s. 27.511, F.S., to establish five offices of criminal conflict and civil regional counsel. When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, the office of criminal conflict and civil regional counsel will be appointed to represent the defendant. The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by law in civil proceedings, such as proceedings to terminate parental rights.¹

The table below shows the number of full-time equivalent positions and the amount of salary rate authorized for each of the five regional offices.

Regional Office	FTE Positions	Salary Rate
First	122.00	6,822,226
Second	107.00	6,310,604
Third	66.75	4,314,054
Fourth	114.00	6,257,822
Fifth	92.00	4,621,667
Total	501.75	28,326,373

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers’ Retirement System, the State and County Officers and Employees’ Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.² The FRS is a contributory system, with active members contributing three percent of their salaries.³

The membership of the FRS is divided into five membership classes:

- The Regular Class⁴ consists of 554,631 active members and 7,629 in renewed membership;
- The Special Risk Class⁵ includes 74,274 active members and 1,112 in renewed membership;

¹ Section 27.511(5) and (6), F.S.

² Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 35. Available online at: https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf. (last visited January 13, 2020.)

³ Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

⁴ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁵ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

- The Special Risk Administrative Support Class⁶ has 100 active members and 1 in renewed membership;
- The Elected Officers' Class⁷ has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class⁸ has 7,767 active members and 214 in renewed membership.⁹

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the Pension Plan; and
- The defined contribution plan, also known as the Investment Plan.

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹⁰ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹¹ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.¹² Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.¹³ For most current members of the pension plan (including members in the Regular Class and the Senior Management Service Class), normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.¹⁴ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, a member in the Regular Class or the Senior Management Service Class (SMSC) must complete 33 years of service or attain age 65.¹⁵

The Regular Class and the SMSC share the same normal retirement dates, average final compensation calculation, and disability/survivor benefits. However, the Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service while the SMSC earns a 2.0 percent accrual value each year.

⁶ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁷ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁸ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

⁹ All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 161.

¹⁰ Section 121.025, F.S.

¹¹ Section 121.021(45)(a), F.S.

¹² Section 121.021(45)(b), F.S.

¹³ Section 121.091, F.S.

¹⁴ Section 121.021(29)(a)1., F.S.

¹⁵ Sections 121.021(29)(a)2. and (b)2., F.S.

Section 121.055, F.S., (1)(j), F.S., authorizes a member of the SMSC to upgrade service credit in the same position from Regular Class accrual value to the SMSC accrual value. Generally, the service credit may be purchased by the employer on behalf of the member.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁶ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹⁸ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹⁹ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.²⁰ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.²¹ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.²²

The table below shows the allocation of contributions made into the FRS for members of the investment plan participating in the Regular Class and SMSC. The contributions are based on a percentage of the member’s gross compensation for the month.

Allocation of Contributions	Regular Class	Senior Management Service Class
Investment Account	6.30%	7.67%
Disability	0.25%	0.26%

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA CONST. art. IV, s. 4.

¹⁸ Section 121.4501(6)(a), F.S.

¹⁹ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member’s account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member’s account to the SBA’s suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

²⁰ Section 121.591, F.S.

²¹ See s. 121.4501(16), F.S.

²² Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member’s average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

Allocation of Contributions	Regular Class	Senior Management Service Class
In line of duty death	0.05%	0.05%
Administrative Assessments	0.06%	0.06%
Total	6.66%	8.04%

III. Effect of Proposed Changes:

Section 1 amends s. 121.053, F.S., to make certain employees of the criminal conflict and civil regional counsel offices members of the SMSC (rather than the Regular Class) of the FRS. For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service rather than 1.6 percent service credit. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary.

Any employee shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member’s employer.

Section 2 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The additional employer contributions for the enumerated positions to be paid annually beginning in the 2020-2021 fiscal year are estimated to be roughly \$300,000. These funds will be deposited into the Florida Retirement System Trust Fund to be used to pay benefits upon each member's retirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.055 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 21, 2020:

The CS eliminates new provisions that allowed up to five percent of other CCRC personnel to be designated as Senior Management Service Class for retirement purposes.

B. Amendments:

None.



689234

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/21/2020	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 27 - 35

and insert:

chief investigators.

2. A Senior Management Service Class member under this
paragraph may purchase additional retirement credit in the class
for creditable service within the purview of the Senior
Management Service Class retroactive to October 1, 2007, and



689234

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete lines 8 - 10

14 and insert:

15 beginning on a specified date; authorizing members of
16 the class to purchase

By Senator Perry

8-01019B-20

2020952__

1 A bill to be entitled
2 An act relating to the Senior Management Service
3 Class; amending s. 121.055, F.S.; providing that
4 participation in the Senior Management Service Class
5 of the Florida Retirement System is compulsory for
6 each appointed criminal conflict and civil regional
7 counsel and specified staff of the regional counsel
8 beginning on a specified date; authorizing certain
9 additional positions that may be included in the
10 class; authorizing members of the class to purchase
11 and upgrade certain retirement credit; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (m) is added to subsection (1) of
17 section 121.055, Florida Statutes, to read:

18 121.055 Senior Management Service Class.—There is hereby
19 established a separate class of membership within the Florida
20 Retirement System to be known as the "Senior Management Service
21 Class," which shall become effective February 1, 1987.

22 (1)

23 (m)1. Effective July 1, 2020, participation in the Senior
24 Management Service Class is compulsory for each appointed
25 criminal conflict and civil regional counsel and each district's
26 assistant regional counsel chiefs, administrative directors, and
27 chief investigators. Additional full-time positions may be
28 designated by the criminal conflict and civil regional counsel
29 for inclusion in the Senior Management Service Class, not to

8-01019B-20

2020952__

30 exceed 5 percent of the regularly established positions within
31 the office of criminal conflict and civil regional counsel.

32 2. A Senior Management Service Class member under this
33 paragraph may purchase additional retirement credit in the class
34 for creditable service within the purview of the Senior
35 Management Service Class retroactive to February 1, 1987, and
36 may upgrade retirement credit for such service in accordance
37 with paragraph (j). However, this service credit may not be
38 purchased by the employer on behalf of the member.

39 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 20, 2019

I respectfully request that **Senate Bill #952**, relating to Senior Management Service Class, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/212/2020

Meeting Date

SB 952

Bill Number (if applicable)

Topic Senior Management Service Class

Amendment Barcode (if applicable)

Name Candice K Brower

Job Title Regional Counsel

Address 227 N. Bronough Street

Phone 352 681 0293

Street

Tallahassee

Florida

32301

Email Candice.Brower@rc1.myflorida.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Offices of Criminal Conflict & Civil Regional Counsel

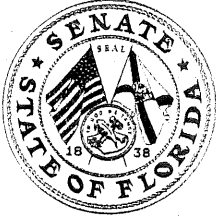
Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Chair*
Infrastructure and Security, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Education

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR KEITH PERRY
8th District

January 21, 2020

Senator Ed Hooper
Chair, Government Oversight and Accountability
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Hooper,

I am scheduled to present my bill before your committee *SB SB952- Senior Management Service Class & 689234 Amendment* on Tuesday, January 21, 2020. Unfortunately, I will not be able to present the bill.

Senator Bean has agreed to present the bill and amendment on my behalf.

Please do not hesitate to contact me if you require additional information.

Thank you,

A handwritten signature in black ink that reads "W. Keith Perry".

Keith Perry
State Senator
District 8

REPLY TO:

- 2810 NW 43rd Street, Suite 2B, Gainesville, Florida 32606 (352) 264-4040
- Marion County Board of Commissioners, 115 SE 25th Avenue, Ocala, Florida 34471 (352) 732-1249
- Putnam County Government Complex, 2509 Crill Avenue, Palatka, Florida 32177
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SM 974

INTRODUCER: Senator Pizzo

SUBJECT: Jean-Jacques Dessalines Day

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SM 974 is a memorial to the Congress of the United States urging Congress to recognize October 17 as Jean-Jacques Dessalines Day.

A memorial is not subject to the approval or veto powers of the Governor, is not subject to constitutional title requirements, and does not have the effect of law.

II. Present Situation:

Jean-Jacques Dessalines

Jean-Jacques Dessalines (1758-1806) was an important military and political leader during the Haitian revolution and the first president and emperor of Haiti following their independence in 1804. Under Dessalines, Haiti became the first new-world country to permanently abolish slavery.

During the Haitian Revolution¹

Born into slavery², Dessalines was a field hand until he joined a massive slave rebellion in 1791 that would sprawl into the Haitian revolution. Dessalines joined the local rebellion military and

¹ See throughout Encyclopedia Britannica, *Jean-Jacques Dessalines*, <https://www.britannica.com/biography/Jean-Jacques-Dessalines> (last visited December 27, 2019); Biography, *Jean-Jacques Dessalines*, March 16, 2015 (Updated June 18, 2019), <https://www.biography.com/political-figure/jean-jacques-dessalines> (last accessed January 15, 2020); The Louverture Project, *Jean Jacques Dessalines*, https://thelouvertureproject.org/index.php?title=Jean-Jacques_Dessalines (last visited December 27, 2019); Brown Library, *Haitian Independence*, <https://library.brown.edu/haitihistory/11.html> (last visited December 27, 2019); Girard, Philippe R. "Caribbean genocide: racial war in Haiti, 1802–4." *Patterns of Prejudice* 39.2 (2005): 138-161.

² Haitian tradition holds that Dessalines was born in West Africa and transported as a slave, while historians believe he was born in Haiti.

eventually travelled to Santo Domingo (in modern-day Dominican Republic, then under Spanish control), where he enlisted with the Spanish army against the French colony of Saint-Domingue. Here, Dessalines met and became chief lieutenant to Toussaint Louverture, who would become the first leader of the Haitian Revolution.

After France ended slavery in 1794, Louverture and Dessalines realigned in alliance with France. Over the following years Louverture and Dessalines established a semi-autonomous colony through military rule. Dessalines was successful as a military commander, facing Spanish and British forces as well as insurrection within the colony. While remaining loyal to France, Louverture became governor of newly autonomous Saint-Domingue with their own constitution.

In 1802, with the intent of reestablishing French control over Saint-Domingue, Napoleon Bonaparte officially reinstated slavery on the island and sent an expeditionary force to Saint-Domingue to wrest power from Louverture's government. Louverture and Dessalines led Haitian forces against the French forces and defeated them in the Battle of Crête-à-Pierrot. Following this battle, Dessalines briefly allied with the French against Louverture, who surrendered before being jailed and brought to France, where he would die of pneumonia the following year.

The Haitian rebels would be shortly reunited under Dessalines against the French, owing to the French military's brutal tactics and their heavy losses due to yellow fever. Dessalines became the leader of the revolution and, after several victories the French colonial army surrendered all of its territory to Dessalines.

Leader of Haiti³

On January 1, 1804, Dessalines declared the colony's independence and renamed it Haiti, an indigenous name meaning "land of high mountains." He declared himself Governor-General-for-life, until later that year when he would be crowned Emperor Jacques I of Haiti. The new country abolished slavery, becoming the first country in the Americas to do so. Dessalines continued many of Louverture's policies, including a regime of forced labor referred to as agrarian militarism, where the government demanded all citizens either work as soldiers or as laborers on plantations.

The Massacre of 1804⁴

In 1804, following the declaration of an independent Haiti, Dessalines ordered that all white people on the island should be killed. Between February and April, Haitian forces killed as many as 5,000 whites including women and children, essentially eradicating white Haitians.⁵ The Constitution of 1805 also banned white men from owning land, with few exceptions.⁶

³ See *supra*, footnote 1.

⁴ *Id.*

⁵ Biography, *Jean-Jacques Dessalines*, March 16, 2015 (Updated June 18, 2019), <https://www.biography.com/political-figure/jean-jacques-dessalines> (last accessed January 15, 2020); see also McKey, Colin, *The Economic Consequences of the Haitian Revolution*, June 2016, available at <https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/20330/Final%20Thesis-McKey.pdf?sequence=1> (Last visited January 15, 2020).

⁶ The 1805 Constitution of Haiti, Article 12, reads "No whiteman of whatever nation he may be, shall put his foot on this territory with the title of master or proprietor, neither shall he in future acquire any property therein." Available at <https://web.archive.org/web/20051228150910/http://www.webster.edu/~corbete/haiti/history/earlyhaiti/1805-const.htm>.

End of Dessalines' Rule and Legacy⁷

As resistance to Dessalines's rule grew in certain circles, revolt broke out. Dessalines was assassinated during an effort to quell revolt in 1806. For much of the 19th Century Dessalines was reviled by Haitians for his brutality and autocratic rule. The turn of the 20th century, however, saw a revision of how Dessalines is seen, and now he is considered a founding father of Haiti. The Haitian national anthem, written in 1903, is entitled "La Dessalinienne." Dessalines Day is a national holiday in Haiti, observed on October 17th each year, the anniversary of his death.⁸

Federal Recognition of Other Commemorative Events

Congress has passed legislation relating to national observances and commemorative months on several occasions. For example, Congress has passed legislation to commemorate or authorize the President to proclaim February as "National African American History Month," November as "Native American Heritage Month,"⁹ May as "Jewish American Heritage Month," May as "Asian Pacific Heritage Month," and the period beginning September 15 and ending October 15 as "National Hispanic Heritage Month".¹⁰ In addition, Congress has passed legislation to commemorate or authorize the President to proclaim several days of national observance such as Flag Day on June 14,¹¹ and Native American Heritage Day on the first Friday after Thanksgiving.¹²

Observances and Ceremonies

National and Patriotic Observances and Ceremonies are governed by Title 36 of the United States Code. There are forty-six patriotic and national observances specified by the United States Code, from American Heart Month to Veterans Day.¹³ These observances designate a certain day for observation and request that the president issue a proclamation calling for appropriate observance and ceremony.¹⁴ Each of the observances and ceremonies are American, related to American history.

⁷ *Supra*, note 5.

⁸ OfficeHolidays, *Dessalines Day in Haiti in 2020*, <https://www.officeholidays.com/holidays/haiti/dessalines-day> (last visited January 14, 2020).

⁹ The observance was first authorized by President H.W. Bush in 1990 under the title 'National American Indian Heritage Month' and has since been titled under several variations. The current title of the observation is 'Native American Heritage Month.' LIBRARY OF CONGRESS, *About Native American Heritage Month*, <http://nativeamericanheritagemonth.gov/about/> (last visited January 14, 2020).

¹⁰ Library of Congress, *Commemorative Observances*, <http://www.loc.gov/law/help/commemorative-observations/> (Last visited January 14, 2020).

¹¹ House Joint Resolution 211, Pub. L. 99-54 (1985), available at <https://www.gpo.gov/fdsys/pkg/STATUTE-99/pdf/STATUTE-99-Pg97.pdf>

¹² House Joint Resolution 40, Pub. L. 111-33 (2009), available at <https://www.congress.gov/bill/111th-congress/house-joint-resolution/40/text>

¹³ See 36 U.S.C. ss. 101-145 (2019).

¹⁴ See, e.g., 36 U.S.C. s 109 Father's Day (2019).

Senate Memorial

A Senate Memorial is “a measure addressed to an executive agency or another legislative body, usually congress, which expresses the consensus of the Florida Legislature or urges that certain action be taken on a matter within the jurisdiction of the agency or body to which it is addressed. When both houses adopt the measure, the memorial is signed by the legislative officers and transmitted to the Secretary of State for presentation to the addressee. A memorial is not subject to the approval or veto powers of the Governor, is not subject to constitutional title requirements, and does not have the effect of law.”¹⁵

III. Effect of Proposed Changes:

The Senate Memorial would urge the United States Congress to recognize October 17 as Jean-Jacques Dessalines Day, and dispatch a message to that effect.

Copies of the memorial will be sent by Florida’s Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The Memorial contains five whereas clauses. The clauses outline Dessalines’s status as founding father and celebrated ruler, state that Haiti was the first country in the Americas to abolish slavery, and state that the anniversary of his assassination is celebrated in Haiti as Dessalines Day.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As SM 974 is a memorial requesting an action of the federal government, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁵ Senate Glossary, <https://www.flsenate.gov/Reference/Glossary>.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Pizzo

38-01012-20

2020974__

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to recognize October 17 as Jean-
Jacques Dessalines Day.

WHEREAS, Jean-Jacques Dessalines, regarded as one of the
founding fathers of Haiti, is celebrated as a leader who fought
for and attained freedom for Haiti's people, and

WHEREAS, as a military leader during the Haitian
Revolution, Dessalines went on to serve as the first ruler of an
independent Haiti under the 1805 constitution, and

WHEREAS, the generals of the Haitian Revolution Army
proclaimed Dessalines as the Emperor of Haiti in 1804, crowning
him as Emperor Jacques I, and

WHEREAS, under Dessalines, Haiti became the first country
in the Americas to permanently abolish slavery, and

WHEREAS, Dessalines served as emperor until his
assassination during a military revolt on October 17, 1806, the
anniversary of which is celebrated in Haiti as Dessalines Day,
NOW, THEREFORE,

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

That the Congress of the United States is urged to
recognize October 17 as Jean-Jacques Dessalines Day.

BE IT FURTHER RESOLVED that the Secretary of State dispatch
copies of this memorial to the President of the United States,
the President of the United States Senate, the Speaker of the
United States House of Representatives, and each member of the

38-01012-20

2020974__

30

Florida delegation to the United States Congress.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 13, 2019

I respectfully request that **SM 974**, relating to Jean-Jacques Dessalines Day, be placed on the:

committee agenda at your earliest possible convenience.

next committee agenda.



Senator Jason W.B. Pizzo
Florida Senate, District 38

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1276

INTRODUCER: Senator Albritton

SUBJECT: Department of Citrus

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1276 establishes the Friends of Florida Citrus Program within the Department of Citrus (department). It provides for the powers and duties of the program and requires any funds received to be deposited into the Florida Citrus Advertising Trust Fund. It also creates the Friends of Florida Citrus Advisory Council which is to advise and provide recommendations to the Florida Citrus Commission regarding the use of any funds received for the Friends of Florida Citrus Program.

The bill authorizes the department to loan its employees to or to share its employees with specified state and federal entities and to enter into related agreements with such entities. The bill also deletes provisions setting out the required work schedule and staffing of the department.

The bill is expected to have an indeterminate fiscal impact on the private and governmental sectors.

The bill takes effect on July 1, 2020.

II. Present Situation:

Florida Department of Citrus

The department is an executive agency of Florida government charged with the marketing, research, and regulation of the Florida citrus industry. Its activities are funded by an assessment paid by growers on each box of citrus that moves through commercial channels. The industry employs more than 45,000 people, provides an annual economic impact of \$8.6 billion to the state, and contributes hundreds of millions of dollars in tax revenues that help support Florida's schools, roads and health care services. The department also has extensive regulatory

responsibilities, covering every aspect of the industry, including research, production, maturity standards, licensing, transportation, labeling, packing and processing.¹

The Florida Citrus Commission

The Florida Citrus Commission (commission) governs the department.² The commission is a nine-member board appointed by the governor to represent citrus growers, processors, and packers. The department carries out commission policy and acts as the commission's staff by conducting a wide variety of programs involving regulation, scientific, market, and economic research, advertising, merchandising, public and industry relations, and consumer promotions.³

Assessments collected and levied by the department are paid into the State Treasury and accounted for in the Florida Citrus Advertising Trust Fund.⁴ All money in the State Treasury, including that deposited into the Florida Citrus Advertising Trust Fund, is subject to the legislative appropriations process.⁵

Advisory Councils

Section 20.03(7), F.S. defines an advisory council as an advisory body created by statute and appointed to study problems arising in a specified functional or program area of state government and to recommend policy alternatives. Advisory councils are created on a continuing basis, and therefore have no natural ending date.

Section 20.052, F.S., provides guidelines and procedures for a collegial body created by statute such as an advisory council. The body must meet a statutorily defined purpose, conform with s. 20.03, F.S., and its members shall be appointed to staggered 4-year terms.⁶ The section also provides that an advisory body's members are to serve without additional compensation but may receive per diem and reimbursement for travel expenses.⁷

Advisory committees serve a public purpose by providing the department with information and expertise on a number of issues important to the citrus industry, such as identifying and prioritizing citrus harvesting problems and evaluating proposals for conducting research on the nutritional benefits of citrus products. Department funding support for these committees comes from excise taxes paid by Florida citrus growers on each box of citrus moved through commercial channels.⁸

The commission currently has the following five advisory councils/committees:

¹ Florida Department of Citrus, See <https://www.floridacitrus.org/grower/about/florida-department-of-citrus> (Last visited January 8, 2020).

² See generally s. 601.04, F.S.

³ Florida Citrus Commission, See <https://www.floridacitrus.org/grower/about/florida-citrus-commission/> (Last visited January 8, 2020).

⁴ Section 601.15(7), F.S.

⁵ FLA. CONST. Art. VII, s. 1(d).

⁶ Section 20.052(4), F.S.

⁷ *Id.*

⁸ Office of Program Policy Analysis and Government Accountability, "Florida Department of Citrus Advisory Committees," September 6, 2007, See <http://www.oppaga.state.fl.us/reports/pdf/07-S09.pdf> (Last visited January 8, 2020).

- Fruit Classification & Standards Committee
- Gift Fruit Advisory Council
- Processing Statistics Reporting Advisory Committee
- Scientific Research Advisory Committee
- State Test House Advisory Council

The chair of the commission is authorized to appoint any advisory committee or council deemed appropriate, subject to the commission's concurrence. No statutory enactment is required for a new advisory council.⁹

Unless specifically exempted from public meetings requirements, all advisory council meetings are public meetings.¹⁰ Minutes and voting records must be recorded and maintained, and the meetings must be noticed.¹¹

Intergovernmental Interchange of Public Employees

Section 112.24, F.S., provides for interchange of public employees within the government. Agencies are allowed to enter into employee interchange agreements with other state agencies, the Federal Government, another state, a municipality, a political subdivision, an institution of higher education, or a nonprofit organization. The details of an interchange program are to be put into an agreement reported to the Department of Management Services, and is not to last longer than two years. Section 112.24(3), F.S., provides regulations for how salary, leave, travel, transportation, and reimbursements for the employee are to be handled in the agreement. For the 2019-2020 fiscal year, ending July 1, 2020, the assignment of an employee may be made if recommended by the Governor or Chief Justice and approved by the chairs of the legislative appropriations committees.¹²

Marketing Orders

Marketing agreements and orders allow cooperation among handlers, producers, and governmental entities like the department to help provide stable markets for dairy products and twenty-one types of fruits, vegetables, and specialty crops. Each order and agreement is tailored to the individual industry's needs. Marketing Orders are binding regulations for the signatories in the specified geographical area, once approved by the signatories and the Secretary of Agriculture. Marketing Agreements are only binding for those handlers that sign the agreement.¹³

Fruit, vegetable, and specialty crop marketing orders and agreements help producers and handlers work together to solve marketing problems that they cannot solve individually by (1) maintaining the high quality of produce that is on the market; (2) standardizing packages and containers; (3) regulating the flow of product to market; (4) establishing reserve programs for storable commodities; and (5) authorizing production research, marketing research and

⁹ Section 601.04(3)(b), F.S.

¹⁰ Section 20.052(5)(c), F.S.

¹¹ Section 286.011, F.S.

¹² Section 112.24(6), F.S.

¹³ See generally s. 600.051, F.S.

development, and advertising.¹⁴ Provisions in this bill will help the department accommodate the federal Marketing Order process.

III. Effect of Proposed Changes:

Section 1 creates s. 601.041, F.S., to establish the Friends of Florida Citrus Program within the department. Its purpose is to support and assist existing and future programs within the department. Through the program, the department shall:

- Conduct programs and activities related to the protection and enhancement of the quality and reputation of Florida citrus fruit and the canned and concentrated products that are sold in domestic and foreign markets;
- Identify and pursue methods to provide resources and materials for the program; and
- Research methods to integrate the resources and materials that have been identified.

The bill authorizes the department to receive donations from private corporations to support the program. Donations must be deposited into the Florida Citrus Advertising Trust Fund.

The bill establishes The Friends of Florida Citrus Advisory Council (advisory council) to advise and provide recommendations to the commission regarding the use of any funds received for the Friends of Florida Citrus Program. The advisory council shall consist of the following members, appointed by the chair of the commission annually upon the concurrence of the commission:

- One member of the commission;
- One member recommended by a consortium of citrus processors in Florida;
- One member recommended by the statewide voluntary Florida citrus growers association with the highest membership; and
- Two at-large members, at the discretion of the commission.

This program and the advisory council will allow the department to capture and coordinate marketing efforts and marketing funds from outside sources not otherwise subject to the box assessment. More efficient coordination will allow the industry greater flexibility in communal efforts in advertising and outreach than reliance on federal marketing orders, which can take more than a year to be approved.

Section 2 amends s. 601.10, F.S., to authorize the department to loan department employees to or to share department employees with other state and federal agencies, state universities, or the Department of Agriculture and Consumer Services or its direct support organizations or for marketing orders adopted under the authority of the United States Secretary of Agriculture. The bill authorizes the department to enter into agreements with such entity or entities under terms and conditions that will benefit the state, if the agency or entity with which the employee is loaned or shared reimburses the state for all pay and benefits of the employee, not including a service fee for administration. If the entity directly pays the loaned or shared employee his or her salary and benefits, if applicable, an agreement with the department is not necessary and the employee may work part-time with the department under terms and conditions mutually agreed

¹⁴ United States Department of Agriculture, Agricultural Marketing Service, See <https://ams.usda.gov/rules-regulations/moa> (Last visited January 8, 2020).

to between the department and the employee. All arrangements and agreements are subject to approval by the department.

The bill deletes provisions setting out the required work schedule and staffing of the department.

Section 3 provides that this act shall take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate. The department will be responsible for per diem and travel costs related to the advisory council.

VI. Technical Deficiencies:

Lines 39-40 of the bill permit the department to receive donations from private corporations for deposit into the Florida Citrus Advertising Trust Fund. Limiting donations to originating from “corporations” as opposed to “persons,” which would include other types of firms, associations, partnerships, and business entities, may have the unintended effect of disallowing donations the program would otherwise receive.

Lines 54-55 of the bill state that one member of the council will be “recommended by a consortium of citrus processors in this state.” This is a general statement that doesn’t refer to a particular consortium or association, and fails to adequately specify what body will recommend the member.

The bill creates an advisory council and directs it to operate in a manner consistent with s. 20.052, F.S. To be consistent with s. 20.052, F.S., the Legislature should consider the following:

- Section 20.052(3)(c), F.S., requires, unless expressly provide otherwise in the State Constitution, members of advisory councils to be appointed to staggered 4-year terms. Line 51 of the bill states the members are to be appointed annually.
- Section 20.052(5)(a), F.S., requires private citizen members of an advisory council adjunct to an executive agency to be appointed by the governor, a cabinet officer, or the head of the department, in this case the Citrus Commission as a whole. Lines 50-52 of the bill authorize the commission chair to appoint private citizen members to the advisory council with the concurrence of the commission.

Lines 44-59 of the bill do not identify operating procedures for the advisory council, including the selection of a chair, the adoption of rules, the location and schedule for meeting, and quorum.

VII. Related Issues:

Until s. 112.24(6), F.S., expires and is not reenacted for an additional period of time, the intergovernmental loan program prescribed in section 2 of the bill cannot be utilized without the recommendation of the Governor or Chief Justice and the consent of both legislative appropriations committee chairs.

VIII. Statutes Affected:

This bill amends section 601.10 of the Florida Statutes.
This bill creates section 601.041 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Albritton

26-00995A-20

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1 A bill to be entitled
 2 An act relating to the Department of Citrus; creating
 3 s. 601.041, F.S.; establishing the Friends of Florida
 4 Citrus Program within the Department of Citrus;
 5 providing a purpose of the program; providing duties
 6 of the department; authorizing the program to receive
 7 certain funds; requiring funds to be deposited into
 8 the Florida Citrus Advertising Trust Fund; creating
 9 the Friends of Florida Citrus Advisory Council adjunct
 10 to the department; providing for the membership and
 11 duties of the advisory council; amending s. 601.10,
 12 F.S.; authorizing the Department of Citrus to loan
 13 department employees to or share department employees
 14 with specified state and federal entities; authorizing
 15 the department to enter into agreements with such
 16 entities; providing that agreements are subject to
 17 prior approval by the department; deleting provisions
 18 setting out the required work schedule for the
 19 department; providing an effective date.

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

23 Section 1. Section 601.041, Florida Statutes, is created to
 24 read:

25 601.041 The Friends of Florida Citrus Program; advisory
 26 council.-

27 (1) The Friends of Florida Citrus Program is established
 28 within the department to provide support and assistance for
 29 existing and future programs within the department.

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30 (a) Through the program, the department shall:

31 1. Conduct programs and activities related to the
32 protection and enhancement of the quality and reputation of
33 Florida citrus fruit and the canned and concentrated products
34 thereof in domestic and foreign markets.

35 2. Identify and pursue methods to provide resources and
36 materials for the programs.

37 3. Research methods to integrate the resources and
38 materials identified pursuant to subparagraph 2.

39 (b) The department may receive donations from private
40 corporations to support the program. The department shall
41 deposit donations to the program into the Florida Citrus
42 Advertising Trust Fund, as established in s. 601.15(7), and such
43 donations shall be exempt from s. 601.15(7)(a).

44 (2) The Friends of Florida Citrus Advisory Council, an
45 advisory council as defined in s. 20.03(7), is established
46 adjunct to the department. The advisory council shall advise and
47 provide recommendations to the commission regarding the use of
48 any funds received for the Friends of Florida Citrus Program.
49 The advisory council shall operate in a manner consistent with
50 s. 20.052 and shall consist of the following members, appointed
51 by the chair of the commission annually upon the concurrence of
52 the commission:

53 (a) One member of the commission.

54 (b) One member recommended by a consortium of citrus
55 processors in this state.

56 (c) One member recommended by the statewide voluntary
57 Florida citrus growers association with the highest membership.

58 (d) Two at-large members, at the discretion of the

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59 commission.

60 Section 2. Subsection (3) of section 601.10, Florida
61 Statutes, is amended to read:

62 601.10 Powers of the Department of Citrus.—The department
63 shall have and shall exercise such general and specific powers
64 as are delegated to it by this chapter and other statutes of the
65 state, which powers shall include, but are not limited to, the
66 following:

67 (3)~~(a)~~ To pay, or participate in the payment of, premiums
68 for health, accident, and life insurance for its full-time
69 employees, pursuant to such rules as the department may adopt,
70 in addition to the regular salaries of such full-time employees.

71 (a) The payment of such or similar benefits to its
72 employees in foreign countries, including, but not limited to,
73 social security, retirement, and other similar fringe benefit
74 costs, may be in accordance with laws in effect in the country
75 of employment, except that no benefits will be payable to
76 employees not authorized for other state employees, as provided
77 in the Career Service System.

78 (b) The department may loan department employees to or
79 share department employees with other state and federal
80 agencies, state universities, or the Department of Agriculture
81 and Consumer Services for marketing and promotion orders
82 authorized under the authority of the Department of Agriculture
83 and Consumer Services or its direct support organizations or for
84 orders adopted under the authority of the United States
85 Secretary of Agriculture. The department may enter into
86 agreements with such entity or entities under such terms and
87 conditions as will benefit the state, if the agency or entity

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88 with which the employee is loaned or shared reimburses the state
89 for all pay and benefits of the employee, not including a
90 service fee for administration. If the entity directly pays the
91 loaned or shared employee his or her salary and benefits, if
92 applicable, an agreement with the department is not necessary
93 and the employee may work part-time with the department under
94 terms and conditions mutually agreed to between the department
95 and the employee. All arrangements made pursuant to this
96 paragraph are subject to prior approval by the department
97 ~~Subject to all applicable rules adopted by the Department of~~
98 ~~Management Services, the department shall be staffed 5 days per~~
99 ~~week, 40 hours per week, as necessary to accommodate industry~~
100 ~~inquiries. However, the executive director, with the~~
101 ~~commission's approval, may establish alternative schedules for~~
102 ~~individual department employees to ensure maximum efficiencies.~~

103 Section 3. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7014

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Payment Instrument Transaction Information/Office of Financial Regulation

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Palecki</u>	<u>Knudson</u>		BI Submitted as Committee Bill
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 7014 amends s. 560.312, F.S., Florida Statutes, to save from repeal the current public records exemption for the payment instrument transaction information held by the Office of Financial Regulation’s check cashing database, by removing the scheduled October 2, 2020 repeal date.

The bill continues to exempt from public disclosure information held by the Office of Financial Regulation pursuant to section 560.310, F.S., which identifies a licensee, payor, payee, or conductor.

The bill is not expected to impact state and local revenues and expenditures.

This bill takes effect October 1, 2020.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Check Cashing Database

The Office of Financial Regulation (OFR) supervises “check cashers,” a type of money services business which the Florida Statutes defines as persons who “sell currency in exchange for payment instruments²⁷ received, except traveler’s checks.”²⁸ As the regulator and licensing authority, the OFR is responsible for administering and enforcing ch. 560, F.S., the Money Services Business Act. Check cashers are licensed under Part III of the Money Services Business Act, “Check Cashing and Foreign Currency Exchange.”

Prior to the institution of the check cashing database, OFR licensees engaged in check cashing were required to maintain customer files on those customers cashing corporate or third-party payment instruments exceeding \$1,000, and to maintain files for any payment instrument accepted having a face value of \$1,000 or more. These files were required to include a copy of the customer’s photo identification along with a customer thumbprint taken by the licensee. Licensees were required to maintain these files electronically, as prescribed by rule.²⁹ As regulator, the OFR reviewed these records pursuant to their examination authority.³⁰

Due to concerns about the facilitation of workers’ compensation premium fraud through money services businesses, in 2011 the Chief Financial Officer formed a Money Service Business Facilitated Workers’ Compensation Work Group. This group, comprised of regulators (including the OFR), law enforcement, and industry stakeholders, was tasked with studying the issue. The

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ *See generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ “Payment instrument” means “a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.” Section 560.103(29), F.S.

²⁸ Section 560.103(6), F.S.

²⁹ Section 560.310(1) and (2), F.S. (2012).

³⁰ Section 560.109(1)-(3), F.S. (2012). The OFR continues to review these records pursuant to their examination authority. *See* Section 560.109(1)-(3), F.S. (2019).

work group made a number of findings and recommendations, including the establishment of a statewide database that could be utilized by regulators and law enforcement to detect workers' compensation insurance fraud.³¹ While licensees were already required by rule to keep substantially similar information in an electronic format that was "readily retrievable and capable of being exported" for examination purposes, the database was expected to generate real-time data that could be used proactively to quickly identify and detect this type of fraud.³² The database was further expected to enable parties with a need for the information to make sound business decisions.³³

In response to these findings, the Florida Legislature enacted CS/CS/HB 217 (2013), along with a public records exemption companion, CS/HB 7135 (2013).³⁴ CS/CS/HB 217 (2013) required the OFR to procure a real time, online check cashing database designed to store information submitted by licensees and "combat fraudulent check cashing activity."³⁵

Since implementation of the database, licensees are required to submit certain transactional information to the OFR in addition to independently maintaining files pursuant to the preexisting record keeping requirements.³⁶ Licensees must submit the following transactional information to the OFR for inclusion in the database:

- Transaction date;
- Payor name as displayed on the payment instrument;
- Payee name as displayed on the payment instrument;
- Conductor³⁷ name, if different from the payee name;
- Amount of the payment instrument;
- Amount of currency provided;
- Type of payment instrument, which may include personal, payroll, government, corporate, third-party, or another type of instrument;
- Amount of the fee charged for cashing of the payment instrument;
- Branch or location where the payment instrument was accepted;
- The type of identification and identification number presented by the payee or conductor;
- Payee workers' compensation insurance policy number or exemption certificate number, if the payee is a business, and
- Such additional information as required by rule.³⁸

When licensees submit this information, the OFR assumes custodianship of both personal financial information and private business transaction information. The Legislature found that

³¹ A Report by the Money Service Business Facilitated-Workers' Compensation Fraud Work Group, available online at http://www.myfloridacfo.com/siteDocs/MoneyServiceBusiness/WC_MSBReport-Rec.pdf (last viewed January 9, 2020).

³² *Id.*

³³ *Id.*

³⁴ Chapters 2013-139 and 2013-155, Laws of Florida.

³⁵ Section 560.310(4), F.S.

³⁶ Section 560.310(1), (2)(a)-(c), F.S. Further, licensees and authorized vendors must maintain such information for 5 years unless a longer period is required by other state or federal law. Section 560.1105, F.S. Willful failure to comply with records retention requirements is a felony of the third degree. Section 560.1105(4), F.S.

³⁷ "Conductor" means "a natural person who presents himself or herself to a licensee for purposes of cashing a payment instrument." Section 560.103(9), F.S.

³⁸ Section 560.310(2)(d), F.S.

public availability of such payment transaction information would reveal sensitive, personal financial information about payees and conductors which is traditionally private. The Legislature also found that the public release of payment instrument transaction information identifying licensees or payors may reveal private business transaction information that could be used by competitors to harm one another in the marketplace. Thus, the Legislature found it to be a public necessity that payment transaction information held by the OFR in the database which identifies a licensee, payor, payee, or conductor be confidential and exempt from public records disclosure requirements.³⁹

The confidential and exempt information remains accessible under certain circumstances; licensees may access the information they submit, and the OFR is authorized to enter into information sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in order to detect and deter financial crimes and workers' compensation violations.⁴⁰ Agencies receiving the confidential and exempt information must maintain the confidentiality of such information, unless a court order compels production.⁴¹ In addition, the federal Bank Secrecy Act and U.S. Treasury regulations require financial institutions, including money services businesses like check cashers, to file currency transaction reports for any cash transaction over \$10,000 a day.⁴² Florida law requires money services businesses, and thus, check cashers, to comply with these requirements.⁴³

This public records exemption, as enacted in 2013, was subject to the Open Government Sunset Review Act and scheduled for automatic repeal on October 2, 2018, unless reenacted. However, in 2018 the Legislature extended this repeal date to October 2, 2020, in conjunction with an amendment to s. 560.312, F.S., which clarified that the OFR was authorized to release payment transaction information in the aggregate, so long as the information released did not reveal information identifying a licensee, payor, payee, or conductor.⁴⁴ Thus, this exemption will sunset on October 2, 2020, unless saved from repeal by the Legislature.

OGSR Survey and Results

In September of 2019, Professional Staff of the Senate Banking and Insurance Committee submitted a questionnaire to the OFR to ascertain whether the public records exemption in s. 560.312, F.S., remains necessary.⁴⁵ Section 560.312, F.S., makes confidential and exempt from the public records disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution the payment instrument transaction information held by the OFR's check cashing database which identifies a licensee, payor, payee, or conductor. Staff reviewed OFR's responses to the questions to be considered by the Legislature in accordance with s. 119.15(6)(a), F.S.

As part of their response to the questionnaire, the OFR affirmed the legislative findings of public necessity that accompanied the enactment of the exemption. These findings indicated that public

³⁹ Chapter 2013-155, Laws of Florida.

⁴⁰ Section 560.312(2), F.S.

⁴¹ *Id.*

⁴² 31 U.S.C. ss. 5311-5330 and 31 C.F.R. s. 103.22.

⁴³ Section 560.123, F.S.

⁴⁴ Chapter 2018-116, Laws of Florida.

⁴⁵ See survey correspondence dated October 2, 2019, on file with the Senate Committee on Banking and Insurance.

availability of payment instrument transaction information would reveal sensitive, personal financial information about payees and conductors who use check cashing programs, including paycheck amounts, salaries, and business activities, as well as information regarding the financial stability of these persons. These findings noted that such information is traditionally private and sensitive, and that protecting the confidentiality of information identifying these payees and conductors would provide adequate protection for these persons while still providing public oversight of the program. Further, public release of payment instrument transaction information would identify licensees or payors, and reveal private business transaction information that is traditionally private and could be used by competitors to harm other licensees or payors in the marketplace. The Legislature noted that if such information were publicly available, competitors could determine the amount of business conducted by other licensees or payors. Additionally, the OFR indicated that the exemption was still necessary to protect the identities of individuals appearing in the database from undue risk to their reputations and safety, and to protect the confidential business information related to competition.

The OFR indicated it has received public records requests for the exempted records, and did not release the information. The OFR did, however, indicate that it had released such records pursuant to exceptions to the exemption, such as through information-sharing agreements with other governmental agencies and responses to subpoenas and court orders.⁴⁶ The OFR stated that all records released under such circumstances were released pursuant to the terms of a memorandum of understanding, and when released electronically, were sent via an encrypted connection. The OFR stated that the exempted records are not readily available via alternative means, and are not protected by another exemption.

The OFR recommends reenacting the public records exemption without changes. Additionally, the OFR indicated that this exemption protects Florida consumers' financial and identification records from potentially being used for illicit purposes, and cautioned that repeal may expose personal identifying information to a significant risk of identity theft.

III. Effect of Proposed Changes:

Section 1 removes the scheduled repeal on October 2, 2020, of s. 560.312, F.S., which makes confidential and exempt from the disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution the payment instrument transaction information held by the OFR's check cashing database pursuant to s. 560.310, F.S., which identifies a licensee, payor, payee, or conductor.

Section 2 provides an effective date of October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

⁴⁶ Section 560.312(2)(a) and (b), F.S.

have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect sensitive, personal financial information about payees and conductors who use check cashing programs, along with private business transaction information that could be used by competitors to harm other licensees or payors in the marketplace. Both types of records are sensitive and traditionally private. This bill exempts only payment instrument transaction information held by the OFR's check cashing database pursuant to s. 560.310, F.S., which identifies a licensee, payor, payee, or conductor from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Licenses, payors, payees, and conductors would continue to have their personal financial information and business transaction information protected.

C. Government Sector Impact:

The exemption will continue to allow the OFR, other governmental agencies, and law enforcement to access real time data to aid in the prevention of fraud.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 560.312 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Banking and Insurance

597-02044-20

20207014__

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 560.312, F.S., relating
4 to an exemption from public records requirements for
5 certain payment instrument transaction information
6 held by the Office of Financial Regulation; removing
7 the scheduled repeal of the exemption; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 560.312, Florida Statutes, is amended to
13 read:

14 560.312 Database of payment instrument transactions;
15 confidentiality.—

16 (1) Payment instrument transaction information held by the
17 office pursuant to s. 560.310 which identifies a licensee,
18 payor, payee, or conductor is confidential and exempt from s.
19 119.07(1) and s. 24(a), Art. I of the State Constitution.

20 (2)(a) A licensee may access information that it submits to
21 the office for inclusion in the database.

22 (b) The office, to the extent permitted by state and
23 federal law, may enter into information-sharing agreements with
24 the department, law enforcement agencies, and other governmental
25 agencies and, in accordance with such agreements, may provide
26 the department, law enforcement agencies, and other governmental
27 agencies with access to information contained in the database
28 for use in detecting and deterring financial crimes and workers'
29 compensation violations, pursuant to chapter 440. Any department

597-02044-20

20207014__

30 or agency that receives confidential information from the office
31 under this paragraph must maintain the confidentiality of the
32 information, unless, and only to the extent that, a court order
33 compels production of the information to a specific party or
34 parties.

35 (3) The office may release payment instrument transaction
36 information in the aggregate, so long as the information
37 released does not reveal information that identifies a licensee,
38 payor, payee, or conductor.

39 ~~(4) This section is subject to the Open Government Sunset~~
40 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
41 ~~on October 2, 2020, unless reviewed and saved from repeal~~
42 ~~through reenactment by the Legislature.~~

43 Section 2. This act shall take effect October 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 7022

INTRODUCER: Infrastructure and Security Committee

SUBJECT: OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles

DATE: January 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Proctor</u>	<u>Miller</u>		IS Submitted as Committee Bill
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 7022 amends s. 119.0712, F.S., to save from repeal the current exemption from public records disclosure for e-mail addresses provided to the Department of Highway Safety and Motor Vehicles (DHSMV) for the purpose of providing notifications and renewal notices. The bill removes the scheduled repeal date of the exemption, October 2, 2020, thus continuing the exemption.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect on October 1, 2020.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Department of Highway Safety and Motor Vehicles and E-Mail Addresses

The DHSMV is the records custodian of motor vehicle records,²⁷ which contain personal information about drivers and motor vehicle owners. Florida's motor vehicle records contain personal information such as a driver's social security number, driver license number, name, address, telephone number, and medical or disability information. The DHSMV is authorized to collect e-mail addresses and use e-mail, in lieu of the United States Postal Service, as a method of providing title certificate notifications,²⁸ for the purpose of providing motor vehicle registration renewal notices,²⁹ and for the purpose of providing driver license renewal notices.³⁰

Open Government Sunset Review of the Public Record Exemption for E-Mail Addresses and Recommendation

In 2015, the Legislature created a public record exemption for e-mail addresses held by the DHSMV if the e-mail addresses are collected by the DHSMV specifically for:

- • Sending a notification regarding motor vehicle titles, pursuant to s. 319.40(3), F.S.;
- • Providing a renewal notice for a motor vehicle license or registration, pursuant to 320.95(2), F.S.; and

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 119.0712(2)(a), defines the term "motor vehicle record" to mean "any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles."

²⁸ Section 319.40(3), F.S.

²⁹ Section 320.95(2), F.S.

³⁰ Section 322.08(10), F.S.

- Providing a renewal notice for a driver license or identification card, pursuant to 322.08(10), F.S.³¹ (Notification and Renewal Transactions).³²

The 2015 public necessity statement³³ for the exemption provides that:

The Legislature finds that . . . e-mail addresses are unique to each individual and, when combined with other personal identifying information, can be used for identity theft, consumer scams, unwanted solicitations, or other invasive contacts. The public availability of personal e-mail addresses puts department customers at increased risk of these problems. Such risk may be significantly limited by permitting the department to keep customer e-mail addresses exempt. The Legislature finds that the risks to consumers outweigh the state’s public policy favoring open government.³⁴

Section 119.0712, F.S., is subject to the OGSR and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

The DHSMV has collected approximately 12.9 million e-mail addresses for both active and inactive drivers.³⁵ The DHSMV recommends that the public records exemption be reenacted.

Based upon a review of this public records exemption under the OGSR and discussions with the DHSMV, the professional staff of the Senate Infrastructure and Security Committee recommends that the Legislature retain the public records exemption established in s. 119.0712, F.S.

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 119.0712(2)(c), F.S., for e-mail addresses collected by the DHSMV for the purpose of Notification and Renewal Transactions. These records will continue to be exempt from public disclosure beyond October 2, 2020.

The bill also corrects a statutory cross-reference from s. 322.08(9), F.S., to s. 322.08(10), F.S., which relates to DHSMV’s authority to collect and use e-mail addresses for driver licensing purposes. See VII. Related Issues below for details.

³¹ As originally enacted in ch. 2015-32 L.O.F., s. 322.08(8), F.S., made an erroneous reference to subsection (8) because, that same session, in ch. 2015-163, L.O.F., the legislature renumbered subsections (4) through (8) of s. 322.08, F.S. The effect of this renumbering moved the provision governing the collection of e-mail addresses for renewal notices from subsection (8) to subsection (9) of s. 322.80, F.S. In 2016, ch. 2016-10, L.O.F., amended s. 119.0712, F.S., to “correct” the reference from subsection (8) to subsection (9) of s. 322.08, F.S. However, that same session, in ch. 2016-242, L.O.F., the legislature moved subsection (9) of s. 322.08, F.S., to subsection (10), and added a new subsection (9). Thus, s. 119.0712(2)(c), F.S., continued to contain an erroneous reference for the collection of e-mail address for renewal notices. This bill corrects this error, making proper reference to subsection (10) instead of subsection (9).

³² Section 119.0712(2)(c), F.S.

³³ Article I, s. 24(c), FLA. CONST., requires each public record exemption “state with specificity the public necessity justifying the exemption.”

³⁴ Chapter 2015-32, L.O.F.

³⁵ Email from the DHSMV staff to Senate Committee on Infrastructure and Security staff on September 4, 2019 (on file with Senate Committee on Infrastructure and Security).

The bill requires a majority vote for passage.

The bill takes effect October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues a current public records exemption without an expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information contained in a record held by a tax collector for certain purposes. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

Governmental agencies will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 119.0712 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Infrastructure and Security

596-02010-20

20207022__

1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.0712, F.S., which
4 provides an exemption from public records requirements
5 for certain e-mail addresses collected by the
6 Department of Highway Safety and Motor Vehicles;
7 correcting a cross-reference; removing the scheduled
8 repeal of the exemption; providing an effective date.
9

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

11
12 Section 1. Paragraph (c) of subsection (2) of section
13 119.0712, Florida Statutes, is amended to read:

14 119.0712 Executive branch agency-specific exemptions from
15 inspection or copying of public records.—

16 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

17 (c) E-mail addresses collected by the Department of Highway
18 Safety and Motor Vehicles pursuant to s. 319.40(3), s.
19 320.95(2), or s. 322.08(10) ~~s. 322.08(9)~~ are exempt from s.
20 119.07(1) and s. 24(a), Art. I of the State Constitution. This
21 exemption applies retroactively. ~~This paragraph is subject to~~
22 ~~the Open Government Sunset Review Act in accordance with s.~~
23 ~~119.15 and shall stand repealed on October 2, 2020, unless~~
24 ~~reviewed and saved from repeal through reenactment by the~~
25 ~~Legislature.~~

26 Section 2. This act shall take effect October 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: December 18, 2019

I respectfully request that **Senate Bill #7022**, relating to OGSR/E-mail Addresses/DHSMV, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Infrastructure and Security, *Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR TOM LEE

20th District

January 21, 2020

Senator Ed Hooper
Chair, Government Oversight and Accountability
330 Knott Building
404 S. Monroe Street Tallahassee, FL 32399-1100

Chair Hooper,

Today, I am scheduled to present my bill before your committee *SB 7022: OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles*. Senator Bean has agreed to present the bill on my behalf.

Please do not hesitate to contact me if you require additional information.

Thank you,

A handwritten signature in blue ink that reads "Tom Lee".

Tom Lee

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7042

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State University Facility Designations

DATE: January 17, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7042 establishes a process for naming and renaming state university facilities. Specifically, the bill:

- Requires the Board of Governors (BOG) to adopt regulations to specify authority, procedures, and elements related to the naming or renaming of any state university facilities.
- Requires the BOG regulations to specify the respective responsibilities of the BOG and state university boards of trustees and presidents, and procedural requirements regarding transparency, public engagement, nongift-related and gift-related considerations, approval, and other transparency and accountability requirements deemed appropriate by the BOG.
- Repeals Florida law that designated the building housing the FSU College of Law as the B.K. Roberts Hall.
- Provides legislative intent regarding the naming of the FSU College of Law facility.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming a law, except that the statutory changes take effect July 1, 2020.

II. Present Situation:

State Constitution relating to State University System

The State Constitution establishes the system of governance of the state university system of Florida with the board of governors governing the overall system and a board of trustees administering each state university.¹ The State Constitution grants the BOG the authority to operate, regulate, control, and be fully responsible for the management of the whole university system.² The BOG's management is "subject to the powers of the legislature to appropriate for

¹ FLA. CONST. art. IX, s. 7(b).

² FLA. CONST. art. IX, s. 7(d).

the expenditure of funds.”³ The BOG is empowered to establish the powers and duties of the boards of trustees.⁴

Select Statutory Provisions relating to the State University System

In implementing the State Constitution regarding the state university system, the Legislature enacted Part IV of chapter 1001, F.S., to delineate responsibilities between the BOG and the Legislature. Pertinent to this legislation, the responsibilities of the legislature include:

- “(a) Making provision by law for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require;
- (e) Establishing policies relating to expenditure of, accountability for, and management of funds appropriated by the Legislature or revenues authorized by the Legislature. . . . This includes, but is not limited to, policies relating to: . . . maintenance and construction of facilities; property; . . .”

Title to all real property acquired prior to January 7, 2003, and to all real property acquired with funds appropriated by the Legislature (after that date) was vested in the Board of Trustees of the Internal Improvement Trust Fund.⁵

Section 1001.706(7)(b), F.S., directs the BOG to develop guidelines for university boards of trustees relating to the use, maintenance, protection, and control of university-owned and university-controlled buildings and groups, property and equipment, name, trademarks and other proprietary marks, and the financial and other resources of the university.

The BOG has adopted Regulation 9.005 (Naming of Buildings and Facilities) to delegate and specify the authority, procedures, and elements related to the naming of any building, road, bridge, park, recreational complex, other similar facility or educational site of a state university for individuals or groups who have made significant contributions to the university or the state.⁶ As a part of this regulation, the BOG assert, based on its constitutional authority, that the naming of university facility “is the prerogative and privilege of the State University System of Florida and is vested in the Board of Governors.”⁷

Naming of state buildings and other facilities

As a general rule, a state building, road, bridge, park, recreational complex, or other similar facility may not be named for a living person unless the legislature specifically does it in law.⁸ An exception to this general rule is authorized if the board of trustees of a state university names a facility of a state university in accordance with the regulations adopted by the BOG of the State University System.⁹

³ *Id.*

⁴ FLA. CONST. art. IX, s. 7(c).

⁵ Section 1001.706(7)(a), F.S.

⁶ The BOG regulation definition does not include statues or monuments.

⁷ BOG Regulation 9.005 “Naming of Buildings and Facilities.”

⁸ Section 267.062(1), F.S.

⁹ Section 267.062(3), F.S.

Section 1013.79, F.S., establishes the University Facility Enhancement Challenge Grant Program. This program is intended to assist university in funding the costs of new facilities. A facility constructed through this program may be named in honor of a donor at the option of the university and the BOG. However, no facility may be named after a living person without prior approval by the legislature.¹⁰

B.K. Roberts Hall and actions by the Florida State University

In 1973, the Legislature enacted ch. 73-370, Laws of Florida, to name the building “housing the Florida State University College of Law” as “Roberts Hall.”

In 2017-2018, Florida State University President John Thrasher followed state law and BOG regulation in exploring potential actions and recommendations¹¹ related to Francis Eppes Hall, Francis Eppes Statue, and the B.K. Roberts College of Law. As a result, President Thrasher created the “President’s Advisory Panel on University Namings and Recognitions” to examine and make recommendations on university policies concerning campus names and markers, including statues and other recognitions. In addition, the panel:

- Researched issues, met and engaged with university constituencies, and determined criteria for appropriate naming policies.
- Made recommendations related to Francis Eppes Hall and Francis Eppes Statue which were implementable at the institutional level by the university president and the university board of trustees.

In conjunction, the panel recommended a name change to the B.K. Roberts College of Law. However, because the facility was named by legislation¹² in 1973 the panel was limited in its ability to implement recommendations beyond seeking legislative action.

III. Effect of Proposed Changes:

Section 1 amends s. 1001.706, F.S., to direct the BOG of the State University System to adopt regulations governing the naming and renaming of facilities used by a university or situated on property owned by the State of Florida or purchased by funds appropriated by the legislature. This regulations must apply to the initial naming of such facility or the renaming of, or removal of a name from, a facility previously designated by the legislature. These regulations must set forth the responsibilities of the BOG, the university boards of trustees, and the university presidents. This section takes effect July 1, 2020.

Section 2 amends s. 1013.79, F.S., to delete the prohibition that a facility constructed pursuant to the University Facilities Enhancement Challenge Grant Program cannot be named for a living person except by an act of the legislature. This section takes effect July 1, 2020.

¹⁰ Section 1013.79(11), F.S.

¹¹ Florida State University, *President Advisory Panel on University Naming and Recognitions* (2018) available at <https://president.fsu.edu/wp-content/uploads/2018/07/Panel-Report-July-2018.pdf> (last visited on January 15, 2020).

¹² Ch. 73-370, L.O.F.

Section 3 repeals chapter 73-370, Laws of Florida, which named the building housing the FSU College of Law as B.K. Roberts Hall.

Section 4 provides legislative intent regarding the ultimate disposition of the original naming designation of the building housing the FSU College of Law.

Section 5 amends s. 267.062, F.S., to conform to the authority granted to the Board of Governors in section 1 of this bill to establish regulations governing the naming of university facilities.

Section 6 provides that, except as otherwise provided, this bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 267.062, 1001.706, 1013.79 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-02068A-20

20207042pb

1 A bill to be entitled
2 An act relating to state university facility
3 designations; amending s. 1001.706, F.S.; requiring
4 the Board of Governors to adopt regulations regarding
5 the naming or renaming of state university facilities;
6 specifying elements that must be addressed in the
7 naming or renaming process; providing applicability;
8 defining the term "facility"; amending s. 1013.79,
9 F.S.; deleting a prohibition against the naming of
10 facilities in a certain manner; repealing chapter 73-
11 370, Laws of Florida, relating to the designation of a
12 Florida State University facility; providing
13 legislative intent; amending s. 267.062, F.S.;
14 conforming a cross-reference; providing effective
15 dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Effective July 1, 2020, paragraph (i) is added
20 to subsection (7) of section 1001.706, Florida Statutes, to
21 read:

22 1001.706 Powers and duties of the Board of Governors.—

23 (7) POWERS AND DUTIES RELATING TO PROPERTY.—

24 (i)1. The Board of Governors shall adopt regulations
25 governing the naming or renaming of any facility. Such
26 regulations must specify the procedural requirements regarding
27 transparency, public engagement, gift-related considerations,
28 approval, and other transparency and accountability requirements
29 deemed appropriate by the Board of Governors, and the respective

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20207042pb

30 responsibilities of the Board of Governors, state university
31 boards of trustees, and university presidents.

32 2. The regulations adopted pursuant to this paragraph apply
33 when the Board of Governors or a state university seeks to
34 initially name a facility or seeks to rename or remove the name
35 of a facility previously designated in a law that was
36 subsequently repealed by the Legislature.

37 3. If a state university seeks to rename or remove the name
38 of a facility previously designated in a law, the state
39 university must comply fully with the regulations adopted
40 pursuant to this paragraph before seeking legislative action to
41 repeal the law that designated the name of the facility. Actions
42 by the state university to rename or remove the name of a
43 facility in these instances must be contingent upon such
44 legislative action.

45 4. For purposes of this paragraph, the term "facility"
46 means a building, road, bridge, park, recreational complex, or
47 another similar resource used by a state university and situated
48 on real property the title of which is vested in the Board of
49 Trustees of the Internal Improvement Trust Fund or for which
50 funds were appropriated by the Legislature to acquire or to make
51 improvements thereon.

52 Section 2. Effective July 1, 2020, subsection (11) of
53 section 1013.79, Florida Statutes, is amended to read:

54 1013.79 University Facility Enhancement Challenge Grant
55 Program.—

56 (11) The surveys, architectural plans, facility, and
57 equipment shall be the property of the State of Florida. A
58 facility constructed pursuant to this section may be named in

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59 honor of a donor at the option of the university and the Board
60 of Governors. ~~No facility shall be named after a living person~~
61 ~~without prior approval by the Legislature.~~

62 Section 3. Chapter 73-370, Laws of Florida, is repealed.

63 Section 4. The Legislature intends that the repeal of
64 chapter 73-370, Laws of Florida, by this act does not constitute
65 a legislative position regarding the ultimate disposition of the
66 original designation of the facility. Rather, the Legislature
67 recognizes the Florida State University's transparent,
68 collaborative, and thorough review process, which resulted in
69 the recommendation by the President's Advisory Panel on
70 University Namings and Recognitions which precipitated this
71 repeal, and further intends that the Florida State University is
72 solely responsible for faithful implementation of the panel's
73 recommendations regarding this issue.

74 Section 5. Effective July 1, 2020, subsection (3) of
75 section 267.062, Florida Statutes, is amended to read:

76 267.062 Naming of state buildings and other facilities.—

77 (3) Notwithstanding ~~the provisions of~~ subsection (1) ~~or s.~~
78 ~~1013.79(11)~~, any state building, road, bridge, park,
79 recreational complex, or other similar facility of a state
80 university may be named for a living person ~~by the university~~
81 ~~board of trustees~~ in accordance with regulations adopted by the
82 Board of Governors of the State University System.

83 Section 6. Except as otherwise expressly provided in this
84 act, this act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/21/20

Meeting Date

SPB 7042

Bill Number (if applicable)

Topic State University Facility Designations

Amendment Barcode (if applicable)

Name Danni Vogt

Job Title Citizen

Address PO Box 11301

Phone

Street

TLH

FL

32302

City

State

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against

(The Chair will read this information into the record.)

Representing Rename BK Roberts Hall Now! .org

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7044

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State-administered Retirement Systems

DATE: January 17, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7044 establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2020. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$404.5 million more in revenue on an annual basis beginning July 1, 2020. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, municipalities, and other governmental entities that participate in the FRS.

The bill will have a fiscal impact on state funds appropriated by the Legislature for employee salaries and benefits. The bill will increase the amounts agencies must pay for employee retirement benefits. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a

closed group.¹ The FRS is a contributory system, with active members contributing three percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2019, the FRS had 647,942 active members, 424,895 annuitants, 15,783 disabled retirees, and 32,670 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2019, the FRS consisted of 976 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 176 cities and 136 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 554,631 active members and 7,629 in renewed membership;
- The Special Risk Class⁶ includes 74,274 active members and 1,112 in renewed membership;
- The Special Risk Administrative Support Class⁷ has 100 active members and 1 in renewed membership;
- The Elected Officers' Class⁸ has 2,088 active members and 112 in renewed membership; and
- The Senior Management Service Class⁹ has 7,767 active members and 214 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 35. Available online at: https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf. (Last visited January 13, 2020.)

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

³ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 158.

⁴ *Id.* at 193.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 161.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹¹ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹² Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹³ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁴ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁵

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁶ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹⁸ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁹ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable

¹¹ Section 121.4501(6)(a), F.S.

¹² If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

¹³ Section 121.591, F.S.

¹⁴ See s. 121.4501(16), F.S.

¹⁵ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date.

Section 121.091(4)(f), F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA CONST. art. IV, s. 4.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

service.²⁰ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²¹ For most current members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.²² For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²³ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.²⁴

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;²⁵
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁶ and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.²⁷

Contribution Rates

Employers participating in the FRS are required to contribute a specified percentage of the member's monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.²⁸ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

²⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁵ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

²⁶ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

²⁷ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

²⁸ Section 121.70(1), F.S.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2018, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan:²⁹

	Valuation Results (in \$ billions)			
	July 1, 2016	July 1, 2017	July 1, 2018	July 1, 2019
Actuarial Liability	\$170.4	\$178.6	\$186.0	\$191.3
Actuarial Value of Assets	\$145.5	\$150.6	\$156.1	\$161.0
Unfunded Actuarial Liability	\$24.9	\$28.0	\$29.9	\$30.3
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	85.4%	84.3%	83.9%	84.2%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize the unfunded actuarial liabilities (UAL) over a thirty-year period. The following are the current employer contribution rates³⁰ for each class and the blended rates recommended by the state actuary beginning in July 2020:³¹

Membership Class	Current Rates Effective July 1, 2019		Recommended Rates to be effective July 1, 2020	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	3.19%	3.56%	4.84%	3.44%
Special Risk Class	12.61%	11.15%	15.13%	7.60%
Special Risk Administrative Support Class	3.61%	33.26%	9.89%	24.23%
Elected Officer’s Class	6.67%	47.64%	8.38%	48.81%
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders				
• Justices and Judges	12.30%	27.98%	13.31%	24.70%
• County Officers	8.73%	38.37%	10.07%	37.39%
Senior Management Service Class	4.60%	19.09%	6.39%	19.18%
Deferred Retirement Option Program	4.68%	8.26%	7.03%	8.29%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.³²

²⁹ Florida Retirement System Pension Plan Actuarial Valuation as of July 1, 2019, at p. 3.

³⁰ Section 121.71(4) and (5), F.S.

³¹ Letter to Mr. David DiSalvo, *Re: Blended Proposed Statutory Rates for the 2020-2021 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 5, 2019 (on file with the Senate Committee on Governmental Oversight and Accountability).

³² Section 121.71(3), F.S.

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.³³

III. Effect of Proposed Changes:

The bill modifies the employer-paid contributions for FRS retirement benefits.

Section 1 amends s. 121.71, F.S., to set the employer-paid contributions to the Florida Retirement System Trust Fund for each membership class of the FRS. The bill also updates the required employer retirement contribution rates for each membership class to address the unfunded actuarial liabilities.

Section 2 provides findings that the bill fulfills an important state interest.

Section 3 provides the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that: "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated...."

This bill includes legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impose, authorize to impose, or raise a state tax or fee. Thus, the requirements of Art. III, s. 19 of the State Constitution are not applicable.

³³ See ss. 121.4503 and 121.72(1), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2020-2021 will increase by approximately \$404.5 million when compared to the employer contributions paid in Fiscal Year 2019-2020. The impacts by employer group for Fiscal Year 2020-2021 are noted below.

Employer Group	Additional Contributions
State Agencies	\$47.0 m
Universities	\$21.6 m
Colleges	\$18.6 m
School Boards	\$232.7 m
Counties	\$61.0 m
Other	\$23.6 m
Total	\$404.5 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.71 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-02067-20

20207044pb

1 A bill to be entitled
2 An act relating to state-administered retirement
3 systems; amending s. 121.71, F.S.; revising required
4 employer retirement contribution rates for each
5 membership class and subclass of the Florida
6 Retirement System; providing a declaration of
7 important state interest; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsections (4) and (5) of section 121.71,
12 Florida Statutes, are amended to read:

13 121.71 Uniform rates; process; calculations; levy.—

14 (4) Required employer retirement contribution rates for
15 each membership class and subclass of the Florida Retirement
16 System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2020</u> 2019
18 19 20 Regular Class	<u>4.84%</u> 3.19%
21 Special Risk Class	<u>15.13%</u> 12.61%

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Special Risk

Administrative

Support Class

9.89% ~~3.61%~~

22

Elected Officers' Class-

Legislators, Governor,

Lt. Governor,

Cabinet Officers,

State Attorneys,

Public Defenders

8.38% ~~6.67%~~

23

Elected Officers' Class-

Justices, Judges

13.31% ~~12.30%~~

24

Elected Officers' Class-

County Elected Officers

10.07% ~~8.73%~~

25

Senior Management Class

6.39% ~~4.60%~~

26

DROP

7.03% ~~4.68%~~

27

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(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation,
------------------	---

585-02067-20

20207044pb

Effective
July 1, 2020 ~~2019~~

33
34
35
36
37
38
39
40
41

Regular Class	<u>3.44%</u> 3.56%
Special Risk Class	<u>7.60%</u> 11.15%
Special Risk Administrative Support Class	<u>24.23%</u> 33.26%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>48.81%</u> 47.64%
Elected Officers' Class— Justices, Judges	<u>24.70%</u> 27.98%
Elected Officers' Class— County Elected Officers	<u>37.39%</u> 38.37%
Senior Management Service Class	<u>19.18%</u> 19.09%

585-02067-20

20207044pb

DROP

8.29% ~~8.26%~~42
43
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Section 2. The Legislature finds that a proper and legitimate state purpose is served when employees, officers, and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees, officers, and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner as required by s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 3. This act shall take effect July 1, 2020.



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December 5, 2019

Mr. David DiSalvo
State Retirement Director
Florida Department of Management Services, Division of Retirement

**Re: Blended Proposed Statutory Rates for the 2020-2021 Plan Year
Reflecting a Uniform UAL Rate for All Membership Classes and DROP**

Dear Director DiSalvo:

As requested, we have calculated the uniform or "blended" proposed statutory employer rates for the 2020-2021 plan year based on the statutory contributions for the FRS Investment Plan and the actuarially calculated 2020-2021 rates for the defined benefit FRS Pension Plan, as specified in the FRS 2019 Actuarial Valuation Report. The blended rates reflect a uniform Unfunded Actuarial Liability (UAL) Contribution Rate for all payroll bases on which the Blended UAL Contribution Rate is assessed.

Analysis

We determined the uniform blended 2020-2021 employer rate for each membership class and subclass of the Florida Retirement System by projecting contributions for both the FRS Pension Plan and the FRS Investment Plan. We did this by dividing the projected combined amount that would be contributed for both the FRS Pension Plan and the FRS Investment Plan by the total projected combined payroll for both plans. The uniform blended rate calculation assumes plan year 2020-2021 contributions for the FRS Pension Plan will be made at the actuarially calculated rate levels. The actuarially calculated rate levels are based on the July 1, 2019 actuarial valuation of the FRS Pension Plan, as presented in Table 4-11 of the FRS 2019 Actuarial Valuation Report. The FRS Investment Plan rates are the sum of the rates in Sections 121.72, 121.73, and 121.735 of Florida Statutes and assume those rates continue in effect during plan year 2020-2021. The employer contribution rates shown in the attached table are net of the 3% of payroll employee contribution rate.

The payroll for some employee groups is subject to only the UAL Cost component of the FRS Pension Plan's contribution rate (e.g. participants in SUSORP, SMSOAP, and SCCORP, and reemployed retirees not eligible for renewed membership in a state-sponsored retirement program). The payroll for those employee groups is included in the calculation of the Blended UAL Contribution Rate, but is excluded from the calculation of the Blended Normal Cost Contribution Rate.

Based on the data provided to us for this study, as of July 1, 2019 FRS Investment Plan payroll comprised between 19% and 20% of total payroll. On a headcount basis, FRS Investment Plan members constitute between 22% and 23% of active FRS membership. Please note, Senate Bill 7022 enacted by the 2017 Florida legislature changed the default plan for initial enrollments on and after January 1, 2018

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from the FRS Pension Plan to the FRS Investment Plan for all membership classes other than Special Risk. As a result of the enactment, new entrants who would have defaulted into the FRS Pension Plan under prior statute will now default into the FRS Investment Plan in the absence of an active election. The actual levels of participation in the FRS Pension Plan and the FRS Investment Plan as of July 1, 2019 reflect that Investment Plan payroll now comprises an increased percentage of total payroll than it did one year ago.

Results

Table I shows the results of our study based on actual levels of participation in the FRS Pension Plan and the FRS Investment Plan as of July 1, 2019, projected to plan year 2020-2021 using the long-term payroll growth assumption of 3.25%.

Section A of the table includes the Normal Cost Rates developed in the July 1, 2019 funding actuarial valuation of the FRS Pension Plan. Section A does not include the UAL Cost. UAL Cost Rates are applied to a larger total payroll than the Normal Cost Rates and are developed in a later section. Section A, line 3 shows the total employer Normal Cost of the FRS Pension Plan as the product of Normal Cost Rates and projected Normal Cost payroll.

Similarly, Section B calculates the total employer cost of the FRS Investment Plan as the product of applicable employer contribution rates in effect since July 1, 2019 and the projected FRS Investment Plan payroll. FRS Investment Plan payroll is projected as described above.

Section C of the table shows the sum of the FRS Pension Plan employer Normal Cost and FRS Investment Plan employer cost as dollars and as a percentage of total projected combined payroll (FRS Pension Plan projected Normal Cost payroll plus FRS Investment Plan projected payroll).

Section D of the table shows the UAL Cost as of July 1, 2019 of the FRS Pension Plan, as shown in Table 4-11 of the FRS 2019 Actuarial Valuation Report.

Section E shows the projected payroll of the FRS Investment Plan. There is no UAL Cost attributable to the FRS Investment Plan.

Section F calculates the "Blended" UAL Cost as dollars and as a percentage of total payroll (FRS Pension Plan projected UAL payroll plus FRS Investment Plan projected payroll).

Section G shows the Total "Blended" Contribution Rates as the sum of the "Blended" Normal Cost Contribution Rates from Line (C3) and the "Blended" UAL Contribution Rates from Line (F3). The employers of employee groups subject to only the UAL Contribution Rate would contribute the "Blended" UAL Contribution Rates shown in Line (G2) of the table on applicable payroll. The Total "Blended" Contribution Rates shown in Line (G3) of the table will be applied to all other payroll subject to employer contributions.



The contribution rates shown in Table I exclude the 0.06% contribution rate for FRS Investment Plan administration and education (applied to all classes except DROP) and the 1.66% contribution rate for the Florida Retiree Health Insurance Subsidy (HIS) program, which apply across the board to the FRS Pension Plan and the FRS Investment Plan.

The calculations are based on census and payroll data provided to us by the Florida Department of Management Services, Division of Retirement for the July 1, 2019 actuarial valuation. We have not audited or verified this data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete. These calculations are based on the Individual Entry Age actuarial cost allocation method, as described in the FRS 2019 Actuarial Valuation Report for use in developing 2020-2021 actuarially calculated contribution rates for the FRS Pension Plan.

Certification

We performed a limited review of the data used directly in our analysis for reasonableness and consistency and have not found material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of our assignment.

Except where otherwise noted in this letter, this analysis is based on the FRS Pension Plan provisions, actuarial methods and actuarial assumptions as summarized in the FRS 2019 Actuarial Valuation Report as published on December 3, 2019. Further, the data used in these calculations were based on FRS Pension Plan data as summarized in the FRS 2019 Actuarial Valuation Report and FRS Investment Plan census data as of July 1, 2019 as provided to us by the Florida Department of Management Services, Division of Retirement. The results of our study depend on future experience conforming to those actuarial assumptions discussed earlier in this letter. Future actuarial measurements may differ significantly from the current measurements presented in this analysis due to many factors, including: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period) and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements.

Milliman's work product was prepared exclusively for the internal business use of Florida Department of Management Services, Division of Retirement. It is a complex technical analysis that assumes a high level of knowledge concerning the Florida Retirement System's operations, and uses Division data, which Milliman has not audited. To the extent that Milliman's work is not subject to disclosure under applicable public record laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

- (a) The Florida Department of Management Services, Division of Retirement may provide a copy of Milliman's work, in its entirety, to the System's professional service advisors who are subject to a duty



of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the System.

(b) The Florida Department of Management Services, Division of Retirement may provide a copy of Milliman's work, in its entirety, to other governmental entities, as required by law.

No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are retirement actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuaries are independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.

We are consulting actuaries for Milliman, Inc. We are also members of the American Academy of Actuaries, and meet their Qualification Standards to render the actuarial opinion contained herein.

Please call if you would like to further discuss this project.

Respectfully submitted,

Matt Larrabee, FSA, EA, MAAA
Principal and Consulting Actuary

Daniel Wade, FSA, EA, MAAA
Principal and Consulting Actuary

Kathryn Hunter, FSA, EA, MAAA
Consulting Actuary

Enclosures

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Blended Proposed Statutory Normal Cost Plus UAL Rates for 2020-2021 Plan Year
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

	Regular	Special Risk Administrative	Judicial	Special Officers' Class Law/Att/CSB	Local	Senior Management	Composite (excluding DROP)	DROP	Composite (including DROP)
A. Defined Benefit-FRS Pension Plan Normal Cost									
1. Employer Cost									
a. Normal Cost Rate ¹	5.19%	11.13%	13.64%	8.76%	10.57%	6.90%	7.03%	7.03%	7.03%
b. Rate Reduction Techniques	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
c. Total Adjusted Contribution Rate ²									
-PYE 2021	5.19%	11.13%	13.64%	8.76%	10.57%	6.90%	7.03%	7.03%	7.03%
2. Projected Payroll	\$20,118,483	\$4,322,041	\$3,729	\$6,583	\$45,103	\$53,566	\$25,163,856	\$2,364,056	\$27,527,912
3. Total Employer Normal Cost [(1c) x (2)]	\$1,044,149	\$566,027	\$415	\$777	\$4,767	\$38,196	\$1,769,728	\$166,193	\$1,935,921
B. Defined Contribution FRS Investment Plan (IP) Employer Cost									
1. Employer Rates effective July 1, 2019 (Sec 121.72, Sec 121.73 and Sec 121.735)	3.50%	5.43%	11.05%	6.54%	8.95%	4.98%	4.83%	0.00%	4.83%
2. Projected Payroll	\$5,663,268	\$74,118	\$16,582	\$1,743	\$20,089	\$201,290	\$6,678,111	\$0	\$6,678,111
3. Total Employer Cost [(1) x (2)]	\$203,878	\$104,816	\$55	\$121	\$1,798	\$10,024	\$322,524	\$0	\$322,524
C. Total System Normal Cost (FRS Pension Plan + FRS Investment Plan)									
1. Total Normal Cost Contribution [(A3) + (B3)]	\$1,248,027	\$770,843	\$470	\$698	\$6,565	\$49,220	\$2,092,252	\$166,193	\$2,258,445
2. Total System Projected Payroll [(A2) + (B2)]	\$25,781,751	\$5,096,159	\$4,750	\$8,326	\$65,192	\$754,856	\$31,841,967	\$2,364,056	\$34,206,023
3. "Blended" Normal Cost Contribution Rate As a Percentage of Total Payroll [(C1) / (C2)] ²	4.84%	15.13%	9.89%	8.38%	10.07%	6.39%	6.57%	7.03%	6.60%

¹ As reported in the July 1, 2019 actuarial valuation report - Table 4-11
² Rates shown do not include the Health Insurance Subsidy contribution rate or FRS Investment Plan education and administration assessment.

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FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Blended Proposed Statutory Normal Cost Plus UAL Rates for 2020-2021 Plan Year
Please see the attached letter for details regarding data, assumptions, methodology, and plan provisions used
(Dollars in Thousands)

	Regular		Special Risk		Special Risk Administrative		Judicial		Elected Officers Class—		Senior Management		Composite (excluding DRDP)		Composite (including DRDP)	
									Lex-Atty-Csb	Local						
D. Defined Benefit FRS Pension Plan UAL Contribution Rates																
D. Defined Benefit FRS Pension Plan UAL Contribution																
1. Employer UAL Contribution Rate ^{1, 2}	4.26%	8.95%	30.97%	28.28%	60.66%	52.59%	25.95%	8.29%	5.80%							
2. Projected Payroll	\$23,739,856	\$4,346,448	\$3,729	\$114,991	\$7,177	\$49,410	\$589,732	\$2,364,056	\$31,195,939							
3. Total Employer UAL Contribution [(1) x (2)] -PYE 2021	\$1,011,318	\$389,007	\$1,151	\$32,496	\$4,384	\$25,985	\$147,945	\$195,980	\$1,808,136							
E. Defined Contribution FRS Investment Plan Projected Payroll																
F. Total System UAL Contribution (FRS Pension Plan + FRS Investment Plan)																
1. Total UAL Contribution [(D3)]	\$1,011,318	\$389,007	\$1,151	\$32,496	\$4,384	\$25,985	\$147,945	\$195,980	\$1,808,136							
2. Total System Projected Payroll [(D2) + (E)]	\$29,403,424	\$5,120,565	\$4,750	\$131,573	\$9,920	\$69,499	\$771,022	\$2,364,056	\$37,873,510							
3. "Blended" UAL Contribution Rate As a Percentage of Total Payroll [(F1) / (F2)] ²	3.44%	7.60%	24.23%	24.70%	48.81%	37.35%	19.18%	8.29%	4.77%							
Blended Proposed Statutory Uniform Contribution Rates ²																
G. Total Employer Contribution Rate (FRS Pension Plan + FRS Investment Plan)																
1. "Blended" Normal Cost Contribution Rate [(C3)]	4.84%	15.13%	9.89%	13.31%	8.38%	10.07%	6.35%	7.03%	6.60%							
2. "Blended" UAL Contribution Rates [(F3)]	3.44%	7.60%	24.23%	24.70%	48.81%	37.35%	19.18%	8.29%	4.77%							
3. Total Blended Contribution Rate ² -PYE 2021 [(G1) + (G2)]	8.28%	22.73%	34.12%	38.01%	57.19%	47.46%	25.57%	15.32%	11.37%							

¹ As reported in the July 1, 2019 actuarial valuation report - Table 4-11

² Rates shown do not include the Health Insurance subsidy contribution rate or FRS Investment Plan education and administration assessment.

³ Employers of employee groups subject to only the UAL contribution rate will pay the rates shown in line (G2).

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CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 1/21/2020 2:31:13 PM

Ends: 1/21/2020 3:13:26 PM

Length: 00:42:14

2:31:12 PM Meeting called to order
2:31:18 PM Roll Call - Quorum is present
2:31:29 PM Chair
2:31:54 PM Tab 1 - SB 338 by Senator Rodriguez
2:32:27 PM Questions?
2:33:30 PM Appearance Cards?
2:33:36 PM David Cullen, Sierra Club Florida, speaking in support
2:34:22 PM Richard Pinsky, Florida Solar Energy Industry Association, waives in support
2:34:33 PM Jonathan Webber, Dep. Dir., Florida Conservation Voters, waives in support
2:34:41 PM Amy Datz, Environmental Caucus of Florida, waives in support
2:34:54 PM Debate?
2:34:57 PM Senator Rader
2:36:00 PM Senator Rodriguez waives close
2:36:09 PM Roll Call on SB 338
2:36:18 PM Tab 4 - SB 1276 by Senator Albritton- Department of Citrus
2:38:07 PM Questions?
2:39:07 PM Appearance Cards? None
2:39:13 PM Debate?
2:39:18 PM Senator Rader
2:39:56 PM Senator Albritton to close
2:40:23 PM Roll Call on SB 1276
2:40:40 PM Tab 3 - SM 974 by Senator Pizzo - Jean-Jacques Dessalines Day
2:41:12 PM Questions?
2:42:33 PM Senator Bean
2:43:33 PM Senator Pizzo
2:45:44 PM Appearance Cards? None
2:46:44 PM Debate?
2:46:47 PM Senator Rader
2:47:14 PM Chair
2:48:18 PM Senator Pizzo to close
2:48:24 PM Roll call SM 974
2:48:47 PM Gavel turned over to Vice Chair Rader
2:49:36 PM Tab 7 - SPB 7042 by Governmental Oversight and Accountability Committee, relating to State University
Facility Designations
2:50:30 PM Chair
2:50:31 PM Questions? None
2:50:35 PM Appearance Forms?
2:50:43 PM Danni Vogt, Citizen, waives in support
2:50:49 PM Debate? None
2:50:52 PM Senator Hooper moves that SPB 7042 be submitted as a Committee Bill; motion is adopted.
2:51:03 PM Roll Call on SPB 7042
2:51:22 PM Tab 8 - SPB 7044 by Governmental Oversight and Accountability Committee, relating to
State-administered Retirement Systems
2:53:49 PM Questions? None
2:53:52 PM Appearance? None
2:53:58 PM Debate? None
2:54:02 PM Senator Hooper moves to submit SPB 7044 as a Committee Bill; motion is adopted.
2:54:09 PM Roll Call on SPB 7044
2:54:26 PM Gavel turned back over to Chair Hooper
2:54:59 PM Tab 6 - SB 7022 - Senator Lee, presented by Senator Bean - OGSR/E-mail Addresses/Department of
Highway
2:56:04 PM Questions?

2:56:06 PM Senator Hooper
2:56:10 PM Senator Bean
2:56:29 PM Chair
2:56:35 PM Senator Bean
2:56:37 PM Chair
2:56:41 PM Senator Rader
2:56:44 PM Senator Bean
2:56:56 PM Chair
2:57:39 PM Senator Bean
2:58:07 PM Chair
2:58:10 PM Appearance Forms? None
2:58:17 PM Debate? None
2:58:20 PM Senator Bean waives close
2:58:23 PM Roll Call on SB 7022
2:58:35 PM Tab 5 - SB 7014 by Senator Broxson, presented by Senator Rouson, OGSR/Payment Instrument
Transaction Information/Office of Financial Regulation
3:00:06 PM Questions? None
3:00:10 PM Appearance? None
3:00:14 PM Debate? None
3:00:18 PM Roll Call on SB 7014
3:00:31 PM Recording Paused
3:09:00 PM Recording Resumed
3:09:24 PM Tab 2 - SB 952 by Senator Perry presented by Senator Bean - Senior Management Service Class
3:11:00 PM Amendment 689234 by Senator Perry, presented by Senator Bean
3:11:20 PM Questions? None
3:11:24 PM Appearance cards? Debate?
3:11:29 PM Amendment is adopted
3:11:34 PM Back on bill as amended
3:11:44 PM Candice Brower, Offices of Criminal Conflict & Civil Regional Counsel, waives in support
3:12:01 PM Debate? Senator Bean to close
3:12:42 PM Roll Call on SB 952
3:12:51 PM Comments by Chair Hooper
3:13:01 PM Motion to adjourn; meeting is adjourned.