

**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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SB 1140

INTRODUCER: Senator Burton

SUBJECT: Mobile Homes

DATE: January 26, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1140 revises provisions in ch. 723, F.S., relating to mobile homes. The bill allows park owners and homeowners in a dispute related to lot rental increases to select a mediator and initiate mediation proceedings before submitting a petition for mediation with the Division of Condominiums, Timeshares, and Mobile Homes. The mediator selected by the parties must be a qualified mediator selected from the list of circuit court mediators in each judicial circuit or the list maintained by the Florida Growth Management Conflict Resolution Consortium. It is not clear under current law that the homeowners and the park owner may agree on a mediator before submitting a petition for mediation with the division, as provided in the bill.

The bill allows homeowners, after the majority of the affected home owners have agreed in writing to file an action, to file an action in circuit court if the responding party park owner refuses or fails to participate in mediation. Current law provides that either party may file an action in circuit court if the mediation failed to provide a resolution to the dispute.

The bill provides that a mobile home owner's live-in health care aide or assistant be allowed to enter or leave the home owner's site without that person being required to pay additional rent, a fee, or any charge whatsoever. However, the mobile home owner must pay the cost of a background check for the live-in health care aide or assistant if one is necessary. The bill provides that a live-in health care aide or assistant does not have any rights of tenancy in the park. The bill requires the mobile home owner to notify the park owner or park manager of the name of the live-in health care aide or assistant, if that becomes necessary, and that the mobile home owner to cover any costs associated with the removal of a live-in health care aide or assistant.

The bill provides that the purpose of the Florida Mobile Home Relocation Corporation (corporation) is to address voluntary closures of mobile home parks due to a change in the use of land. The corporation pays homeowners the actual cost for relocating a mobile home to a new

location within a 50-mile radius of the vacated park or \$3,000 for a single-section mobile home and \$6,000 for a multi-section mobile home, whichever is less. The bill increases the maximum payment amount to \$6,500 for a single-section mobile home and \$11,500 for a multi-section mobile home.

Currently, a mobile home owner can choose to abandon their mobile home instead of relocating the home. The bill increases the maximum amount the corporation may pay if a mobile home owner chooses to abandon the home and collect payment from the corporation from \$1,375 to \$5,000 for a single section mobile home and from \$2,750 to \$7,000 for a multi-section mobile home.

If the mobile home owner chooses to abandon the mobile home and receives payment from the corporation, the bill requires that the park owner must pay the corporation \$1,375 for a single section mobile home and \$2,750 for a multi-section mobile home. The total dollar amount of the park owner's payment obligation is the same as under current law.

The bill takes effect July 1, 2024.

## II. Present Situation:

Chapter 723, F.S., the "Florida Mobile Home Act" (act) addresses the unique relationship between a mobile home owner and a mobile home park owner.<sup>1</sup> The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.<sup>2</sup>

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.<sup>3</sup>
- "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.<sup>4</sup>

Mobile home parks are regulated by the Division of Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation. The division may adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., relating to the requirements in the Administrative Procedures Act for the adoption of rules by agencies, to implement and enforce the provisions of ch. 723, F.S, including rules to authorize amendments to an approved prospectus or offering circular and to establish a category of minor violations of ch. 723, F.S., or rules promulgated pursuant hereto.<sup>5</sup> The division may also adopt rules for mediation procedures.<sup>6</sup>

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<sup>1</sup> Section 723.004, F.S.

<sup>2</sup> Section 723.002(1), F.S.

<sup>3</sup> Section 723.003(12), F.S.

<sup>4</sup> Section 723.003(11), F.S.

<sup>5</sup> See ss. 723.006(7), (8), (9), and (10), F.S.

<sup>6</sup> Section 723.038, F.S.

A mobile home park owner must pay to the division, on or before October 1 of each year, an annual fee of \$4 for each mobile home lot within a mobile home park which he or she owns.<sup>7</sup> If the fee is not paid by December 31, a penalty of 10 percent of the amount due must be assessed. Additionally, if the fee is not paid, the park owner does not have standing to maintain or defend any action in court until the amount due, plus any penalty, is paid.<sup>8</sup>

Additionally, there is a \$1 surcharge on each annual fee. The collected surcharge must be deposited in the Florida Mobile Home Relocation Trust Fund by the division.<sup>9</sup>

### **Mobile Home Park Rent Increases**

A purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and the seller.<sup>10</sup> The purchaser is also entitled to rely on the terms and conditions of the prospectus or offering circular as delivered to the initial recipient.<sup>11</sup>

The mobile home park owner may increase the rental amount upon the expiration of the assumed rental agreement “in an amount deemed appropriate by the mobile home park owner.”<sup>12</sup> The park owner must give affected mobile home owners and the board of directors of the homeowners’ association, if one has been formed, at least a 90-day notice of a lot rental increase.<sup>13</sup>

Upon the sale of a mobile home on a rented lot, the amount of a lot rental increase is to be disclosed and agreed to by the purchaser by executing a rental agreement that sets forth the new lot rental amount.<sup>14</sup> A lot rental amount may not be increased during the term of a rental agreement. However, if the rental agreement is for a term of more than 12 months, the lot rental amount may be increased during the rental term but not more frequently than annually. Pass-through charges<sup>15</sup> may also be increased during the term of the rental agreement.<sup>16</sup>

Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park, and the lot rental may not increase during the term of the rental agreement.<sup>17</sup> However, the mobile home park owner may pass on, at any time during the term of the rental agreement, ad valorem property taxes and utility charges, or increases of either, if the passing on of these costs was disclosed prior to the tenancy.<sup>18</sup>

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<sup>7</sup> Section 723.007(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 723.007(2), F.S.

<sup>10</sup> Section 723.059(3), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 723.059(4), F.S.

<sup>13</sup> Section 723.037(1), F.S.

<sup>14</sup> Section 723.031(5), F.S.

<sup>15</sup> Section 723.003(17), F.S., defines the term “pass-through charge” to mean “the mobile home owner’s proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities.”

<sup>16</sup> Section 723.031(5)(b), F.S.

<sup>17</sup> Section 723.031(5), F.S.

<sup>18</sup> Section 723.031(5)(c), F.S.

A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a factor for increasing the lot rental amount in the prospectus<sup>19</sup> or rental agreement.<sup>20</sup>

A park owner must give written notice to each affected mobile home owner and the board of directors of the homeowners' association, if one has been formed, at least 90 days before any increase in the lot rental amount or reduction in services or utilities provided by the park owner or change in rules and regulations.<sup>21</sup> The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner must make the names and addresses available upon request.<sup>22</sup>

### **Dispute Resolution**

A committee of homeowners and the park owner must meet no later than 60 days before the effective date of a rent increase to discuss the reasons for the increase. The homeowners' committee may consist of no more than five people, who are mobile homeowners in the park and who are designated by a majority of the owners or by the board of directors of the homeowners' association if formed as provided under s. 723.075, F.S.<sup>23</sup> At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed.<sup>24</sup>

If the meeting does not resolve the issue, then additional meetings may be requested. If subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the mobile home owners may petition the division to initiate mediation if a majority of the affected have designated, in writing, that:<sup>25</sup>

- The rental increase is unreasonable;
- The rental increase has made the lot rental amount unreasonable;
- The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or
- The change in the rules and regulations is unreasonable.

Within 30 days of the last scheduled meeting, a park owner may also petition the division for mediation of the dispute.<sup>26</sup>

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<sup>19</sup> Before the rental of a mobile home lot, s. 723.011, F.S., requires the park owner of a mobile home park containing 26 or more lots to file a prospectus with the division. The prospectus must include written disclosures to prospective renters, as specified in s. 723.012, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 723.037(1), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 723.037(4)(a), F.S.

<sup>24</sup> Section 723.037(4)(b), F.S.

<sup>25</sup> Section 723.037(5)(a), F.S.

<sup>26</sup> Section 723.037(5)(b), F.S.

If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the rental increase.<sup>27</sup> The court may refer the action to nonbinding arbitration pursuant to s. 44.103, F.S.

Section 723.038, F.S., provides that, upon receipt of the petition from either party, the division must appoint a qualified mediator to conduct mediation proceedings unless the parties timely notify the division in writing that they have selected a mediator. The person appointed by the division to serve as mediator must be a qualified mediator from a list of circuit court mediators in each judicial circuit and who has met training and educational requirements established by the Supreme Court. If such mediators are not available, the division may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium.<sup>28</sup> The division must promulgate rules of procedure to govern such proceedings in accordance with the rules of practice and procedure adopted by the Supreme Court.<sup>29</sup> The division must also establish, by rule, the fee to be charged by a mediator which shall not exceed the fee authorized by the circuit court.<sup>30</sup>

The division has adopted by rule separate petitions for mediation for filing by the homeowners and the park owner.<sup>31</sup>

Within 20 days of receiving a petition to mediate a dispute, the division must notify the parties that a mediator has been appointed by the division. The parties may accept the mediator appointed by the division or, within 30 days, select a mediator to mediate the dispute.<sup>32</sup>

Each party to the mediation must pay a \$250 filing fee to the mediator appointed by the division or selected by the parties, within 30 days after the division notifies the parties of the appointment of the mediator. The \$250 filing fee must be used by the mediator to defray the hourly rate charged for mediation of the dispute. Any portion of the filing fee not used must be refunded to the parties.<sup>33</sup>

The parties may agree to select their own mediator to be governed by the rules of procedure established by the division. The parties may agree to waive mediation, or the petitioning party may withdraw the petition prior to mediation.<sup>34</sup>

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<sup>27</sup> Sections 723.038 and 723.0381, F.S.

<sup>28</sup> Section 1004.59, F.S., establishes the Florida Conflict Resolution Consortium at Florida State University “to reduce the public and private costs of litigation; resolve public disputes, including those related to growth management issues, more quickly and effectively; and improve intergovernmental communications, cooperation, and consensus building.” See Florida Conflict Resolution Consortium at <https://consensus.fsu.edu/index.html> (last visited Jan. 23, 2024).

<sup>29</sup> See Fla. Admin. Code Ch. 61B-32, relating to mobile home mediation rules; and Fla. R. Civ. P. 1.720, providing for mediation procedures.

<sup>30</sup> See Fla. Admin. Code R. 61B-32.0056, relating to the fees for mediators and mediation. The fee amount is based on the county or judicial circuit in which the mobile home park is located and ranges from \$175 for up to two hours of mediation to \$125 per prorated hour.

<sup>31</sup> See DBPR, Mobile Homes – Forms and Publications, available at: <http://www.myfloridalicense.com/DBPR/mobile-homes/forms-and-publications/> (last visited Jan. 24, 2024).

<sup>32</sup> Section 723.038(4), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Section 723.038(5), F.S.

The resolution of a dispute arising from a mediation may not be deemed to be final agency action. However, either party may initiate an action in the circuit court to enforce a resolution or agreement arising from a mediation proceeding which has been reduced to writing. The circuit court must consider such resolution or agreement made during the mediation to be a contract for the purpose of providing a remedy to the complaining party.<sup>35</sup>

If mediation does not resolve the dispute, either party may file an action in the circuit court.<sup>36</sup>

### **Invitees – Rights and Obligations**

An invitee<sup>37</sup> of a mobile home owner may enter or leave the home owner's site without the home owner or invitee being required to pay additional rent, a fee, or any charge whatsoever. Any mobile home park rule or regulation is null and void if it provides fees or charges to the contrary to this right of access.<sup>38</sup>

All guests, family members, or invitees of a mobile home owner are required to abide by properly promulgated rules and regulations.

Section 723.051(3), F.S., provides that an “invitee” is:

a person whose stay at the request of a mobile home owner does not exceed 15 consecutive days or 30 total days per year, unless such person has the permission of the park owner or unless permitted by a properly promulgated rule or regulation. The spouse of a mobile home owner shall not be considered an invitee.

### **Florida Mobile Home Relocation Corporation**

In 2001, the Legislature created the Florida Mobile Home Relocation Corporation (corporation) in s. 723.0611, F.S., to provide for the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park.<sup>39</sup> Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner.

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home or \$6,000 for a multi-section mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.<sup>40</sup>

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<sup>35</sup> Section 723.038(6), F.S.

<sup>36</sup> Section 723.0381(1), F.S.

<sup>37</sup> Black's Law Dictionary (11th ed. 2019) defines the term “invitee” to mean “someone who has an express or implied invitation to enter or use another's premises, such as a business visitor or a member of the public to whom the premises are held open. The occupier has a duty to inspect the premises and to warn the invitee of dangerous conditions.”

<sup>38</sup> Section 723.051(1), F.S.

<sup>39</sup> Chapter 2001-227, L.O.F.

<sup>40</sup> Section 723.0612(1), F.S.

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of \$1,375 for a single section mobile home and \$2,750 for a multi-section mobile home.<sup>41</sup> Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.<sup>42</sup>

The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.<sup>43</sup>

The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if:<sup>44</sup>

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action for nonpayment of lot rental amount filed against him or her prior to the mailing date of the change in the use of land.

Payments received by the corporation are deposited in the Florida Mobile Home Relocation Trust Fund.<sup>45</sup>

### III. Effect of Proposed Changes:

The bill creates s. 723.006(16), F.S., to authorize the division to adopt rules to carry out the provisions and requirements of "this act."<sup>46</sup>

Section 2 of the bill directs the Division of Law Revision to replace the phrase "this act" where it may occur in s. 723.006(16), F.S.

#### Dispute Resolution

The bill amends s. 723.037(5)(a), F.S., to clarify that any of the circumstances listed in this paragraph may form a basis to petition the division for mediation. The bill provides that, upon the park owner filing a written notice with the division of the park owner's intent to initiate mediation of the dispute petition, the park owner may enter into an agreement with the mobile home owners to select a mediator pursuant to s. 723.037(2) and (4), F.S.

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<sup>41</sup> Section 723.0612(7), F.S.

<sup>42</sup> *Id.*

<sup>43</sup> Section 723.0612(7), F.S.

<sup>44</sup> Sections 723.0612(2) and (7), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> See ss. 723.006(7), (8), (9), and (10), F.S., which authorize the division to adopt rules to implement the provisions of ch. 723, F.S.

The bill also amends s. 723.038(2) and (4), F.S., to allow the mobile home owners and the park owner to immediately agree to select a mediator and initiate mediation proceedings. The bill provides that the mediator selected by the parties must be a qualified mediator selected from the list of circuit court mediators in each judicial circuit or the list maintained by the Florida Growth Management Conflict Resolution Consortium, as provided in this section.

It is not clear under current law that the homeowners and the park owner may agree on a mediator before submitting a petition for mediation with the division, as provided in the bill.

If an “aggrieved party” serves a request for mediation and the responding party refuses or fails to participate in mediation, the bill permits an “aggrieved party” to file an action in circuit court after the majority of the affected home owners have agreed in writing to file an action. The term “aggrieved party” is not defined in the bill.

### **Invitees – Rights and Obligations**

The bill amends s. 723.051(1), F.S., to require that park owners allow a live-in health care aide or assistant as provided under the Fair Housing Act,<sup>47</sup> to enter or leave the home owner's site without that person being required to pay additional rent, a fee, or any charge whatsoever. However, the mobile home owner must pay the cost of a background check for the live-in health care aide or assistant if one is necessary.

The bill provides that a live-in health care aide or assistant does not have any rights of tenancy in the park. The bill requires the mobile home owner to notify the park owner or park manager of the name of the live-in health care aide or assistant, if that becomes necessary, and that the mobile home owner cover any costs associated with the removal of a live-in health care aide or assistant.

### **Florida Mobile Home Relocation Corporation**

The bill amends s. 723.0611, F.S., to provide that the corporation is created to address voluntary closures of mobile home parks due to a change in the use of land.

The bill increases the maximum amount the corporation may pay for relocating the mobile home to a new location within a 50-mile radius of the vacated park from \$3,000 to \$6,500 for a single-section mobile home and from \$6,000 to \$11,500 for a multi-section mobile home.

The bill increases the maximum amount the corporation must pay if a mobile home owner elects to abandon the home and collect payment from the corporation

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<sup>47</sup> Part II of ch. 760, F.S., the Fair Housing Act, prohibits certain types of discriminatory housing practices, including in the sale and rental of housing.

from \$1,375 to \$5,000 for a single section mobile home and from \$2,750 to \$7,000 for a multi-section mobile home.

If a mobile home owner chooses to abandon the mobile home and receives payment from the corporation, under the bill, the park owner must pay the corporation \$1,375 for a single section mobile home and \$2,750 for a multi-section mobile home. The total dollar amount of the park owner's payment obligation under the bill is the same as under current law.

### **Reenacting Provisions**

The bill reenacts the following provisions for the purpose of incorporating the amendments in the bill:

- Section 723.078(2)(i), F.S., relating to bylaws of homeowners' associations;
- Section 723.031(5), F.S., relating to mobile home lot rental agreements;
- Section 723.035(2), F.S., relating to the rules and regulations for mobile home parks;
- Section 723.068, F.S., relating to attorney fees;
- Section 723.002(2), F.S., relating to the application of ch. 723, F.S.;
- Section 723.003(7)(b), F.S., relating to defining the term "mediation;"
- Section 723.004(5), F.S., relating to legislative intent; and
- Section 723.033(7), F.S., relating to unreasonable lot rental agreements and increases.

### **Effective Date**

The bill takes effect July 1, 2024.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

Mobile home owners who relocate their mobile home to a new location within a 50-mile radius of the vacated park may receive a greater amount of reimbursement for moving expenses. The bill increases the maximum payment amount from \$3,000 to \$6,500 for a single-section mobile home and from \$6,000 to \$11,500 for a multi-section mobile home.

Mobile home owners who choose to abandon their mobile home instead of relocating their mobile home would receive a greater payment from the corporation. The bill increases the maximum amount the corporation must pay if a mobile home owner chooses to abandon their home and collect payment from the corporation from \$1,375 to \$5,000 for a single section mobile home and from \$2,750 to \$7,000 for a multi-section mobile home.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 2 of the bill directs the Division of Law Revision to replace the phrase “this act” where it may occur in s. 723.006(16), F.S. This provision is inconsistent with bill drafting conventions. The bill creates the cross-referenced provision (s. 723.006(16), F.S.) and revision may be made in the bill without directing the Division of Law Revision to make the revision. The term “this act” is used throughout ch. 723, F.S. The bill sponsor may wish to consider revising the bill to direct the Division of Law Revision to replace the phrase “this act” wherever it may occur in ch. 723, F.S.

The bill reenacts the following provisions for the purpose of incorporating the amendments in the bill, but these provisions do not need to be reenacted for the purpose of incorporating the amendments in the bill:

- Section 723.078(2)(i), F.S., relating to bylaws of homeowners’ associations;
- Section 723.031(5), F.S., relating to mobile home lot rental agreements;
- Section 723.035(2), F.S., relating to the rules and regulation for mobile home parks;
- Section 723.068, F.S., relating to attorney fees;
- Section 723.002(2), F.S., relating to the application of ch. 723, F.S.;
- Section 723.003(7)(b), F.S., relating to defining the term “mediation;”
- Section 723.004(5), F.S., relating to legislative intent; and

- Section 723.033(7), F.S., relating to unreasonable lot rental agreements and increases.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 723.006, 723.037, 723.038, 723.0381, 723.051, 723.0611, 723.0612, 723.078, 723.031, 723.035, 723.068, 723.002, 723.003, 723.004, and 723.033.

This bill creates an undesignated section of Florida law.

**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.