

Agenda Order

<b>Tab 1 CS/SB 1006 by RI, Perry; (Similar to CS/H 01007) Nicotine Products and Dispensing Devices</b>							
585548	A	S	RCS	AEG, Perry	Delete L.163 - 576:	02/20	01:09 PM
278822	AA	S	RCS	AEG, Perry	Delete L.118:	02/20	01:09 PM
<b>Tab 2 SB 1360 by Gruters; (Similar to CS/CS/H 01565) Florida Red Tide Mitigation and Technology Development Initiative</b>							
494620	D	S	RCS	AEG, Gruters	Delete everything after	02/20	01:36 PM
<b>Tab 3 CS/SB 1624 by RI, Collins; (Compare to CS/H 00683) Energy Resources</b>							
565948	D	S	RCS	AEG, Collins	Delete everything after	02/20	01:36 PM
<b>Tab 4 CS/SB 1662 by GO, Collins; (Similar to CS/CS/H 01555) Cybersecurity</b>							
712374	D	S	RCS	AEG, Collins	Delete everything after	02/20	01:37 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**APPROPRIATIONS COMMITTEE ON AGRICULTURE,  
 ENVIRONMENT, AND GENERAL GOVERNMENT**

**Senator Brodeur, Chair**  
**Senator Berman, Vice Chair**

**MEETING DATE:** Tuesday, February 20, 2024  
**TIME:** 10:30 a.m.—12:30 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Building*

**MEMBERS:** Senator Brodeur, Chair; Senator Berman, Vice Chair; Senators Boyd, Garcia, Grall, Mayfield, Osgood, Polsky, Rodriguez, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 1006</b> Regulated Industries / Perry (Similar CS/H 1007)	Nicotine Products and Dispensing Devices; Requiring nicotine product manufacturers who sell nicotine dispensing products in this state to execute and deliver a form, under penalty of perjury, to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation for each dispensing device sold within this state which meets certain criteria; providing penalties for certain violations by manufacturers; prohibiting the sale, shipment, or distributing of certain nicotine dispensing devices from being sold for retail sale in this state; providing criminal penalties for the unlawful sale or dealing of unlisted nicotine dispensing devices; providing for the seizure and destruction of unlawful nicotine dispensing devices in accordance with the Florida Contraband Forfeiture Act, etc.  RI 02/05/2024 Fav/CS AEG 02/20/2024 Fav/CS FP	Fav/CS Yeas 9 Nays 0
2	<b>SB 1360</b> Gruters (Similar CS/CS/H 1565)	Florida Red Tide Mitigation and Technology Development Initiative; Requiring the initiative to develop certain deployment technologies and submit a report on the technologies to the Department of Environmental Protection; requiring the department to make certain determinations regarding the technologies within a specified time period; providing that the technologies are deemed approved for use in specified state waters under certain circumstances, etc.  EN 01/17/2024 Favorable AEG 02/20/2024 Fav/CS FP	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Agriculture, Environment, and General Government  
Tuesday, February 20, 2024, 10:30 a.m.—12:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>CS/SB 1624</b> Regulated Industries / Collins (Compare CS/H 683, CS/CS/H 1645, CS/S 480, S 1548)	Energy Resources; Allowing resiliency facilities in certain land use categories in local government comprehensive plans and specified districts if certain criteria are met; prohibiting amendments to a local government's comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with resiliency facility classification after a specified date; requiring the Department of Management Services to develop a Florida Humane Preferred Energy Products List in consultation with the Department of Commerce and the Department of Agriculture and Consumer Services; including development districts as a type of political subdivision for purposes of preemption over utility service restrictions, etc.  RI 01/29/2024 Fav/CS AEG 02/13/2024 Temporarily Postponed AEG 02/20/2024 Fav/CS FP	Fav/CS Yeas 6 Nays 3
4	<b>CS/SB 1662</b> Governmental Oversight and Accountability / Collins (Similar CS/CS/H 1555)	Cybersecurity; Revising the purposes for which the Florida Digital Service is established; requiring the Florida Digital Service to ensure that independent project oversight on certain state agency information technology projects is performed in a certain manner; requiring the state chief information officer, in consultation with the Secretary of Management Services, to designate a state chief technology officer; requiring local governments to report ransomware and certain cybersecurity incidents to the Cybersecurity Operations Center within certain time periods, etc.  GO 01/29/2024 Fav/CS AEG 02/20/2024 Fav/CS AP	Fav/CS Yeas 9 Nays 0

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Other Related Meeting Documents

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**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 Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/CS/SB 1006

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Regulated Industries Committee and Senator Perry

SUBJECT: Nicotine Products and Dispensing Devices

DATE: February 22, 2024      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Oxamendi/Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1006 provides for the regulation of the wholesale and the retail sale of nicotine dispensing devices (NDDs) products such as electronic cigarettes. The bill:

- Requires manufacturers of NDDs to register with the Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation by December 1, 2024, and annually thereafter, any of its products that are sold in Florida and which have received an order from the U.S. Food and Drug Administration (FDA) authorizing the marketing of such products or has applied for such a marketing order.
- Requires manufacturers to certify under penalty of perjury the NDDs with the division and provide evidence specified in the bill of such approval from the FDA or that they have sought approval from the FDA.
- Requires the division to create a directory containing the registered NDDs.
- Requires wholesale dealers of a NDD to have a permit issued by the division.
- Requires manufacturers of NDDs to maintain certain records for a period of three years, including identifying information regarding to whom the products were sold.
- Prohibits wholesale dealers and retail dealers of NDDs from selling NDDs that are not on the division’s directory of NDDs.
- Prohibits the shipment into Florida of NDDs that the FDA has ordered removed from the market, that have not been submitted for approval by the FDA, or that have not been registered with the division.

- Prohibits the sale, shipment, or distribution of NDDs if the FDA does not accept a premarket application, denies an application, or other FDA or court action negatively affects the ability of the product to be introduced or delivered into interstate commerce for commercial distribution in the United States.
- Creates the following criminal violations and penalties:
  - Third degree felony for falsely misrepresenting any of the information required to register a NDD with the division.
  - First degree misdemeanor for nicotine product manufacturers who knowingly ships or receives a NDD that the FDA has ordered removed from the market, that have not been submitted for approval by the FDA, or that have not been registered with the division;
  - Second degree misdemeanor for any person who knowingly ships or receives unregistered NDDs;
  - Second degree misdemeanor for any person who knowingly ships or receives NDDs from a manufacturer that does not have a permit issued by the division; and
- Provides administrative fines for violations and for the suspension and revocation of permits.
- Provides that all NDDs sold, delivered, possessed, or distributed in contrary to the provisions in the bill are contraband and are subject to seizure and confiscation under the Florida Contraband Forfeiture Act.
- Requires non-resident manufacturers of NDDs sold in Florida to have a registered agent in Florida to accept service of process.

The bill has a significant, negative fiscal impact on state expenditures. See Section V., Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024.

## II. Present Situation:

### **Florida Regulation of Tobacco Products and Nicotine Dispensing Devices**

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) is the state agency responsible for the regulation and enforcement of tobacco products under part I of ch. 569, F.S., and nicotine products under part II of ch. 569, F.S.

#### ***Tobacco Products Definitions***

Section 210.01(1), F.S., defines the term “cigarette” to mean:

any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.

Section 569.002(6), F.S., defines the term “tobacco products” to include loose tobacco leaves and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can

be used for smoking, sniffing, or chewing, in the context of the taxation of cigarettes under part I of ch. 210, F.S.

Section 210.25(12), F.S., provides a separate definition for the term “tobacco products” in the context of the taxation of tobacco products other than cigarettes or cigars. It provides for the licensing of tobacco product manufacturers, importers, exporters, distributing agents, or wholesale dealers under part II of ch. 210, F.S. In this context, the term “tobacco products” means:

loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but “tobacco products” does not include cigarettes, as defined by s. 210.01(1), or cigars.

The definition of “tobacco products” in s. 569.002(6), F.S., is limited to the regulation of tobacco products by the division under ch. 569, F.S., and does not affect the taxation of such products under ch. 210, F.S.

### ***Nicotine Products***

Section 569.31(3), F.S., defines the term “nicotine dispensing device” to mean: any product that employs an electronic, chemical, or mechanical means to produce vapor or aerosol from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

Section 569.31(4), F.S., defines the term “nicotine product” to mean: any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The term does not include a:

- (a) Tobacco product, as defined in s. 569.002;
- (b) Product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act; or
- (c) Product that contains incidental nicotine.

(Emphasis added.)

Nicotine products, including nicotine dispensing devices such as electronic cigarettes (also commonly known as “vapes”), may contain nicotine, which comes from tobacco, but they do not

contain tobacco. It is a non-tobacco “e-liquid” that is heated and aerosolized for inhalation by the user of the device.<sup>1</sup>

### ***Heated Tobacco Products***

Heated tobacco products heat a compressed stick or pod of tobacco and produce an inhalable vapor or aerosol. These products do not produce smoke because the tobacco is not burned or ignited.<sup>2</sup> It is not clear that heated tobacco products are subject to taxation under ch. 210, F.S., as cigarettes or other tobacco products because the definitions for the terms cigarettes and tobacco products under ch. 210, F.S., do not appear to describe heated tobacco products, e.g., heated tobacco products are not smoked or chewed.

### ***Retail Tobacco Products Dealer Permits***

A person must obtain a retail tobacco products dealer permit from the division for each place of business where tobacco products are sold, including sales made through a vending machine.<sup>3</sup> The fee for an annual permit is established by the division in rule at an amount to cover the regulatory costs of the program, not to exceed \$50. The fees are deposited into the Alcoholic Beverage and Tobacco Trust Fund within the DBPR.<sup>4</sup>

### ***Retail Nicotine Products Dealer Permit***

A retail nicotine products dealer permit from the division is required for each place of business where nicotine products are sold, including sales made through a vending machine.<sup>5</sup> There is no fee for the permit. A person must be 21 years of age to qualify for a retail nicotine products dealer permit.<sup>6</sup>

### ***Taxation of Tobacco Products Other than Cigarettes or Cigars***

Part II of ch. 210, F.S., imposes a tax and a surcharge tax on tobacco products other than cigarettes or cigars. Cigarettes are taxed under part I of ch. 210, F.S. Cigars are not subject to a tax.

### ***DBPR Annual Report***

The DBPR is required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House regarding the enforcement of tobacco products, including:<sup>7</sup>

- The number and results of compliance visits by the division;
- The number of violations for failure of a retailer to hold a valid license;
- The number of violations for selling tobacco products to anyone under the age of 21 and the results of administrative hearings on such violations; and

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<sup>1</sup> American Cancer Society, What Do We Know About E-cigarettes? at: <https://www.cancer.org/cancer/risk-prevention/tobacco/e-cigarettes-vaping/what-do-we-know-about-e-cigarettes.html> (last visited Feb. 7, 2024).

<sup>2</sup> Campaign for Tobacco Free Kids, *Heated Tobacco Products, Definition and Global Market*, available at: [https://assets.tobaccofreekids.org/global/pdfs/en/HTP\\_definition\\_en.pdf](https://assets.tobaccofreekids.org/global/pdfs/en/HTP_definition_en.pdf) (last visited Feb. 7, 2024).

<sup>3</sup> Section 569.003, F.S.

<sup>4</sup> Section 569.003(1)(c), F.S.

<sup>5</sup> Section 569.32, F.S.

<sup>6</sup> Section 569.32(2)(a), F.S.

<sup>7</sup> Section 569.19, F.S.

- The number of people under the age of 21 cited, including sanctions imposed as a result of citation.

The DBPR is required to submit a comparable annual report to the Legislature regarding compliance with the age restriction on the sale of nicotine dispensing devices.<sup>8</sup>

### **Federal Regulation of Tobacco Products**

The Family Smoking Prevention and Tobacco Control Act of 2009 (Tobacco Control Act) gives the U.S. Food and Drug Administration (FDA) authority to regulate the manufacture, distribution, and marketing of tobacco products to protect the public health. The Tobacco Control Act provides advertising and labeling guidelines, provides standards for tobacco products, and requires face-to-face transactions for tobacco sales with certain exceptions.<sup>9</sup>

On August 8, 2016, the FDA extended the definition of the term “tobacco product” regulated under the Tobacco Control Act to include “electronic nicotine delivery systems” (ENDS). ENDS include nicotine delivery devices such as e-cigarettes, e-cigars, e-hookah, vape pens, personal vaporizers, and electronic pipes. The definition of tobacco products also includes components and parts such as e-liquids, tanks, cartridges, pods, wicks, and atomizers. On April 14, 2022, the FDA’s authority was further expanded to include tobacco products containing nicotine from any source, including synthetic nicotine.<sup>10</sup>

Federal law preempts states from providing additional or different requirements for tobacco products in regards to “standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.” However, federal law explicitly preserves the right of states, or any political subdivision of a state, to enact laws, rules, regulations or other measures related to prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of tobacco products which are more stringent than federal requirements.<sup>11</sup>

### ***Registration by Manufacturers***

Under federal law, tobacco product manufacturers<sup>12</sup> are required initially and annually thereafter to register with the FDA the name,<sup>13</sup> places of business, and all such establishments of that manufacturer in any state.<sup>14</sup> These manufacturers are required to register any additional places

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<sup>8</sup> Section 569.44, F.S.

<sup>9</sup> Federal Food, Drug, and Cosmetic Act, 21 USC § 351 *et seq*; 15 U.S.C. s. 1333, s. 1335; 21 U.S.C. s. 387g, s. 387f.

<sup>10</sup> “Non-Tobacco Nicotine” (NTN) is the term used to describe nicotine that did not come from a tobacco plant. NTN includes ‘synthetic’ nicotine.” U.S. Food and Drug Administration. *Regulation and Enforcement of Non-Tobacco Nicotine (NTN) Products*, U.S. Food and Drug Administration, [www.fda.gov/tobacco-products/products-ingredients-components/regulation-and-enforcement-non-tobacco-nicotine-ntn-products](http://www.fda.gov/tobacco-products/products-ingredients-components/regulation-and-enforcement-non-tobacco-nicotine-ntn-products) (last visited Feb. 7, 2024).

<sup>11</sup> 21 U.S.C. § 387p.

<sup>12</sup> The term “manufacture, preparation, compounding, or processing” includes “the repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.”

21 USCA § 387e(a)(1).

<sup>13</sup> The term “name” includes the name of each partner in the case of a partnership and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.” 21 USCA § 387e(a)(2).

<sup>14</sup> 21 USCA § 387e(b)(c).



which they own or operate and start to manufacture, prepare, compound, or process a tobacco product or tobacco products.<sup>15</sup>

### ***FDA Premarket Review Application Process for Tobacco Products***<sup>16</sup>

Before a new tobacco product<sup>17</sup> can be distributed into interstate commerce, the manufacturer is required to submit a marketing application to the FDA and receive authorization.<sup>18</sup> These applications are reviewed by the FDA to determine whether the product meets the proper requirements to receive marketing authorization. Marketing authorization can be achieved through a Premarket Tobacco Product Application (PMTA), Substantial Equivalence (SE) Report, or Exemption from Substantial Equivalence Request (EX REQ).<sup>19</sup> The FDA may issue a marketing granted order, temporarily suspend a marketing order, withdraw a marketing granted order, or issue a marketing denial order.<sup>20</sup>

Preexisting tobacco products, i.e., tobacco products that were commercially marketed in the U.S. as of Feb. 15, 2007, or the modification of a tobacco product where the modified product was commercially marketed in the U.S. before Feb. 15, 2007, may voluntarily submit an application to the FDA by May 14, 2022,<sup>21</sup> to receive a determination that the product is a pre-existing tobacco product. A tobacco manufacturer may challenge the FDA's determination.<sup>22</sup> Manufacturers must hold onto records that show their tobacco products are legally on the market.

September 9, 2020, was the deadline for submitting a PMTA application for other new deemed tobacco products that were on the market as of August 8, 2016.<sup>23</sup>

An applicant may submit a PMTA to demonstrate that a new tobacco product meets the requirements to receive a marketing granted order.<sup>24</sup> The PMTA must contain information<sup>25</sup> for the FDA to ascertain whether there are any applicable grounds for a marketing denial order. To receive a marketing granted order:

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<sup>15</sup> 21 USCA § 387e(d).

<sup>16</sup> See generally, 21 U.S.C. § 387j.

<sup>17</sup> "A 'new tobacco product' is defined as any product not commercially marketed in the United States as of February 15, 2007, or the modification of a tobacco product where the modified product was commercially marketed in the U.S. after February 15, 2007." 21 U.S.C. § 387j(1).

<sup>18</sup> U.S. Food and Drug Administration, *Market and Distribute a Tobacco Product*, [www.fda.gov/tobacco-products/products-guidance-regulations/market-and-distribute-tobacco-product](http://www.fda.gov/tobacco-products/products-guidance-regulations/market-and-distribute-tobacco-product) (last visited Feb 7, 2024).

<sup>19</sup> U.S. Food and Drug Administration, *Tobacco Products Marketing Orders*, <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders> Last visited Feb. 7, 2024).

<sup>20</sup> 21 U.S.C. § 387j.

<sup>21</sup> U.S. Food and Drug Administration, *Reminder: Electronic Submission of Premarket Applications for Non-Tobacco Nicotine Products due May 14*, <https://www.fda.gov/tobacco-products/ctp-newsroom/reminder-electronic-submission-premarket-applications-non-tobacco-nicotine-products-due-may-14> (last visited Feb. 7, 2024).

<sup>22</sup> See U.S. Food and Drug Administration, *Pre-Existing Tobacco Products*, June 15, 2023, at <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/pre-existing-tobacco-products> (last visited February 16, 2024).

<sup>23</sup> FDA, *Submit Tobacco Product Applications for Deemed Tobacco Products*, Sept. 9, 2020, at: <https://www.fda.gov/tobacco-products/manufacturing/submit-tobacco-product-applications-deemed-tobacco-products> (last visited Feb 7, 2024).

<sup>24</sup> 21 CFR 1114.5.

<sup>25</sup> The PMTA must include information, such as, full reports of investigations of health risks, effect on the population as a whole, product formulation, statement of compliance and certification, and manufacturing. See 21 CFR § 1114.7(a).

A PMTA must demonstrate the new tobacco product would be appropriate for the protection of the public health and takes into account the increased or decreased likelihood that existing users of tobacco products will stop using such products, as well as the increased or decreased likelihood that those who do not use tobacco products will start using such products.<sup>26</sup>

A SE Report can be submitted by the tobacco manufacturer to seek an FDA substantially equivalent order. The applicant must provide information on the new tobacco product's characteristics and compare its characteristics to another tobacco product.<sup>27</sup> The SE Report must contain information to allow the FDA to determine whether the new tobacco product is substantially equivalent to a tobacco product that was commercially marketed in the United States as of February 15, 2007.<sup>28</sup>

The FDA may exempt, from the requirements relating to the demonstration that a tobacco product is substantially equivalent, tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive if certain conditions are met. A tobacco product may only receive an exemption from the requirement of showing a substantial equivalence (Ex Req) if it is for a minor modification to a tobacco product that can legally be sold as a legally marketed tobacco product.<sup>29</sup>

The FDA made determinations on more than 99 percent of the nearly 26 million products for which PMTSs have been submitted.<sup>30</sup> As of March 15, 2023, the FDA has authorized the marketing of 45 products, including 23 tobacco-flavored e-cigarette products and devices.<sup>31</sup>

However, the FDA tobacco premarket application process has been challenged. In 2022, the Eleventh Circuit Court of Appeals set aside FDA marketing order denials as arbitrary and capricious because the FDA failed to consider relevant factors in evaluating the applications submitted by the six tobacco companies.<sup>32</sup> In 2024, the Fifth Circuit Court of Appeals stated, in reference to the tobacco premarketing application process, that over several years, the FDA had “sent manufacturers of flavored e-cigarette products on a wild goose chase.”<sup>33</sup>

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<sup>26</sup> *Supra* note 16.

<sup>27</sup> See 21 CFR 1107.16 and 21 CFR 1107.18.

<sup>28</sup> 21 CFR 1107.18.

<sup>29</sup> 21 CFR 1107.1.

<sup>30</sup> U.S. Food and Drug Administration, *FDA Makes Determinations on More than 99% of the 26 Million Tobacco, www.fda.gov/tobacco-products/ctp-newsroom/fda-makes-determinations-more-99-26-million-tobacco-products-which-applications-were-submitted* (last visited Feb 7, 2024); and U.S. Food and Drug Administration, *Premarket Tobacco Product Marketing Granted Orders*, updated as of Jan. 9, 2024, [www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders](http://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders) (last visited Feb 7, 2024).

<sup>31</sup> *Id.*

<sup>32</sup> See, *Bidi Vapor LLC v. U.S. Food & Drug Admin.*, 47 F.4th 1191, 1205 (11th Cir. 2022), in which the FDA issued marketing denial orders that specifically stated that it did not consider the marketing or sales-access-restriction plans in the PMTSs submitted by six tobacco companies which included their proposed marketing and sales-access restrictions in their applications.

<sup>33</sup> *Wages & White Lion Investments, L.L.C. v. Food & Drug Admin.*, 90 F.4th 357 (5th Cir. 2024) (the court held that the FDA's denial of marketing orders was arbitrary and capricious because FDA failed to give manufacturers fair notice of the rules, did not explain or admit a change in position regarding application requirements, and disregarded the tobacco manufacturers' good faith reliance on previous FDA guidance).

### III. Effect of Proposed Changes:

#### Definitions

**Section 1** revises the meaning of the term “nicotine dispensing device” (NDD) in s. 569.31, F.S., to provide that “each individual stock keeping unit is considered a separate nicotine dispensing device.”

The bill defines the following terms:

- “FDA” to mean the United States Food and Drug Administration.
- “Nicotine products manufacturer” to mean any person who manufactures nicotine products.
- “Sell” or “sale” to mean in addition to its common usage meaning, any sale, transfer, exchange, theft, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever.
- “Timely filed premarket tobacco product application” to mean an application pursuant to 21 U.S.C. s. 387j for either:
  - A nicotine dispensing device containing or utilizing nicotine derived from tobacco marketed in the United States as of August 8, 2016, which was submitted to the U.S. Food and Drug Administration (FDA) on or before September 9, 2020, and accepted for filing; or
  - A nicotine dispensing device containing or utilizing nicotine derived from a non-tobacco source that is not a single use or disposable electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, or other similar device and that does not use a sealed, prefilled, and disposable cartridge of nicotine in a solution.
- “Wholesale nicotine products dealer” to mean the holder of a wholesale nicotine products dealer permit who purchases nicotine dispensing devices or nicotine products from any nicotine products manufacturer.
- “Wholesale nicotine products dealer permit” to mean a permit issued by the division under s. 569.316, F.S., as created by the bill.

The definition for the term “timely filed premarket tobacco product application” is limited to NDDs required to file an application under 21 U.S.C. s. 387j., i.e., a new deemed tobacco product, and for which September 9, 2020, was the deadline for submitting a Premarket Tobacco Product Application (PMTA) application for new deemed tobacco products that were on the market as of August 8, 2016.<sup>34</sup> This term does not apply to tobacco products that are “preexisting tobacco products,” i.e., tobacco products that were commercially marketed in the U.S. as of February 15, 2007, or the modification of a tobacco product where the modified product was commercially marketed in the U.S. before February 15, 2007, that are not required to submit marketing applications to the FDA by May 14, 2022, and not required to receive a marketing order to permit the continued sale of the tobacco product.<sup>35</sup>

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<sup>34</sup> *Supra* note 23.

<sup>35</sup> *Supra* note 21.

## Nicotine Product Directory

**Section 2** creates s. 569.311, F.S., to provide a certification requirement for nicotine product manufacturers.

Section 561.311(1), F.S., requires every nicotine product manufacturer who sells NDDs in Florida to execute and deliver a form, which s. 569.311(4), F.S., refers to as a “certification,” prescribed by the Division of Alcoholic Beverages and Tobacco (division), under penalty of perjury for each NDD sold that meets either of the following criteria:

- The nicotine product manufacturer has submitted a timely filed PMTA for a NDD; and
  - the PMTA remains stayed by a court order, or the manufacturer has filed a timely request for supervisory review with the FDA which remains under review, or the order has been rescinded by the FDA or vacated by the court; or
- The nicotine products manufacturer has received a marketing granted order, such as the Substantial Equivalence (SE) or Exemption from Substantial Equivalence Request (EX REQ), for the NDD from the FDA.

Although the bill requires all NND’s to be registered or “certified” with the division if they meet the specified criteria, the criteria for registration are limited to new deemed tobacco products under 21 U.S.C. s. 387j., which are required to submit a PMTA with the FDA. Registration requirements for pre-existing NDDs are not specified in the bill.

The form must be submitted to the division by December 1, 2024, and annually thereafter.

Section 569.311(2), F.S., requires each nicotine product manufacturer to set forth:

- The name under which the nicotine product manufacturer transacts or intends to transact business;
- The address of the location of the nicotine product manufacturer's principal place of business,
- The nicotine product manufacturer's e-mail address;
- The brand name of the nicotine dispensing device, the device’s category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), the device’s name; and
- Any flavor utilized with the device that is sold in this state.

The bill provides that the division may allow a nicotine product manufacturer to group its nicotine dispensing devices on its certification.

Section 569.311(3), F.S., requires each nicotine product manufacturer to provide to the division a copy of:

- The cover page of the granted marketing order issued by the FDA for each device,
- The acceptance letter issued by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed premarket tobacco product application for each device; or
- A document issued by the FDA or by a court confirming that the premarket tobacco product application has been received and denied, but the order is not yet in effect for each device.

Section 569.311(4), F.S., requires a nicotine product manufacturer to notify the division within 30 days after any material change to the certification, including, but not limited to, issuance by the FDA of any of the following:

- A denial of market authorization as a preexisting or new tobacco product;
- A marketing order requiring a nicotine product manufacturer to remove a NDD from the market either temporarily or permanently;
- Any notice of action taken by the FDA affecting the ability of the NDD to be introduced or delivered in this state for commercial distribution;
- Any change in policy which results in a NDD no longer being an FDA enforcement priority; or
- Any other change deemed material by the division pursuant to a rule of the division.

### ***Directory***

Section 569.311(5), F.S., requires the division to develop and maintain a directory listing all the NDDs certified with the division which comply with the requirements discussed above. On January 1, 2025, the division must make the directory available on the DBPR website or the website of the division, and update the directory as necessary. The bill requires the division to establish a process to provide retailers, distributors, and wholesalers notice of the initial publication of the directory and changes made to the directory in the prior month.

### ***Process for Removal from the Directory***

Section 569.311(6), F.S., requires the division to establish by rule a process to provide a nicotine product manufacturer a notice and an opportunity to cure deficiencies before removing the manufacturer or its NDD from the directory. The division may not remove the nicotine product manufacturer or its NDD from the directory until at least 30 days after the nicotine product manufacturer has been given notice of an intended action.

Notice is sufficient and deemed immediately received by a nicotine product manufacturer if the notice is sent either electronically or by facsimile to an e-mail address or facsimile number provided by the nicotine products manufacturer in its most recent certification filed.

Section 569.311(6)(b), F.S., provides that the nicotine product manufacturer has 15 days from the date of service of the notice of the division's intended action to establish that the nicotine product manufacturer or its NDD should be included in the directory.

Section 569.311(6)(c), F.S., provides that a determination by the division not to include or remove a nicotine product manufacturer or NDD on the directory is subject to review under ch. 120, F.S., the Florida Administrative Procedure Act. If a nicotine products manufacturer seeks review of the decision to remove it from the directory, the division must keep the NDD on the directory until entry of a final order.

Section 569.311(6)(d), F.S., provides that retailers and wholesalers have 30 days from when the product is removed from the directory to remove the product from their inventory and return the NDD to the nicotine product manufacturer.

Section 569.311(6)(d), F.S., also provides that a NDD identified in the notice of removal is considered contraband 30 days after its removal from the directory, and is subject to s. 569.345, F.S., relating to the seizure and destruction of contraband nicotine products.

### ***Nicotine Products Not Listed on the Directory***

Section 569.311(7), F.S., provides that, beginning March 1, 2025, or on the date that the division first makes the directory available for public inspection on its or the DBPR's website, whichever is later, a nicotine products manufacturer who offers for sale a NDD not listed on the directory is subject to a fine of \$1,000 per day for each NDD offered for sale in violation of this section until the offending product is removed from the market or until the offending product is properly listed on the directory. In addition, within 60 days from the date that the division first makes the directory available for inspection on its public website, each retailer and each nicotine product manufacturer must sell products that were in its inventory and not included on the directory or remove those products from inventory.

### ***False Representation***

Section 569.311(8), F.S., provides that a nicotine product manufacturer who falsely represents any of the information required to be provided to the division commits a felony of the third degree<sup>36</sup> for each false representation.

### ***Unannounced Inspections***

Section 569.311(9), F.S., provides that each retail nicotine products dealer and wholesale nicotine products dealer is subject to unannounced inspections or audit checks by the division for purposes of enforcing compliance with the certification process and the directory. The division is required under the bill to conduct unannounced follow-up compliance checks of all noncompliant retail nicotine products dealers or wholesale nicotine products dealers within 30 days after a violation. The bill requires the division to publish the results of all inspections at least annually and make the results available to the public on request.

### ***Renew Certification***

Section 569.311(10), F.S., authorizes the division to adopt by rule a procedure to allow nicotine product manufacturers to renew certifications without having to resubmit all the information for the certification process.

### ***Enforcement***

Section 569.311(11), F.S., provides that a nicotine product manufacturer's failure to provide required information or documents to the division may result in a NDD not being included on the directory or the removal of a NDD from the directory.

The bill authorizes the division to assess an administrative fine of up to \$1,000 for each NDD offered for sale in Florida if a nicotine product manufacturer fails to provide notice to the division of a material change to its certification within 30 days after that material change. The

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<sup>36</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

bill requires the division to deposit all fines collected into the General Revenue Fund. Under the bill, an order imposing an administrative fine becomes effective 15 days after the date of the order.

### **Maintenance and Inspection of Nicotine Product Records**

**Section 3** creates s. 569.312, F.S., to require nicotine product manufacturers who sell a NDD in Florida to maintain specified records.

Section 569.312(1), F.S., requires nicotine product manufacturers to keep for a period of three years, at the address listed on the certification:

- A complete and accurate record of the number of NDD sold or delivered to a wholesaler in Florida; and
- To whom each NDD was sold on a wholesale basis.

The records must include the business name, license number, shipping and business addresses, e-mail address, and telephone number for the person or entity to which each product was sold. Such records may be kept in an electronic or paper format.

Section 569.312(2), F.S., provides that retail nicotine product dealers, wholesale nicotine product dealers, wholesale dealers of cigarettes, and distributing agents of cigarettes must keep a record of the amount of each NDD received, delivered, or sold in Florida and to whom each NDD was sold or delivered or from whom they received each NDD, including the business name, license number, shipping and business addresses, e-mail address, and telephone number for the person or entity to which each product was sold or delivered or from which each product was received. The records may be kept in electronic or paper format.

Section 569.312(3), F.S., provides that retail nicotine product dealers, wholesale nicotine product dealers, wholesale dealers of cigarettes, and distributing agents of cigarettes, who sell directly to consumers, are not required to keep and maintain these identifying records of the consumers who purchase or receive NDDs.

Section 569.312(4), F.S., requires nicotine product manufacturers that sell NDDs in Florida, including nicotine products manufacturers selling nicotine products directly to consumers, retail nicotine products dealers; wholesale nicotine products dealers, wholesale dealers of cigarettes, and distributing agents of cigarettes to provide these records within seven calendar days of receiving a request by the division.

Section 569.312(5), F.S., provides that the division is allowed to examine such records, issue subpoenas to persons or entities, administer oaths, and take depositions of witnesses within or outside of Florida.

Section 569.312(6), F.S., provides that the division may assess an administrative fine of up to \$1,000 for each violation regarding maintenance and inspection of records. The division must deposit all fines collected into the General Revenue Fund. Under the bill, an order imposing an administrative fine becomes effective 15 days after the date of the order.

## **Shipment of Unregistered Nicotine Products into Florida**

**Section 4** creates s. 569.313, F.S., to prohibit the unregistered shipment of NDDs into Florida.

Section 569.313(1), F.S., prohibits nicotine product manufacturers from distributing nicotine products in Florida for which the manufacturer has:

- Been ordered by the FDA to remove the product from the market either temporarily or permanently and the order has not been stayed;
- Not submitted a timely filed PMTA for a NDD;
- Had a timely filed PMTA not accepted by the FDA, denied by the FDA, or the FDA or a court has taken an action that negatively affects the ability of the product to be introduced or delivered into interstate commerce for commercial distribution in the United States; or
- Not submitted the certification required for any of the NDD intended for eventual retail sale to a consumer in Florida.

Section 569.313(2), F.S., provides that any person who knowingly ships and receives an unregistered NDD in violation of s. 569.313, F.S., commits a first degree misdemeanor.<sup>37</sup>

Section 569.313(3), F.S., authorizes the division to impose an administrative fine of up to \$5,000 for each violation. The division must deposit all fines collected into the General Revenue Fund. Under the bill, an order imposing an administrative fine becomes effective 15 days after the date of the order.

## **Wholesale Nicotine Products Dealers**

**Section 5** creates a wholesale nicotine products dealer permit which is issued by the division.

Section 561.316(1)(a), F.S., requires each person, firm, association, or corporation that seeks to deal, at wholesale, in nicotine products that will be sold at retail within this state, or to sell nicotine products or NDDs to any retail nicotine products dealer who intends to sell nicotine products in Florida, must obtain a wholesale nicotine products dealer permit for each place of business or premises at which nicotine products are sold.

Section 561.316(1)(b), F.S., specifies the identifying information that must be provided to the division on the application form, adopted by the rule of the division, for the permit. A permit is required for each place of business. The application must be signed and verified by the owner, if a sole proprietor; or, if the owner is a firm, association, or partnership, by the members or partners; if the owner is a corporation, by an executive officer of the corporation or by a person authorized by the corporation to sign the application. Written evidence of the authority to sign the application must be provided.

Section 561.316(2), F.S., sets forth the qualification for a wholesale nicotine products dealer permit. The permit may only be issued to a person who is 21 years of age or older or to a

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<sup>37</sup> Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S. provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.



corporation whose officers are 21 years of age or older. In addition, a permit may not be issued to any to any person, firm, association, or corporation whose permit has been revoked by any jurisdiction; to any corporation an officer of which has had such permit revoked by any jurisdiction; or to any person who is or has been an officer of a corporation whose permit has been revoked by any jurisdiction.

Section 561.316(3), F.S., provides that, once issued, a wholesale nicotine products dealer permit is only valid for the person and place of business for which it was issued.

Section 561.316(4), F.S., exempts wholesale dealers of cigarettes and distributing agents of cigarettes from the requirement to have a wholesale nicotine products dealer permit for each place of business, but such persons must comply with the requirements in ch. 569, F.S. However, distributors of tobacco products other than cigarettes are not specifically exempted from the permit requirements, thus are required to have a wholesale nicotine products dealer permit for each place of business. However, it is not clear that such persons are subject to the records maintenance requirements in s. 569.312, F.S., which references the requirements as applicable to wholesale dealers and distributing agent of cigarettes, but does not reference the permittees under part II of ch. 210, F.S.

### **Wholesale Nicotine Products Dealer Permitholders**

**Section 6** creates s. 569.317, F.S., to provide that a wholesale nicotine products dealer permitholder may only purchase and sell for retail in Florida NDDs contained on the division's NDD directory. It authorizes the division to suspend or revoke the permit of a wholesale nicotine products dealer if the dealer fails to comply. The division may also impose an administrative fine up to \$5,000 for each violation. The division must deposit all fines collected into the General Revenue Fund. Under the bill, an order imposing an administrative fine becomes effective 15 days after the date of the order.

### **Retail Nicotine Products Dealer Permit**

**Section 7** amends s. 569.32, F.S., to provide that permits must be issued annually. The holder of a permit may renew each year. A dealer that does not timely renew must pay a \$5 late fee for each month or portion of a month occurring after expiration and before renewal of the permit. The bill forbids the division from granting an exemption from the permit fees for any applicant.

The bill also requires the division to establish by rule a renewal procedure.

Section 569.32(2)(b), F.S., provides that the division may refuse to issue a retail nicotine products dealer permit if the person, including as an officer in a corporation, has had a permit revoked by another jurisdiction. Current law provides a basis for the division to deny an application for a prior revocation but not on the basis of a revocation by another jurisdiction.

**Section 8** provides that the place or premises covered by a permit for a wholesale nicotine product dealer is subject to inspection and search without a search warrant by the division or its authorized assistants, and by sheriffs, deputy sheriffs, or police officers, to determine compliance

with requirements. Currently, this inspection and search provision only applies to retail nicotine products dealer permitholders.

**Section 9** creates s. 569.34(4), F.S., to provide that on or after March 1, 2025, it is unlawful for a person, a firm, an association, or a corporation in Florida to deal, at retail, in NDDs that are not listed on the division's NDD directory. Any person who knowingly ships or receives such NDDs in violation of this prohibition commits a misdemeanor of the second degree.<sup>38</sup>

Section 569.34(5), F.S., provides that on or after January 1, 2025, it is unlawful for a retail nicotine products dealer in Florida to purchase NDDs from a source that is not a wholesale nicotine products dealer permitholder, a wholesale dealer of cigarettes, a distributing agent of cigarettes, or a tobacco products distributor of tobacco products other than cigarettes. The bill exempts from this prohibition nicotine product manufacturers who have a permit as a retail nicotine products dealer and sell their own products directly to consumers.

Under the bill, a person who knowingly ships or receives NDDs in violation of s. 569.34(5), F.S., prohibition commits a misdemeanor of the second degree.

Section 569.34(6), F.S., authorizes the division to suspend or revoke a retail nicotine products permit for a violation of part II of ch. 569, F.S., and to assess an administrative fine of up to \$1,000 for each violation. The division must deposit all fines collected into the General Revenue Fund. Under the bill, an order imposing an administrative fine becomes effective 15 days after the date of the order.

### **Seizure and Destruction of Contraband Nicotine Products**

**Section 10** creates s. 569.345, F.S., to provide that all NDDs sold, delivered, possessed, or distributed contrary to the provisions of ch. 569, F.S., are contraband and are subject to seizure and confiscation under the Florida Contraband Forfeiture Act.<sup>39</sup> The bill requires the court having jurisdiction to order the destruction and forfeiture of contraband NDDs.

Section 569.345(2), F.S., requires that the division keep a full and complete record of:

- The exact kinds, quantities, and forms of such nicotine products or nicotine dispensing devices;
- The persons from whom they were received and to whom they were delivered;
- By whose authority they were received, delivered, and destroyed; and
- The dates of the receipt, disposal, or destruction.

Under the bill, this record must be open to inspection by all persons charged with the enforcement of tobacco and nicotine product laws.

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<sup>38</sup> Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

<sup>39</sup> Sections 932.701-932.7062, F.S., comprise the Florida Contraband Forfeiture Act, which provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.

Section 569.345(3), F.S., provides that the cost of seizure, confiscation, and destruction of contraband NDDs must be borne by the person from whom the contraband NDDs are seized.

### **Agent for Service of Process**

**Section 11** creates s. 569.346, F.S., to require non-resident manufacturers of NDDs to have a registered agent in Florida to accept service of process. The manufacturer must have such an agent for service of process in Florida in order to register a product with the division's NDD directory. The manufacturer must provide the name, address, telephone number, and proof of the appointment and availability of such agent to the division. The manufacturer must notify the division with 30 days of any change related to the agent, including notice to the division of any termination within five calendar days of an existing agency appointment with proof to the satisfaction of the division of the appointment of a new agent.

If an agent is not appointed by a manufacturer whose NDD is sold in Florida, the Secretary of State is deemed to be the agent. However, the appointment of the Secretary of State does not satisfy the condition precedent for inclusion or retention in the directory.

### **Conforming Provision**

**Section 12** amends s. 569.002, F.S., to conform a cross-reference changed in the bill.

### **Effective Date**

**Section 13** provides that the bill takes effect October 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:**

Manufacturers, distributors, and retail dealers of nicotine products will incur costs related to complying with the registration and permitting requirements in the bill. Additionally, retail dealers of nicotine products would have to pay a \$5 dollar late renewal fee for nicotine products retail dealer permit.

**C. Government Sector Impact:**

The Division of Alcoholic Beverages and Tobacco (division) will incur costs in implementing, administering, and enforcing the requirements in the bill, including the creation of the nicotine products directory. According to the Department of Business and Professional Regulation (DBPR), the division estimates that it will need an additional nine positions with \$562,497 of budget authority (\$65,553 nonrecurring) to implement the bill.<sup>40</sup>

Modifications to DBPR's licensing system (Versa: Regulation) and online system (Versa: Online) related to creating and maintaining online accounts and changes to licensure processes, are required. The DBPR states these changes can be made using existing resources.<sup>41</sup>

The bill establishes new fines and penalties that the division may impose. The revenue generated from these penalties will vary each year depending on the number of violations enforced. Collected fines established in the bill are to be deposited into the General Revenue Fund. However, the division currently deposits fines and other revenues into the Alcoholic Beverage and Tobacco Trust Fund. These funds are used for the purposes of operating the division as requested by the DBPR in their legislative budget request.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>40</sup> See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 1006* (Dec. 20, 2023) (on file with the Senate Regulated Industries Committee). The analysis indicated a need of 16 FTE and \$1,304,523 of budget authority (\$111,378 nonrecurring) to implement the bill; however, an updated estimate was provided by the DBPR legislative affairs staff via a phone call on February 11, 2024.

<sup>41</sup> *Id.*

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 569.002, 569.31, 569.32, 569.33, and 569.34.

This bill creates the following sections of the Florida Statutes: 569.311, 569.312, 569.313, 569.316, 569.317, 569.345, and 569.346.

**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 Appropriations Committee on Agriculture, Environment, and General Government on February 20, 2024:**

The committee substitute:

- Revises the definition for the term “timely filed premarket product application” to include application under 21. U.S.C. s. 387j for a nicotine dispensing device (NDD) containing nicotine derived a non-tobacco source that is not a single use or disposable electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, or other similar device and that does not use a sealed, prefilled, and disposable cartridge of nicotine in a solution.
- Provides that the division must keep the NDD on the directory until entry of a final order (instead of after the conclusion of an administrative hearing) following review under the APA.
- Prohibits the sale, shipment, or distribution of NDDs if the U.S. Food and Drug Administration (FDA) does not accept a premarket application, denies an application, or other FDA or court action negatively affects the ability of the product to be introduced or delivered into interstate commerce for commercial distribution in the United States.
- In s. 569.313(1)(B), F.S., removes the reference to a pending premarket tobacco application that has not been timely filed.
- Removes from the bill the requirement for the division to “establish by rule a renewal procedure that, to the greatest extent feasible, combines the application and the permitting procedure for permits with the application and licensing system for alcoholic beverages.”

**CS by Regulated Industries on February 5, 2024:**

The committee substitute:

- Changes the title from an act relating to nicotine products to an act relating to nicotine products and nicotine dispensing devices.
- Provides that each individual stock keeping unit is a considered a separate “nicotine dispensing device” (instead of a separate “nicotine product”).
- Defines the terms “sell,” “sale,” and “timely filed premarket tobacco product application.”
- Amends the requirements for the directory in s. 569.311, F.S., to apply to nicotine dispensing devices (NDDs) instead of nicotine products, requires manufacturers and

retailers of NDDs to submit the required form by December 1, 2024, and annually thereafter, and revises the criteria for the types of products that must be registered, including deleting products derived from a non-tobacco source.

- Requires additional information be include in the registration application to include brand name of the NDD, the device's category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), the device's name, and flavor utilized with the device.
- Requires the Division of Alcoholic Beverages and Tobacco (division) to establish a process to provide retailers, distributors, and wholesalers' notice of the initial publication of the directory and changes made to the directory in the prior month.
- Prohibits retailers from selling or having in inventory the products that have been removed from the directory 30 days after (instead of 21 days after) such removal.
- Requires retailers and distributors, within 60 days after the initial posting of the directory, to sell or remove from inventory the products that are not included in the directory.
- Provides an administrative fine of up to \$1,000 for each NDD offered for sale in Florida if a NDD manufacturer fails to provide notice to the division of a material change to its certification within 30 days after that material change.
- Requires permitholders to respond to a records request from the division with 7 calendar days of a request (instead of upon a request).
- Disqualifies persons, including officers of a corporation, for a wholesale nicotine products dealer permit and a retail nicotine products dealer permit if a permit has been revoked in any jurisdiction.
- Requires non-resident manufacturers of NDDs sold in Florida to have a registered agent in Florida to accept service of process.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Perry) recommended the following:

**Senate Amendment**

Delete lines 163 - 576

and insert:

means either:

(a) An application pursuant to 21 U.S.C. s. 387j for a nicotine dispensing device containing or utilizing nicotine derived from tobacco marketed in the United States as of August 8, 2016, which was submitted to the FDA on or before September 9, 2020, and accepted for filing; or



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11           (b) An application pursuant to 21 U.S.C. s. 387j for a  
12 nicotine dispensing device containing or utilizing nicotine  
13 derived from a non-tobacco source that is not a single use or  
14 disposable electronic cigarette, an electronic cigar, an  
15 electronic cigarillo, an electronic pipe, or other similar  
16 device and that does not use a sealed, prefilled, and disposable  
17 cartridge of nicotine in a solution.

18           (14) "Wholesale nicotine products dealer" means the holder  
19 of a wholesale nicotine products dealer permit who purchases  
20 nicotine dispensing devices or nicotine products from any  
21 nicotine product manufacturer.

22           (15) "Wholesale nicotine products dealer permit" means a  
23 permit issued by the division under s. 569.316.

24           (1)-(9) "Any person under the age of 21" does not include  
25 any person under the age of 21 who:

26           (a) Is in the military reserve or on active duty in the  
27 Armed Forces of the United States; or

28           (b) Is acting in his or her scope of lawful employment.

29           Section 2. Section 569.311, Florida Statutes, is created to  
30 read:

31           569.311 Nicotine dispensing device directory.—

32           (1) By December 1, 2024, and annually thereafter, every  
33 nicotine product manufacturer that sells nicotine dispensing  
34 devices to any person for eventual retail sale in this state  
35 shall execute and deliver a form, prescribed by the division,  
36 under penalty of perjury for each such nicotine dispensing  
37 device sold that meets either of the following criteria:

38           (a) The manufacturer of a nicotine dispensing device has  
39 submitted a timely filed premarket tobacco product application





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40 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j  
41 and remains stayed by a court order, or the manufacturer has  
42 filed a timely request for supervisory review with the FDA which  
43 remains under review, or the order has been rescinded by the FDA  
44 or vacated by a court; or

45 (b) The nicotine product manufacturer has received a  
46 marketing granted order under 21 U.S.C. s. 387j for the nicotine  
47 dispensing device from the FDA.

48 (2) The form prescribed by the division pursuant to  
49 subsection (1) must require each nicotine product manufacturer  
50 to set forth the name under which the nicotine product  
51 manufacturer transacts or intends to transact business, the  
52 address of the location of the nicotine product manufacturer's  
53 principal place of business, the nicotine product manufacturer's  
54 e-mail address, and the brand name of the nicotine dispensing  
55 device, the device's category (e.g., e-liquid, power unit,  
56 device, e-liquid cartridge, e-liquid pod, disposable), the  
57 device's name, and any flavor utilized with the device that is  
58 sold in this state. The division may allow a nicotine product  
59 manufacturer to group its nicotine dispensing devices on its  
60 certification.

61 (3) In addition to completing the form prescribed by the  
62 division pursuant to subsection (1), each nicotine product  
63 manufacturer shall provide a copy of the cover page of the  
64 granted marketing order issued by the FDA pursuant to 21 U.S.C.  
65 s. 387j for each device; a copy of the acceptance letter issued  
66 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed  
67 premarket tobacco product application for each device; or a  
68 document issued by the FDA or by a court confirming that the



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69 premarket tobacco product application has been received and  
70 denied, but the order is not yet in effect for each device.

71 (4) Any nicotine product manufacturer submitting a  
72 certification pursuant to subsection (1) shall notify the  
73 division within 30 days after any material change to the  
74 certification, including, but not limited to, issuance by the  
75 FDA of any of the following:

76 (a) A denial of a market authorization pursuant to 21  
77 U.S.C. s. 387j;

78 (b) An order requiring a nicotine product manufacturer to  
79 remove a nicotine dispensing device or nicotine product from the  
80 market either temporarily or permanently;

81 (c) Any notice of action taken by the FDA affecting the  
82 ability of the nicotine dispensing device to be introduced or  
83 delivered in this state for commercial distribution;

84 (d) Any change in policy which results in a nicotine  
85 dispensing device becoming an FDA enforcement priority; or

86 (e) Any other change deemed material by the division  
87 pursuant to a rule of the division.

88 (5) The division shall develop and maintain a directory  
89 listing all nicotine product manufacturers that sell nicotine  
90 dispensing devices in this state and the nicotine dispensing  
91 devices certified by those manufacturers with the division which  
92 comply with this section. The division shall make the directory  
93 available January 1, 2025, on its or the Department of Business  
94 and Professional Regulation's website. The division shall update  
95 the directory as necessary. The division shall establish a  
96 process to provide retailers, distributors, and wholesalers  
97 notice of the initial publication of the directory and changes



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98 made to the directory in the prior month.

99 (6) The division shall establish by rule a process to  
100 provide a nicotine product manufacturer notice and an  
101 opportunity to cure deficiencies before removing the  
102 manufacturer or any of its nicotine dispensing devices from the  
103 directory.

104 (a) The division may not remove the nicotine product  
105 manufacturer or any of its nicotine dispensing devices from the  
106 directory until at least 30 days after the nicotine product  
107 manufacturer has been given notice of an intended action. Notice  
108 is sufficient and deemed immediately received by a nicotine  
109 product manufacturer if the notice is sent either electronically  
110 or by facsimile to an e-mail address or facsimile number  
111 provided by the nicotine product manufacturer in its most recent  
112 certification filed under subsection (1).

113 (b) The nicotine product manufacturer has 15 days from the  
114 date of service of the notice of the division's intended action  
115 to establish that the nicotine product manufacturer or any of  
116 its nicotine dispensing devices must be included on the  
117 directory.

118 (c) A determination by the division not to include or not  
119 to remove a nicotine product manufacturer or nicotine dispensing  
120 device from the directory is subject to review under chapter  
121 120. If a nicotine product manufacturer seeks review of removal  
122 from the directory, the division must keep the nicotine  
123 dispensing device on the directory until entry of a final order.

124 (d) If a nicotine dispensing device is removed from the  
125 directory, each retailer and each wholesaler holding nicotine  
126 dispensing devices for eventual sale to a consumer in this state



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127 has 30 days from the day such product is removed from the  
128 directory to sell the product or remove the product from its  
129 inventory. After 30 days following removal from the directory,  
130 the product identified in the notice of removal is contraband  
131 and subject to s. 569.345.

132 (7) (a) Except as provided in subsections (b) and (c),  
133 beginning March 1, 2025, or on the date that the division first  
134 makes the directory available for public inspection on its or  
135 the Department of Business and Professional Regulation's  
136 website, whichever is later, a nicotine product manufacturer  
137 that offers for sale in this state a nicotine dispensing device  
138 not listed on the directory is subject to a fine of \$1,000 per  
139 day for each individual nicotine dispensing device offered for  
140 sale in violation of this section until the offending product is  
141 removed from the market or until the offending product is  
142 properly listed on the directory.

143 (b) Each retailer shall have 60 days from the date that the  
144 division first makes the directory available for inspection on  
145 its public website to sell products that were in its inventory  
146 and not included on the directory or remove those products from  
147 inventory.

148 (c) Each distributor or wholesaler shall have 60 days from  
149 the date that the division first makes the directory available  
150 for inspection on its public website to remove from inventory  
151 those products intended for eventual retail sale to a consumer  
152 in this state.

153 (8) A nicotine product manufacturer that falsely represents  
154 any of the information required by subsection (1) or subsection  
155 (2) commits a felony of the third degree for each false



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156 representation, punishable as provided in s. 775.082 or s.  
157 775.083.

158 (9) Each retail nicotine products dealer and wholesale  
159 nicotine products dealer is subject to unannounced inspections  
160 or audit checks by the division for purposes of enforcing this  
161 section. The division shall conduct unannounced follow-up  
162 compliance checks of all noncompliant retail nicotine products  
163 dealers or wholesale nicotine products dealers within 30 days  
164 after any violation of this section. The division shall publish  
165 the results of all inspections or audits at least annually and  
166 shall make the results available to the public on request.

167 (10) The division may establish by rule a procedure to  
168 allow nicotine product manufacturers to renew certifications  
169 without having to resubmit all the information required by this  
170 section.

171 (11) The failure of a nicotine product manufacturer to  
172 provide information or documents required by this section may  
173 result in a nicotine dispensing device not being included on the  
174 directory or the removal of a nicotine dispensing device from  
175 the directory. The division may assess an administrative fine of  
176 up to \$1,000 for each nicotine dispensing device offered for  
177 sale in this state if a nicotine product manufacturer fails to  
178 provide notice to the division of a material change to its  
179 certification within 30 days after that material change. The  
180 division shall deposit all fines collected into the General  
181 Revenue Fund. An order imposing an administrative fine becomes  
182 effective 15 days after the date of the order.

183 Section 3. Section 569.312, Florida Statutes, is created to  
184 read:



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185 569.312 Maintenance and inspection of nicotine dispensing  
186 device records.—

187 (1) Each nicotine product manufacturer that sells nicotine  
188 dispensing devices in this state shall maintain and keep for a  
189 period of 3 years, at the address listed on the certification  
190 required pursuant to s. 569.311, a complete and accurate record  
191 of the number of nicotine dispensing devices sold or delivered  
192 to a wholesaler in this state and to which each nicotine  
193 dispensing device was sold on a wholesale basis, including the  
194 business name, license number, shipping and business addresses,  
195 e-mail address, and telephone number for the person or entity to  
196 which each product was sold. Such records may be kept in an  
197 electronic or paper format.

198 (2) Each retail nicotine products dealer; wholesale  
199 nicotine product dealer; wholesale dealer, as defined in s.  
200 210.01(6); and distributing agent, as defined in s. 210.01(14),  
201 shall maintain and keep for a period of 3 years at its principal  
202 place of business a complete and accurate record of the quantity  
203 of each nicotine dispensing device received, delivered, or sold  
204 in this state and to which each nicotine dispensing device was  
205 sold or delivered or from which the business received each  
206 nicotine dispensing device, including the business name, license  
207 number, shipping and business addresses, e-mail address, and  
208 telephone number for the person or entity to which each product  
209 was sold or delivered or from which each product was received.  
210 Such records may be kept in an electronic or paper format.

211 (3) Nicotine product manufacturers that sell nicotine  
212 dispensing devices in this state; retail nicotine products  
213 dealers; wholesale nicotine products dealers; wholesale dealers,



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214 as defined in s. 210.01(6); and distributing agents, as defined  
215 in s. 210.01(14), who sell or deliver nicotine dispensing  
216 devices directly to consumers are not required to keep and  
217 maintain the name, address, e-mail address, and telephone number  
218 of consumers who purchase or receive nicotine dispensing  
219 devices.

220 (4) Within 7 calendar days after receiving a request by the  
221 division, a nicotine product manufacturer that sells nicotine  
222 dispensing devices in this state, including a manufacturer  
223 selling nicotine dispensing devices directly to consumers; a  
224 retail nicotine products dealer; a wholesale nicotine products  
225 dealer; a wholesale dealer, as defined in s. 210.01(6); and a  
226 distributing agent, as defined in s. 210.01(14), shall provide  
227 to the division or its duly authorized representative copies of  
228 records related to the nicotine dispensing devices received,  
229 delivered, or sold in this state and to which those nicotine  
230 dispensing devices were sold or delivered or from which they  
231 were received.

232 (5) The division, or a designated employee thereof, may  
233 examine the records required to be maintained by each nicotine  
234 product manufacturer, retail nicotine products dealer, wholesale  
235 nicotine products dealer, wholesale dealer, as defined in s.  
236 210.01(6), and distributing agent, as defined in s. 210.01(14);  
237 issue subpoenas to such persons or entities; administer oaths;  
238 and take depositions of witnesses within or outside of this  
239 state. The civil law of this state regarding enforcing obedience  
240 to a subpoena lawfully issued by a judge or other person duly  
241 authorized to issue subpoenas under the laws of this state in  
242 civil cases applies to a subpoena issued by the division, or any



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243 designated employee thereof. The subpoena may be enforced by  
244 writ of attachment issued by the division, or any designated  
245 employee, for such witness to compel him or her to appear before  
246 the division, or any designated employee, and give his or her  
247 testimony and to bring and produce such records as may be  
248 required for examination. The division, or any designated  
249 employee, may bring an action against a witness who refuses to  
250 appear or give testimony by citation before the circuit court,  
251 which shall punish such witness for contempt as in cases of  
252 refusal to obey the orders and process of the circuit court. The  
253 division may in such cases pay such attendance and mileage fees  
254 as are permitted to be paid to witnesses in civil cases  
255 appearing before the circuit court.

256 (6) The division may assess an administrative fine of up to  
257 \$1,000 for each violation of this section. The division shall  
258 deposit all fines collected into the General Revenue Fund. An  
259 order imposing an administrative fine becomes effective 15 days  
260 after the date of the order.

261 Section 4. Section 569.313, Florida Statutes, is created to  
262 read:

263 569.313 Shipment of unregistered nicotine dispensing  
264 devices sold for retail sale in this state.-

265 (1) A nicotine product manufacturer may not sell, ship, or  
266 otherwise distribute a nicotine dispensing device in this state  
267 for eventual retail sale to a consumer in this state for which:

268 (a) The FDA has entered an order requiring the nicotine  
269 product manufacturer to remove the product from the market  
270 either temporarily or permanently, which order has not been  
271 stayed by the FDA or a court of competent jurisdiction;





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272 (b) The nicotine product manufacturer has not submitted a  
273 timely filed premarket tobacco product application for the  
274 nicotine dispensing device;

275 (c) The nicotine product manufacturer's timely filed  
276 premarket tobacco product application for the nicotine  
277 dispensing device is no longer pending because it was not  
278 accepted by the FDA, it was denied by the FDA, or it is subject  
279 to any other order or action by the FDA or any court that  
280 negatively affects the ability of the product to be introduced  
281 or delivered into interstate commerce for commercial  
282 distribution in the United States; or

283 (d) The nicotine product manufacturer has not submitted the  
284 certification required under this chapter for any of the  
285 nicotine dispensing devices intended for eventual retail sale to  
286 a consumer in this state.

287 (2) Any person who knowingly ships or receives nicotine  
288 dispensing devices in violation of this section commits a  
289 misdemeanor of the first degree, punishable as provided in s.  
290 775.082 or s. 775.083.

291 (3) The division may also assess an administrative fine of  
292 up to \$5,000 for each violation. The division shall deposit all  
293 finances collected into the General Revenue Fund. An order imposing  
294 an administrative fine becomes effective 15 days after the date  
295 of the order.

296 Section 5. Section 569.316, Florida Statutes, is created to  
297 read:

298 569.316 Wholesale nicotine products dealer permits;  
299 application; qualifications; renewal; duplicates.-

300 (1) (a) Each person, firm, association, or corporation that



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301 seeks to deal, at wholesale, in nicotine products that will be  
302 sold at retail within this state, or to sell nicotine products  
303 or nicotine dispensing devices to any retail nicotine products  
304 dealer who intends to sell those nicotine products in this  
305 state, must obtain a wholesale nicotine products dealer permit  
306 for each place of business or premises at which nicotine  
307 products are sold.

308 (b) Application for a wholesale nicotine products dealer  
309 permit must be made on a form furnished by the division and must  
310 set forth the name under which the applicant transacts or  
311 intends to transact business, the address of the location of the  
312 applicant's place of business, the applicant's e-mail address,  
313 and any other information the division requires. If the  
314 applicant has or intends to have more than one place of business  
315 dealing in nicotine products or nicotine dispensing devices, a  
316 separate application must be made for each place of business. If  
317 the applicant is a firm or an association, the application must  
318 set forth the names, e-mail addresses, and addresses of the  
319 persons constituting the firm or association. If the applicant  
320 is a corporation, the application must set forth the names, e-  
321 mail addresses, and addresses of the principal officers of the  
322 corporation. The application must also set forth any other  
323 information prescribed by the division for the purpose of  
324 identifying the applicant firm, association, or corporation. The  
325 application must be signed and verified by oath or affirmation  
326 by the owner, if a sole proprietor; if the owner is a firm,  
327 association, or partnership, by the members or partners thereof;  
328 or, if the owner is a corporation, by an executive officer of  
329 the corporation or by a person authorized by the corporation to



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330 sign the application, together with the written evidence of this  
331 authority.

332 (2) (a) Wholesale nicotine products dealer permits may be  
333 issued only to persons who are 21 years of age or older or to  
334 corporations the officers of which are 21 years of age or older.

335 (b) The division may refuse to issue a wholesale nicotine  
336 products dealer permit to any person, firm, association, or  
337 corporation whose permit has been revoked by any jurisdiction;  
338 to any corporation an officer of which has had such permit  
339 revoked by any jurisdiction; or to any person who is or has been  
340 an officer of a corporation whose permit has been revoked by any  
341 jurisdiction. The division must revoke any wholesale nicotine  
342 products dealer permit issued to a firm, an association, or a  
343 corporation prohibited from obtaining such permit under this  
344 chapter.

345 (3) Upon approval of an application for a wholesale  
346 nicotine products dealer permit, the division shall issue to the  
347 applicant a wholesale nicotine products dealer permit for the  
348 place of business or premises specified in the application. A  
349 wholesale nicotine products dealer permit is not assignable and  
350 is valid only for the person in whose name the wholesale  
351 nicotine products dealer permit is issued and for the place  
352 designated in the wholesale nicotine products dealer permit. The  
353 wholesale nicotine products dealer permit must be conspicuously  
354 displayed at all times at the place for which it is issued.

355 (4) A wholesale dealer, as defined in s. 210.01(6), or a  
356 distributing agent, as defined in s. 210.01(14), is not required  
357 to have a separate or additional wholesale nicotine products  
358 dealer permit to deal, at wholesale, in nicotine dispensing



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359 devices within this state. A wholesale dealer, as defined in s.  
360 210.01(6), a distributing agent, as defined in s. 210.01(14), or  
361 a tobacco products distributor, as defined in s. 210.25(5),  
362 which deals, at wholesale, in nicotine dispensing devices is  
363 subject to, and must be in compliance with, this chapter.

364 Section 6. Section 569.317, Florida Statutes, is created to  
365 read:

366 569.317 Wholesale nicotine products dealer permitholder;  
367 administrative penalties.—A wholesale nicotine products dealer  
368 permitholder may only purchase and sell for retail sale in this  
369 state nicotine dispensing devices contained on the directory  
370 created by the division pursuant to s. 569.311. The division may  
371 suspend or revoke the wholesale nicotine products dealer permit  
372 of a wholesale nicotine products dealer permitholder upon  
373 sufficient cause appearing of a violation of this part by a  
374 wholesale nicotine products dealer permitholder or its agent or  
375 employee. The division may also assess an administrative fine of  
376 up to \$5,000 for each violation. The division shall deposit all  
377 finances collected into the General Revenue Fund. An order imposing  
378 an administrative fine becomes effective 15 days after the date  
379 of the order. The division may suspend the imposition of a  
380 penalty against a wholesale nicotine products dealer  
381 permitholder, conditioned upon compliance with terms the  
382 division considers appropriate.

383 Section 7. Section 569.32, Florida Statutes, is amended to  
384 read:

385 569.32 Retail nicotine products dealer permits;  
386 application; qualifications; renewal; duplicates.—

387 (1) (a) Each person, firm, association, or corporation that



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388 seeks to deal, at retail, in nicotine products or nicotine  
389 dispensing devices within this ~~the~~ state, or to allow a nicotine  
390 products vending machine to be located on its premises in this  
391 ~~the~~ state, must obtain a retail nicotine products dealer permit  
392 for each place of business or premises at which nicotine  
393 products or nicotine dispensing devices are sold. Each dealer  
394 owning, leasing, furnishing, or operating vending machines  
395 through which nicotine products are sold must obtain a permit  
396 for each machine and shall post the permit in a conspicuous  
397 place on or near the machine; however, if the dealer has more  
398 than one vending machine at a single location or if nicotine  
399 products or nicotine dispensing devices are sold both over the  
400 counter and through a vending machine at a single location, the  
401 dealer need obtain only one permit for that location.

402 (b) Application for a permit must be made on a form  
403 furnished by the division and must set forth the name under  
404 which the applicant transacts or intends to transact business,  
405 the address of the location of the applicant's place of business  
406 within this ~~the~~ state, and any other information the division  
407 requires. If the applicant has or intends to have more than one  
408 place of business dealing in nicotine products or nicotine  
409 dispensing devices within this ~~the~~ state, a separate application  
410 must be made for each place of business. If the applicant is a  
411 firm or an association, the application must set forth the names  
412 and addresses of the persons constituting the firm or  
413 association; if the applicant is a corporation, the application  
414 must set forth the names and addresses of the principal officers  
415 of the corporation. The application must also set forth any  
416 other information prescribed by the division for the purpose of



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417 identifying the applicant firm, association, or corporation. The  
418 application must be signed and verified by oath or affirmation  
419 by the owner, if a sole proprietor; or, if the owner is a firm,  
420 association, or partnership, by the members or partners thereof;  
421 or, if the owner is a corporation, by an executive officer of  
422 the corporation or by a person authorized by the corporation to  
423 sign the application, together with the written evidence of this  
424 authority.

425 (c) Permits must be issued annually.

426 (d) The holder of a permit may renew the permit each year.

427 A dealer that does not timely renew its permit must pay a late  
428 fee of \$5 for each month or portion of a month occurring after  
429 expiration, and before renewal, of the dealer's permit. The  
430 division shall establish by rule a renewal procedure.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Perry) recommended the following:

- 1       **Senate Amendment to Amendment (585548)**
- 2
- 3       Delete line 118
- 4       and insert:
- 5       (c) A determination by the division not to include or

By the Committee on Regulated Industries; and Senator Perry

580-02895-24

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1 A bill to be entitled  
 2 An act relating to nicotine products and dispensing  
 3 devices; reordering and amending s. 569.31, F.S.;  
 4 revising and defining terms for purposes of part II of  
 5 ch. 569, F.S.; creating s. 569.311, F.S.; requiring  
 6 nicotine product manufacturers who sell nicotine  
 7 dispensing products in this state to execute and  
 8 deliver a form, under penalty of perjury, to the  
 9 Division of Alcoholic Beverages and Tobacco of the  
 10 Department of Business and Professional Regulation for  
 11 each dispensing device sold within this state which  
 12 meets certain criteria; specifying requirements for  
 13 the form prescribed by the division; requiring  
 14 nicotine product manufacturers to submit certain  
 15 additional materials when submitting the form to the  
 16 division; requiring a manufacturer to notify the  
 17 division of certain events; requiring the division to  
 18 develop and maintain a directory listing certified  
 19 nicotine product manufacturers and certified nicotine  
 20 dispensing devices by a specified date; specifying  
 21 requirements for the directory; requiring the division  
 22 to establish rules to provide notice to a nicotine  
 23 product manufacturer before removal of the  
 24 manufacturer or any of its nicotine dispensing devices  
 25 from the directory; providing for administrative  
 26 review of action by the division regarding the  
 27 directory; providing penalties for certain violations  
 28 by manufacturers; subjecting retail and wholesale  
 29 nicotine products dealers to inspections or audits to

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30 ensure compliance; requiring the division to publish  
 31 findings of such inspections and audits and make them  
 32 available to the public; authorizing the division to  
 33 adopt certain procedures by rule; authorizing the  
 34 division to take certain actions against nicotine  
 35 product manufacturers who fail to provide certain  
 36 documents or information; requiring all fines to be  
 37 deposited into the General Revenue Fund; creating s.  
 38 569.312, F.S.; requiring specified manufacturers and  
 39 dealers of nicotine dispensing devices to maintain  
 40 certain records for a specified timeframe; requiring  
 41 such manufacturers and dealers to timely comply with  
 42 division requests to produce records; authorizing the  
 43 division to examine such records for specified  
 44 purposes; providing for enforcement; authorizing the  
 45 division to assess administrative fines for  
 46 noncompliance and requiring all fines to be deposited  
 47 into the General Revenue Fund; creating s. 569.313,  
 48 F.S.; prohibiting the sale, shipment, or distributing  
 49 of certain nicotine dispensing devices from being sold  
 50 for retail sale in this state; providing a criminal  
 51 penalty; authorizing the division to assess fines and  
 52 requiring all fines to be deposited into the General  
 53 Revenue Fund; creating s. 569.316, F.S.; requiring  
 54 persons or entities that seek to deal or sell certain  
 55 nicotine products to retail dealers to obtain a  
 56 wholesale nicotine products dealer permit; specifying  
 57 requirements and limitations regarding the issuance of  
 58 such permits; specifying conditions under which the

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59 division may refuse to issue a permit; providing  
60 requirements and limitations for permitholders;  
61 providing that a wholesale dealer or a distributing  
62 agent do not need separate or additional wholesale  
63 nicotine products permit in this state; creating s.  
64 569.317, F.S.; requiring wholesale nicotine products  
65 dealer permitholders to purchase and sell for retail  
66 sale only nicotine dispensing devices listed in the  
67 division's directory; authorizing the division to  
68 suspend or revoke a permit if a violation is deemed to  
69 have occurred; authorizing the division to assess  
70 administrative penalties for violations and requiring  
71 all fines to be deposited into the General Revenue  
72 Fund; amending s. 569.32, F.S.; requiring that retail  
73 nicotine products dealer permits be issued annually;  
74 providing procedures for the renewal of permits;  
75 requiring the division to levy a delinquent fee under  
76 certain circumstances; requiring the division to adopt  
77 by rule a certain procedure for the submittal of  
78 applications; prohibiting the division from granting  
79 exemptions from permit fees; making technical changes;  
80 amending s. 569.33, F.S.; providing that holders of a  
81 wholesale nicotine products dealer permit must consent  
82 to certain inspections and searches without a warrant;  
83 amending s. 569.34, F.S.; providing criminal penalties  
84 for the unlawful sale or dealing of unlisted nicotine  
85 dispensing devices; providing criminal penalties for  
86 the unauthorized purchase of certain nicotine  
87 dispensing devices; authorizing the division to

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88 suspend or revoke a permit of a permitholder upon  
89 sufficient cause of a violation of part II of ch. 569,  
90 F.S.; authorizing the division to assess an  
91 administrative penalty for violations and requiring  
92 all fines to be deposited into the General Revenue  
93 Fund; making technical changes; creating s. 569.345,  
94 F.S.; providing for the seizure and destruction of  
95 unlawful nicotine dispensing devices in accordance  
96 with the Florida Contraband Forfeiture Act; requiring  
97 a court with jurisdiction to take certain action;  
98 requiring the division to maintain certain records;  
99 requiring that costs be borne by the person who held  
100 the seized products; creating s. 569.346, F.S.;  
101 requiring certain manufacturers of nicotine dispensing  
102 devices to appoint an agent for certain purposes;  
103 requiring such manufacturers to provide certain  
104 notice; appointing the Secretary of State as the agent  
105 to manufacturers who have not appointed an agent;  
106 amending s. 569.002, F.S.; conforming cross-references  
107 to changes made by the act; providing an effective  
108 date.

109  
110 Be It Enacted by the Legislature of the State of Florida:

111  
112 Section 1. Section 569.31, Florida Statutes, is reordered  
113 and amended to read:

114 569.31 Definitions.—As used in this part, the term:

115 (2) ~~(1)~~ "Dealer" is synonymous with the term "retail  
116 nicotine products dealer."

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117 ~~(3)(2)~~ "Division" means the Division of Alcoholic Beverages  
118 and Tobacco of the Department of Business and Professional  
119 Regulation.

120 (4) "FDA" means the United States Food and Drug  
121 Administration.

122 ~~(5)(3)~~ "Nicotine dispensing device" means any product that  
123 employs an electronic, chemical, or mechanical means to produce  
124 vapor or aerosol from a nicotine product, including, but not  
125 limited to, an electronic cigarette, electronic cigar,  
126 electronic cigarillo, electronic pipe, or other similar device  
127 or product, any replacement cartridge for such device, and any  
128 other container of nicotine in a solution or other form intended  
129 to be used with or within an electronic cigarette, electronic  
130 cigar, electronic cigarillo, electronic pipe, or other similar  
131 device or product. For purposes of this definition, each  
132 individual stock keeping unit is considered a separate nicotine  
133 dispensing device.

134 ~~(6)(4)~~ "Nicotine product" means any product that contains  
135 nicotine, including liquid nicotine, which is intended for human  
136 consumption, whether inhaled, chewed, absorbed, dissolved, or  
137 ingested by any means. The term also includes any nicotine  
138 dispensing device. The term does not include a:

- 139 (a) Tobacco product, as defined in s. 569.002;  
140 (b) Product regulated as a drug or device by the United  
141 States Food and Drug Administration under Chapter V of the  
142 Federal Food, Drug, and Cosmetic Act; or  
143 (c) Product that contains incidental nicotine.

144 (7) "Nicotine product manufacturer" means any person that  
145 manufactures nicotine products.

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146 ~~(8)(5)~~ "Permit" is synonymous with the term "retail  
147 nicotine products dealer permit."

148 ~~(9)(6)~~ "Retail nicotine products dealer" means the holder  
149 of a retail nicotine products dealer permit.

150 ~~(10)(7)~~ "Retail nicotine products dealer permit" means a  
151 permit issued by the division under s. 569.32.

152 ~~(11)(8)~~ "Self-service merchandising" means the open display  
153 of nicotine products, whether packaged or otherwise, for direct  
154 retail customer access and handling before purchase without the  
155 intervention or assistance of the dealer or the dealer's owner,  
156 employee, or agent. An open display of such products and devices  
157 includes the use of an open display unit.

158 (12) "Sell" or "sale" means in addition to its common usage  
159 meaning, any sale, transfer, exchange, theft, barter, gift, or  
160 offer for sale and distribution, in any manner or by any means  
161 whatsoever.

162 (13) "Timely filed premarket tobacco product application"  
163 means an application pursuant to 21 U.S.C. s. 387j for a  
164 nicotine dispensing device containing nicotine derived from  
165 tobacco marketed in the United States as of August 8, 2016, that  
166 was submitted to the FDA on or before September 9, 2020, and  
167 accepted for filing.

168 (14) "Wholesale nicotine products dealer" means the holder  
169 of a wholesale nicotine products dealer permit who purchases  
170 nicotine dispensing devices or nicotine products from any  
171 nicotine product manufacturer.

172 (15) "Wholesale nicotine products dealer permit" means a  
173 permit issued by the division under s. 569.316.

174 ~~(1)(9)~~ "Any person under the age of 21" does not include

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175 any person under the age of 21 who:

176 (a) Is in the military reserve or on active duty in the  
177 Armed Forces of the United States; or

178 (b) Is acting in his or her scope of lawful employment.

179 Section 2. Section 569.311, Florida Statutes, is created to  
180 read:

181 569.311 Nicotine dispensing device directory.—

182 (1) By December 1, 2024, and annually thereafter, every  
183 nicotine product manufacturer that sells nicotine dispensing  
184 devices to any person for eventual retail sale in this state  
185 shall execute and deliver a form, prescribed by the division,  
186 under penalty of perjury for each such nicotine dispensing  
187 device sold that meets either of the following criteria:

188 (a) The manufacturer of a nicotine dispensing device has  
189 submitted a timely filed premarket tobacco product application  
190 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j  
191 to the FDA, and the application either remains under review by  
192 the FDA, or has received a marketing denial order that has been  
193 and remains stayed by the FDA or court order, rescinded by the  
194 FDA, or vacated by a court; or

195 (b) The nicotine product manufacturer has received a  
196 marketing granted order under 21 U.S.C. s. 387j for the nicotine  
197 dispensing device from the FDA.

198 (2) The form prescribed by the division pursuant to  
199 subsection (1) must require each nicotine product manufacturer  
200 to set forth the name under which the nicotine product  
201 manufacturer transacts or intends to transact business, the  
202 address of the location of the nicotine product manufacturer's  
203 principal place of business, the nicotine product manufacturer's

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204 e-mail address, and the brand name of the nicotine dispensing  
205 device, the device's category (e.g., e-liquid, power unit,  
206 device, e-liquid cartridge, e-liquid pod, disposable), the  
207 device's name, and any flavor utilized with the device that is  
208 sold in this state. The division may allow a nicotine product  
209 manufacturer to group its nicotine dispensing devices on its  
210 certification.

211 (3) In addition to completing the form prescribed by the  
212 division pursuant to subsection (1), each nicotine product  
213 manufacturer shall provide a copy of the cover page of the  
214 granted marketing order issued by the FDA pursuant to 21 U.S.C.  
215 s. 387j for each device; a copy of the acceptance letter issued  
216 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed  
217 premarket tobacco product application for each device; or a  
218 document issued by the FDA or by a court confirming that the  
219 premarket tobacco product application has been received and  
220 denied, but the order is not yet in effect for each device.

221 (4) Any nicotine product manufacturer submitting a  
222 certification pursuant to subsection (1) shall notify the  
223 division within 30 days after any material change to the  
224 certification, including, but not limited to, issuance by the  
225 FDA of any of the following:

226 (a) A denial of a market authorization pursuant to 21  
227 U.S.C. s. 387j;

228 (b) An order requiring a nicotine product manufacturer to  
229 remove a nicotine dispensing device or nicotine product from the  
230 market either temporarily or permanently;

231 (c) Any notice of action taken by the FDA affecting the  
232 ability of the nicotine dispensing device to be introduced or

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233 delivered in this state for commercial distribution;  
 234 (d) Any change in policy which results in a nicotine  
 235 dispensing device becoming an FDA enforcement priority; or  
 236 (e) Any other change deemed material by the division  
 237 pursuant to a rule of the division.  
 238 (5) The division shall develop and maintain a directory  
 239 listing all nicotine product manufacturers that sell nicotine  
 240 dispensing devices in this state and the nicotine dispensing  
 241 devices certified by those manufacturers with the division which  
 242 comply with this section. The division shall make the directory  
 243 available January 1, 2025, on its or the Department of Business  
 244 and Professional Regulation's website. The division shall update  
 245 the directory as necessary. The division shall establish a  
 246 process to provide retailers, distributors, and wholesalers  
 247 notice of the initial publication of the directory and changes  
 248 made to the directory in the prior month.  
 249 (6) The division shall establish by rule a process to  
 250 provide a nicotine product manufacturer notice and an  
 251 opportunity to cure deficiencies before removing the  
 252 manufacturer or any of its nicotine dispensing devices from the  
 253 directory.  
 254 (a) The division may not remove the nicotine product  
 255 manufacturer or any of its nicotine dispensing devices from the  
 256 directory until at least 30 days after the nicotine product  
 257 manufacturer has been given notice of an intended action. Notice  
 258 is sufficient and deemed immediately received by a nicotine  
 259 product manufacturer if the notice is sent either electronically  
 260 or by facsimile to an e-mail address or facsimile number  
 261 provided by the nicotine product manufacturer in its most recent

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262 certification filed under subsection (1).  
 263 (b) The nicotine product manufacturer has 15 days from the  
 264 date of service of the notice of the division's intended action  
 265 to establish that the nicotine product manufacturer or any of  
 266 its nicotine dispensing devices should be included on the  
 267 directory.  
 268 (c) A determination by the division not to include or to  
 269 remove from the directory a nicotine product manufacturer or  
 270 nicotine dispensing device is subject to review under chapter  
 271 120. If a nicotine product manufacturer seeks review of removal  
 272 from the directory, the division must keep the nicotine  
 273 dispensing device on the directory until conclusion of the  
 274 hearing.  
 275 (d) If a nicotine dispensing device is removed from the  
 276 directory, each retailer and each wholesaler holding nicotine  
 277 dispensing devices for eventual sale to a consumer in this state  
 278 has 30 days from the day such product is removed from the  
 279 directory to sell the product or remove the product from its  
 280 inventory. After 30 days following removal from the directory,  
 281 the product identified in the notice of removal is contraband  
 282 and subject to s. 569.345.  
 283 (7) (a) Except as provided in subsections (b) and (c),  
 284 beginning March 1, 2025, or on the date that the division first  
 285 makes the directory available for public inspection on its or  
 286 the Department of Business and Professional Regulation's  
 287 website, whichever is later, a nicotine product manufacturer  
 288 that offers for sale in this state a nicotine dispensing device  
 289 not listed on the directory is subject to a fine of \$1,000 per  
 290 day for each individual nicotine dispensing device offered for

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291 sale in violation of this section until the offending product is  
 292 removed from the market or until the offending product is  
 293 properly listed on the directory.

294 (b) Each retailer shall have 60 days from the date that the  
 295 division first makes the directory available for inspection on  
 296 its public website to sell products that were in its inventory  
 297 and not included on the directory or remove those products from  
 298 inventory.

299 (c) Each distributor or wholesaler shall have 60 days from  
 300 the date that the division first makes the directory available  
 301 for inspection on its public website to remove from inventory  
 302 those products intended for eventual retail sale to a consumer  
 303 in this state.

304 (8) A nicotine product manufacturer that falsely represents  
 305 any of the information required by subsection (1) or subsection  
 306 (2) commits a felony of the third degree for each false  
 307 representation, punishable as provided in s. 775.082 or s.  
 308 775.083.

309 (9) Each retail nicotine products dealer and wholesale  
 310 nicotine products dealer is subject to unannounced inspections  
 311 or audit checks by the division for purposes of enforcing this  
 312 section. The division shall conduct unannounced follow-up  
 313 compliance checks of all noncompliant retail nicotine products  
 314 dealers or wholesale nicotine products dealers within 30 days  
 315 after any violation of this section. The division shall publish  
 316 the results of all inspections or audits at least annually and  
 317 shall make the results available to the public on request.

318 (10) The division may establish by rule a procedure to  
 319 allow nicotine product manufacturers to renew certifications

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320 without having to resubmit all the information required by this  
 321 section.

322 (11) The failure of a nicotine product manufacturer to  
 323 provide information or documents required by this section may  
 324 result in a nicotine dispensing device not being included on the  
 325 directory or the removal of a nicotine dispensing device from  
 326 the directory. The division may assess an administrative fine of  
 327 up to \$1,000 for each nicotine dispensing device offered for  
 328 sale in this state if a nicotine product manufacturer fails to  
 329 provide notice to the division of a material change to its  
 330 certification within 30 days after that material change. The  
 331 division shall deposit all fines collected into the General  
 332 Revenue Fund. An order imposing an administrative fine becomes  
 333 effective 15 days after the date of the order.

334 Section 3. Section 569.312, Florida Statutes, is created to  
 335 read:

336 569.312 Maintenance and inspection of nicotine dispensing  
 337 device records.—

338 (1) Each nicotine product manufacturer that sells nicotine  
 339 dispensing devices in this state shall maintain and keep for a  
 340 period of 3 years, at the address listed on the certification  
 341 required pursuant to s. 569.311, a complete and accurate record  
 342 of the number of nicotine dispensing devices sold or delivered  
 343 to a wholesaler in this state and to whom each nicotine  
 344 dispensing device was sold on a wholesale basis, including the  
 345 business name, license number, shipping and business addresses,  
 346 e-mail address, and telephone number for the person or entity to  
 347 which each product was sold. Such records may be kept in an  
 348 electronic or paper format.

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349 (2) Each retail nicotine products dealer; wholesale  
 350 nicotine product dealer; wholesale dealer, as defined in s.  
 351 210.01(6); and distributing agent, as defined in s. 210.01(14),  
 352 shall maintain and keep for a period of 3 years at its principal  
 353 place of business a complete and accurate record of the quantity  
 354 of each nicotine dispensing device received, delivered, or sold  
 355 in this state and to whom each nicotine dispensing device was  
 356 sold or delivered or from whom the business received each  
 357 nicotine dispensing device, including the business name, license  
 358 number, shipping and business addresses, e-mail address, and  
 359 telephone number for the person or entity to which each product  
 360 was sold or delivered or from which each product was received.  
 361 Such records may be kept in an electronic or paper format.

362 (3) Nicotine product manufacturers that sell nicotine  
 363 dispensing devices in this state; retail nicotine products  
 364 dealers; wholesale nicotine products dealers; wholesale dealers,  
 365 as defined in s. 210.01(6); and distributing agents, as defined  
 366 in s. 210.01(14), who sell or deliver nicotine dispensing  
 367 devices directly to consumers are not required to keep and  
 368 maintain the name, address, e-mail address, and telephone number  
 369 of consumers who purchase or receive nicotine dispensing  
 370 devices.

371 (4) Within 7 calendar days after receiving a request by the  
 372 division, a nicotine product manufacturer that sells nicotine  
 373 dispensing devices in this state, including a manufacturer  
 374 selling nicotine dispensing devices directly to consumers; a  
 375 retail nicotine products dealer; a wholesale nicotine products  
 376 dealer; a wholesale dealer, as defined in s. 210.01(6); and a  
 377 distributing agent, as defined in s. 210.01(14), shall provide

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378 to the division or its duly authorized representative copies of  
 379 records related to the nicotine dispensing devices received,  
 380 delivered, or sold in this state and to whom those nicotine  
 381 dispensing devices were sold or delivered or from whom they were  
 382 received.

383 (5) The division, or a designated employee thereof, may  
 384 examine the records required to be maintained by each nicotine  
 385 product manufacturer, retail nicotine products dealer, wholesale  
 386 nicotine products dealer, wholesale dealer, as defined in s.  
 387 210.01(6), and distributing agent, as defined in s. 210.01(14);  
 388 issue subpoenas to such persons or entities; administer oaths;  
 389 and take depositions of witnesses within or outside of this  
 390 state. The civil law of this state regarding enforcing obedience  
 391 to a subpoena lawfully issued by a judge or other person duly  
 392 authorized to issue subpoenas under the laws of this state in  
 393 civil cases applies to a subpoena issued by the division, or any  
 394 designated employee thereof. The subpoena may be enforced by  
 395 writ of attachment issued by the division, or any designated  
 396 employee, for such witness to compel him or her to appear before  
 397 the division, or any designated employee, and give his or her  
 398 testimony and to bring and produce such records as may be  
 399 required for examination. The division, or any designated  
 400 employee, may bring an action against a witness who refuses to  
 401 appear or give testimony by citation before the circuit court,  
 402 which shall punish such witness for contempt as in cases of  
 403 refusal to obey the orders and process of the circuit court. The  
 404 division may in such cases pay such attendance and mileage fees  
 405 as are permitted to be paid to witnesses in civil cases  
 406 appearing before the circuit court.

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407 (6) The division may assess an administrative fine of up to  
 408 \$1,000 for each violation of this section. The division shall  
 409 deposit all fines collected into the General Revenue Fund. An  
 410 order imposing an administrative fine becomes effective 15 days  
 411 after the date of the order.

412 Section 4. Section 569.313, Florida Statutes, is created to  
 413 read:

414 569.313 Shipment of unregistered nicotine dispensing  
 415 devices sold for retail sale in this state.—

416 (1) A nicotine product manufacturer may not sell, ship, or  
 417 otherwise distribute a nicotine dispensing device in this state  
 418 for eventual retail sale to a consumer in this state for which:

419 (a) The FDA has entered an order requiring the nicotine  
 420 product manufacturer to remove the product from the market  
 421 either temporarily or permanently, which order has not been  
 422 stayed by the FDA or a court of competent jurisdiction;

423 (b) The nicotine product manufacturer has not submitted a  
 424 timely filed premarket tobacco product application for a  
 425 nicotine dispensing device that remains pending with the FDA; or

426 (c) The nicotine product manufacturer has not submitted the  
 427 certification required under this chapter for any of the  
 428 nicotine dispensing devices intended for eventual retail sale to  
 429 a consumer in this state.

430 (2) Any person who knowingly ships or receives nicotine  
 431 dispensing devices in violation of this section commits a  
 432 misdemeanor of the first degree, punishable as provided in s.  
 433 775.082 or s. 775.083.

434 (3) The division may also assess an administrative fine of  
 435 up to \$5,000 for each violation. The division shall deposit all

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436 fines collected into the General Revenue Fund. An order imposing  
 437 an administrative fine becomes effective 15 days after the date  
 438 of the order.

439 Section 5. Section 569.316, Florida Statutes, is created to  
 440 read:

441 569.316 Wholesale nicotine products dealer permits;  
 442 application; qualifications; renewal; duplicates.—

443 (1)(a) Each person, firm, association, or corporation that  
 444 seeks to deal, at wholesale, in nicotine products that will be  
 445 sold at retail within this state, or to sell nicotine products  
 446 or nicotine dispensing devices to any retail nicotine products  
 447 dealer who intends to sell those nicotine products in this  
 448 state, must obtain a wholesale nicotine products dealer permit  
 449 for each place of business or premises at which nicotine  
 450 products are sold.

451 (b) Application for a wholesale nicotine products dealer  
 452 permit must be made on a form furnished by the division and must  
 453 set forth the name under which the applicant transacts or  
 454 intends to transact business, the address of the location of the  
 455 applicant's place of business, the applicant's e-mail address,  
 456 and any other information the division requires. If the  
 457 applicant has or intends to have more than one place of business  
 458 dealing in nicotine products or nicotine dispensing devices, a  
 459 separate application must be made for each place of business. If  
 460 the applicant is a firm or an association, the application must  
 461 set forth the names, e-mail addresses, and addresses of the  
 462 persons constituting the firm or association. If the applicant  
 463 is a corporation, the application must set forth the names, e-  
 464 mail addresses, and addresses of the principal officers of the

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465 corporation. The application must also set forth any other  
 466 information prescribed by the division for the purpose of  
 467 identifying the applicant firm, association, or corporation. The  
 468 application must be signed and verified by oath or affirmation  
 469 by the owner, if a sole proprietor; if the owner is a firm,  
 470 association, or partnership, by the members or partners thereof;  
 471 or, if the owner is a corporation, by an executive officer of  
 472 the corporation or by a person authorized by the corporation to  
 473 sign the application, together with the written evidence of this  
 474 authority.

475 (2) (a) Wholesale nicotine products dealer permits may be  
 476 issued only to persons who are 21 years of age or older or to  
 477 corporations the officers of which are 21 years of age or older.

478 (b) The division may refuse to issue a wholesale nicotine  
 479 products dealer permit to any person, firm, association, or  
 480 corporation whose permit has been revoked by any jurisdiction;  
 481 to any corporation an officer of which has had such permit  
 482 revoked by any jurisdiction; or to any person who is or has been  
 483 an officer of a corporation whose permit has been revoked by any  
 484 jurisdiction. The division must revoke any wholesale nicotine  
 485 products dealer permit issued to a firm, an association, or a  
 486 corporation prohibited from obtaining such permit under this  
 487 chapter.

488 (3) Upon approval of an application for a wholesale  
 489 nicotine products dealer permit, the division shall issue to the  
 490 applicant a wholesale nicotine products dealer permit for the  
 491 place of business or premises specified in the application. A  
 492 wholesale nicotine products dealer permit is not assignable and  
 493 is valid only for the person in whose name the wholesale

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494 nicotine products dealer permit is issued and for the place  
 495 designated in the wholesale nicotine products dealer permit. The  
 496 wholesale nicotine products dealer permit must be conspicuously  
 497 displayed at all times at the place for which it is issued.

498 (4) A wholesale dealer, as defined in s. 210.01(6), or a  
 499 distributing agent, as defined in s. 210.01(14), is not required  
 500 to have a separate or additional wholesale nicotine products  
 501 dealer permit to deal, at wholesale, in nicotine dispensing  
 502 devices within this state. A wholesale dealer, as defined in s.  
 503 210.01(6), a distributing agent, as defined in s. 210.01(14), or  
 504 a tobacco products distributor, as defined in s. 210.25(5),  
 505 which deals, at wholesale, in nicotine dispensing devices is  
 506 subject to, and must be in compliance with, this chapter.

507 Section 6. Section 569.317, Florida Statutes, is created to  
 508 read:

509 569.317 Wholesale nicotine products dealer permitholder;  
 510 administrative penalties.—A wholesale nicotine products dealer  
 511 permitholder may only purchase and sell for retail sale in this  
 512 state nicotine dispensing devices contained on the directory  
 513 created by the division pursuant to s. 569.311. The division may  
 514 suspend or revoke the wholesale nicotine products dealer permit  
 515 of a wholesale nicotine products dealer permitholder upon  
 516 sufficient cause appearing of a violation of this part by a  
 517 wholesale nicotine products dealer permitholder or its agent or  
 518 employee. The division may also assess an administrative fine of  
 519 up to \$5,000 for each violation. The division shall deposit all  
 520 finances collected into the General Revenue Fund. An order imposing  
 521 an administrative fine becomes effective 15 days after the date  
 522 of the order. The division may suspend the imposition of a



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523 penalty against a wholesale nicotine products dealer  
 524 permitholder, conditioned upon compliance with terms the  
 525 division considers appropriate.

526 Section 7. Section 569.32, Florida Statutes, is amended to  
 527 read:

528 569.32 Retail nicotine products dealer permits;  
 529 application; qualifications; renewal; duplicates.—

530 (1) (a) Each person, firm, association, or corporation that  
 531 seeks to deal, at retail, in nicotine products or nicotine  
 532 dispensing devices within this ~~the~~ state, or to allow a nicotine  
 533 products vending machine to be located on its premises in this  
 534 ~~the~~ state, must obtain a retail nicotine products dealer permit  
 535 for each place of business or premises at which nicotine  
 536 products or nicotine dispensing devices are sold. Each dealer  
 537 owning, leasing, furnishing, or operating vending machines  
 538 through which nicotine products are sold must obtain a permit  
 539 for each machine and shall post the permit in a conspicuous  
 540 place on or near the machine; however, if the dealer has more  
 541 than one vending machine at a single location or if nicotine  
 542 products or nicotine dispensing devices are sold both over the  
 543 counter and through a vending machine at a single location, the  
 544 dealer need obtain only one permit for that location.

545 (b) Application for a permit must be made on a form  
 546 furnished by the division and must set forth the name under  
 547 which the applicant transacts or intends to transact business,  
 548 the address of the location of the applicant's place of business  
 549 within this ~~the~~ state, and any other information the division  
 550 requires. If the applicant has or intends to have more than one  
 551 place of business dealing in nicotine products or nicotine

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552 dispensing devices within this ~~the~~ state, a separate application  
 553 must be made for each place of business. If the applicant is a  
 554 firm or an association, the application must set forth the names  
 555 and addresses of the persons constituting the firm or  
 556 association; if the applicant is a corporation, the application  
 557 must set forth the names and addresses of the principal officers  
 558 of the corporation. The application must also set forth any  
 559 other information prescribed by the division for the purpose of  
 560 identifying the applicant firm, association, or corporation. The  
 561 application must be signed and verified by oath or affirmation  
 562 by the owner, if a sole proprietor; or, if the owner is a firm,  
 563 association, or partnership, by the members or partners thereof;  
 564 or, if the owner is a corporation, by an executive officer of  
 565 the corporation or by a person authorized by the corporation to  
 566 sign the application, together with the written evidence of this  
 567 authority.

568 (c) Permits must be issued annually.

569 (d) The holder of a permit may renew the permit each year.

570 A dealer that does not timely renew its permit must pay a late  
 571 fee of \$5 for each month or portion of a month occurring after  
 572 expiration, and before renewal, of the dealer's permit. The  
 573 division shall establish by rule a renewal procedure that, to  
 574 the greatest extent feasible, combines the application and  
 575 permitting procedure for permits with the application and  
 576 licensing system for alcoholic beverages.

577 (e) The division may not grant an exemption from the permit  
 578 fees prescribed in this subsection for any applicant.

579 (2) (a) Permits may be issued only to persons who are 21  
 580 years of age or older or to corporations the officers of which

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581 are 21 years of age or older.

582 (b) The division may refuse to issue a permit to any  
583 person, firm, association, or corporation the permit of which  
584 has been revoked by any jurisdiction; to any corporation an  
585 officer of which has had his or her permit revoked by any  
586 jurisdiction; or to any person who is or has been an officer of  
587 a corporation the permit of which has been revoked by any  
588 jurisdiction. Any permit issued to a firm, an association, or a  
589 corporation prohibited from obtaining a permit under this  
590 chapter must ~~shall~~ be revoked by the division.

591 (3) Upon approval of an application for a permit, the  
592 division shall issue to the applicant a permit for the place of  
593 business or premises specified in the application. A permit is  
594 not assignable and is valid only for the person in whose name  
595 the permit is issued and for the place designated in the permit.  
596 The permit must ~~shall~~ be conspicuously displayed at all times at  
597 the place for which issued.

598 Section 8. Section 569.33, Florida Statutes, is amended to  
599 read:

600 569.33 Consent to inspection and search without warrant.—An  
601 applicant for a retail nicotine products dealer permit or a  
602 wholesale nicotine products dealer permit, by accepting the  
603 permit when issued, agrees that the place or premises covered by  
604 the permit is subject to inspection and search without a search  
605 warrant by the division or its authorized assistants, and by  
606 sheriffs, deputy sheriffs, or police officers, to determine  
607 compliance with this part.

608 Section 9. Section 569.34, Florida Statutes, is amended to  
609 read:

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610 569.34 Operating without a retail nicotine products dealer  
611 permit; penalty.—

612 (1) It is unlawful for a person, a firm, an association, or  
613 a corporation to deal, at retail, in nicotine products, in any  
614 manner, or to allow a nicotine products vending machine to be  
615 located on its premises, without having a retail nicotine  
616 product dealer permit as required by s. 569.32. A person who  
617 violates this subsection ~~section~~ commits a noncriminal  
618 violation, punishable by a fine of not more than \$500.

619 (2) A retail tobacco products dealer, as defined in s.  
620 569.002(4), is not required to have a separate or additional  
621 retail nicotine products dealer permit to deal, at retail, in  
622 nicotine products within this ~~the~~ state, or allow a nicotine  
623 products vending machine to be located on its premises in this  
624 ~~the~~ state. Any retail tobacco products dealer that deals, at  
625 retail, in nicotine products or allows a nicotine products  
626 vending machine to be located on its premises in this ~~the~~ state,  
627 is subject to, and must be in compliance with, this part.

628 (3) Any person who violates subsection (1) must ~~this~~  
629 ~~section shall~~ be cited for such infraction and must ~~shall~~ be  
630 cited to appear before the county court. The citation may  
631 indicate the time, date, and location of the scheduled hearing  
632 and must indicate that the penalty for a noncriminal violation  
633 is a fine of not more than \$500.

634 (a) A person cited for a violation of subsection (1) ~~for an~~  
635 ~~infraction under this section~~ may:

- 636 1. Post a \$500 bond; or
- 637 2. Sign and accept the citation indicating a promise to
- 638 appear.

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639 (b) A person cited for violating this section may:

640 1. Pay the fine, either by mail or in person, within 10  
641 days after receiving the citation; or

642 2. If the person has posted bond, forfeit the bond by not  
643 appearing at the scheduled hearing.

644 (c) If the person pays the fine or forfeits bond, the  
645 person is deemed to have admitted violating this section and to  
646 have waived the right to a hearing on the issue of commission of  
647 the violation. Such admission may not be used as evidence in any  
648 other proceeding.

649 (d) The court, after a hearing, shall make a determination  
650 as to whether an infraction has been committed. If the  
651 commission of an infraction has been proven beyond a reasonable  
652 doubt, the court may impose a civil penalty in an amount that  
653 may not exceed \$500.

654 (e) If a person is found by the court to have committed the  
655 infraction, that person may appeal that finding to the circuit  
656 court.

657 (4) On or after March 1, 2025, it is unlawful for a person,  
658 a firm, an association, or a corporation in this state to deal,  
659 at retail, in nicotine dispensing devices that are not listed on  
660 the directory created pursuant to s. 569.311. Any person who  
661 knowingly ships or receives nicotine dispensing devices in  
662 violation of this section commits a misdemeanor of the second  
663 degree, punishable as provided in s. 775.082 or s. 775.083.

664 (5) On or after January 1, 2025, it is unlawful for a  
665 retail nicotine products dealer in this state, other than a  
666 nicotine product manufacturer that also is permitted as a retail  
667 nicotine products dealer in this state and is selling its own

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668 products directly to consumers, to buy nicotine dispensing  
669 devices from a wholesaler, manufacturer, or other source that is  
670 not a wholesale nicotine products dealer permitholder, a  
671 wholesale dealer, as defined in s. 210.01(6), a distributing  
672 agent, as defined in s. 210.01(14), or a tobacco products  
673 distributor, as defined in s. 210.25(5). Any person who  
674 knowingly ships or receives nicotine dispensing devices in  
675 violation of this section commits a misdemeanor of the second  
676 degree, punishable as provided in s. 775.082 or s. 775.083.

677 (6) The division may suspend or revoke the permit of a  
678 retail nicotine products dealer permitholder upon sufficient  
679 cause appearing of a violation of this part by a retail nicotine  
680 products dealer permitholder, or its agent or employee. The  
681 division may also assess an administrative fine of up to \$1,000  
682 for each violation. The division shall deposit all fines  
683 collected into the General Revenue Fund. An order imposing an  
684 administrative fine becomes effective 15 days after the date of  
685 the order.

686 Section 10. Section 569.345, Florida Statutes, is created  
687 to read:

688 569.345 Seizure and destruction of contraband nicotine  
689 dispensing devices.—All nicotine dispensing devices sold,  
690 delivered, possessed, or distributed contrary to any provision  
691 of this chapter are declared to be contraband, are subject to  
692 seizure and confiscation under the Florida Contraband Forfeiture  
693 Act by any person whose duty it is to enforce the provisions of  
694 this chapter, and must be disposed of as follows:

695 (1) A court having jurisdiction shall order such nicotine  
696 dispensing devices forfeited and destroyed. A record of the

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697 place where such nicotine dispensing devices were seized, the  
 698 kinds and quantities of nicotine dispensing devices destroyed,  
 699 and the time, place, and manner of destruction must be kept, and  
 700 a return under oath reporting the destruction must be made to  
 701 the court by the officer who destroys them.

702 (2) The division shall keep a full and complete record of  
 703 all nicotine dispensing devices showing:

704 (a) The exact kinds, quantities, and forms of such nicotine  
 705 dispensing devices;

706 (b) The persons from whom they were received and to whom  
 707 they were delivered;

708 (c) By whose authority they were received, delivered, and  
 709 destroyed; and

710 (d) The dates of the receipt, disposal, or destruction,  
 711 which record must be open to inspection by all persons charged  
 712 with the enforcement of tobacco and nicotine product laws.

713 (3) The cost of seizure, confiscation, and destruction of  
 714 contraband nicotine dispensing devices is borne by the person  
 715 from whom such products are seized.

716 Section 11. Section 569.346, Florida Statutes, is created  
 717 to read:

718 569.346 Agent for service of process.—

719 (1) Any nonresident manufacturer of nicotine dispensing  
 720 devices that has not registered to do business in the state as a  
 721 foreign corporation or business entity shall, as a condition  
 722 precedent to being included on the directory created in this  
 723 chapter, appoint and continually engage without interruption the  
 724 services of an agent in this state to act as agent for the  
 725 service of process on whom all process, and any action or

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726 proceeding against it concerning or arising out of the  
 727 enforcement of this chapter, may be served in any manner  
 728 authorized by law. Such service shall constitute legal and valid  
 729 service of process on the manufacturer. The manufacturer shall  
 730 provide the name, address, telephone number, and proof of the  
 731 appointment and availability of such agent to the division.

732 (2) The manufacturer shall provide notice to the division  
 733 30 calendar days before termination of the authority of an agent  
 734 and shall further provide proof to the satisfaction of the  
 735 division of the appointment of a new agent no less than 5  
 736 calendar days before the termination of an existing agent  
 737 appointment. In the event an agent terminates an agency  
 738 appointment, the manufacturer shall notify the division of the  
 739 termination within 5 calendar days and shall include proof to  
 740 the satisfaction of the division of the appointment of a new  
 741 agent.

742 (3) Any manufacturer whose nicotine dispensing devices are  
 743 sold in this state who has not appointed and engaged the  
 744 services of an agent as required by this section shall be deemed  
 745 to have appointed the Secretary of State as its agent for  
 746 service of process. The appointment of the Secretary of State as  
 747 agent shall not satisfy the condition precedent required in  
 748 subsection (1) of this subsection to be included or retained on  
 749 the directory.

750 Section 12. Subsections (3) and (4) of section 569.002,  
 751 Florida Statutes, are amended to read:

752 569.002 Definitions.—As used in this part, the term:

753 (3) "Nicotine product" has the same meaning as provided in  
 754 s. 569.31 ~~s. 569.31(4)~~.

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755 (4) "Nicotine dispensing device" has the same meaning as  
756 provided in s. 569.31 ~~s. 569.31(3)~~.  
757 Section 13. This act shall take effect October 1, 2024.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government


**Subject:** Committee Agenda Request

**Date:** February 1, 2024

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I respectfully request that **Senate Bill # 1624**, relating to Energy Resources, be placed on the:

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



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Senator Jay Collins  
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/20/24 Meeting Date

SB1006 Bill Number or Topic

APPROPRIATIONS AG F Committee

Amendment Barcode (if applicable)

Name Michael Miller Phone (848) 210-0840

Address 5913 NORMANDY BLVD, JAX FL 32205 Email

City State Zip

Speaking: [ ] For [X] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING: [X] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. pdf flsenate.gov

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2/20/24

# The Florida Senate APPEARANCE RECORD

1006

Meeting Date  
APPROP. ON AG, ENV. & GEN. GOV

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Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name JOHN GUARD

Phone 850-544-8303

Address PL-01, THE CAPITOL  
Street

Email JOHN.GUARD@MYFLORIDA  
LEGAL.COM

Tallah  
City

FL  
State

32397  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

ATTORNEY GENERAL

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)



02-20-2024

UNLAWYER, LLC

# APPEARANCE RECORD

SB 1006

SB 1006 (PROBATIONARY)

Meeting Date  
**Appropriations - Ag. & Enviro.**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic  
**#585548**

Committee  
Name **Nick Orlando**

Amendment Barcode (if applicable)  
Phone **813-784-3578**

Address **2655 East Bay Dr**

Email **nick@flsmokefree.org**

Street

**Largo**

**Florida**

**33771**

City

State

Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/20/2024

Meeting Date

1006

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Approp. on Ag, Env. + GG

Committee

President of Florida Association of Wholesale Distributors

Amendment Barcode (if applicable)

Name

ANA MELENDEZ

Phone

312.714.0202

Address

475 CAPITAL CIRCLE SW

Email

amelendez@ae wholesaleenf.com

Street

TALLAHASSEE FL

32304

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](https://www.flsenate.gov/legistics/2020/2020-2022-Joint-Rules.pdf)

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S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

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2/20/2024

Meeting Date

SB 1006

Bill Number or Topic

Approp. on Ag

Committee

Amendment Barcode (if applicable)

Name Amir Warren

Phone (904)-891-3016

Address 100 S Monroe St.

Street

Email awarren-fl@counties.com

Tallahassee

City

FL

State

32301

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:  
FL Assoc. of Counties

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/26/24

Meeting Date

SB1006

Bill Number or Topic

Appropriations Committee on Ag  
Committee

Amendment Barcode (if applicable)

Name Edgar Castro

Phone 850-671-4401

Address 123 S Adams Street  
Street

Email Castro@thesouthern.org.com

Tallahassee  
City

FL  
State

32304  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:  
McLane

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-2-24

Meeting Date

SB 1006

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Ag & Environmental  
Committee

Amendment Barcode (if applicable)

Name Jacqueline Carco

Phone (850) 324-4722

Address 5700 Tarpon Ct  
Street

Email luv2doodles@gmail.com

Milton  
City

FL  
State

32583  
Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/20/24 Meeting Date

SB1006 Bill Number or Topic

Appropriation ENV. Committee

Amendment Barcode (if applicable)

Name Wendy L. McGlothlin

Phone (384) 212-8958

Address 110 Greenbriar Ave

Email Wendy@MVUSA Distro. com

Ormond Beach FL 32174 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING: [X] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

2/20/24

SB1006

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Age & INVERMENTAL

Committee

Amendment Barcode (if applicable)

Name Jason Bowlware

Phone 7276881323

Address 1449 NURSERY RD

Email Jasonb.TVD@gmail.com

Street

Clearwater

FL

33756

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df.flsenate.gov

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-20-24

Meeting Date

SB 1006

Bill Number or Topic

Approp. Ag & Envr.

Committee

Amendment Barcode (if applicable)

Name Nikki Marenghi

Phone 386 748 0833

Address 331 Circle Dr

Email msflower71@yahoo

Street

Deland

City

FL

State

32724

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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2-20-2024 Meeting Date

SB1006 Bill Number or Topic

Appropriations and Environmental Committee

Amendment Barcode (if applicable)

Name Erin Phillips

Phone 407-927-6127

Address 251 W Davis St Street

Email ENP0227@icloud.com

Deleensprings FL 32130 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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The Florida Senate

APPEARANCE RECORD

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2/20/24

Meeting Date

SB 1006

Bill Number or Topic

Appropriations Ag. Envir  
Committee

Amendment Barcode (if applicable)

Name Amanda Risteen

Phone 386-957-3693

Address 2980 S. Ridgewood AVE  
Street

Email amanda.risteen@gmail.com

Edgewater, FL  
City

32141  
State Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf flsenate.gov](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1006

Bill Number or Topic

2/20/24

Meeting Date

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Ag, Env + Gen Govt Appropri

Committee

Amendment Barcode (if applicable)

Name

David Shepp

Phone

863 581-4250

Address

123 South Adams Street

Street

Email

shepp@thesouthern.org.com

Tallahassee

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Petroleum Marketers Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules of the Florida Senate](https://www.flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/20/24

Meeting Date

Approps. 45, Empro. & Govt, Committee

1006

Bill Number or Topic

585548

Amendment Barcode (if applicable)

Name John Guard

Phone 850-544-8303

Address PL-01, The Capitol

Email john.guard@myflorida.leg.state.fl.us

Tallahassee FL 32399

Speaking: [X] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: The Attorney General

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df.flisenate.gov

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/20/24  
Meeting Date

SB 1006  
Bill Number or Topic

Appropriations, Ag, Env.  
Committee

Amendment Barcode (if applicable)

Name Jonathan Risteen

Phone 386 957 3693

Address 2980 S. Ridgewood Ave  
Street

Email info@gentlemansdraw.com

Edgewater FL 32141  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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5-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

2/21/24

Meeting Date

SB1006

Bill Number or Topic

Appropriations AG & Environment

Committee

Amendment Barcode (if applicable)

Name Houston Blackwell

Phone 813-508-0898

Address 2257 Springwood Circle W  
Street

Email

CLEARWATER

City

FL

State

33763

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov)

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S-001 (08/10/2021)

2/20/24

Meeting Date

# The Florida Senate APPEARANCE RECORD

SB1006

Bill Number or Topic

Appr. Agriculture and Environment  
Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name ERNESTO FRAGOSO

Phone 904-518-0709

Address 2467 Faye Rd. STE #3  
Street

Email ernesto@NSV.CO

Jacksonville FL 32226  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov/legistics/2020/2022-joint-rules)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/20/2024

Meeting Date

SB1006

Bill Number or Topic

Appropriation Ag & Environment

Committee

Amendment Barcode (if applicable)

Name Joseph Carco

Phone 850-292-5330

Address 5700 Tarpon Ct

Street

Email midnighthoop1@gmail.com

Milton

City

FL

State

32583

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)



# APPEARANCE RECORD

SB1006

Bili Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

2/20/2024  
Meeting Date

APPRO. AG & environment  
Committee

Amendment Barcode (if applicable)

Name DAN MARLIN

Phone 904-572-9001

Address 200A South Mangrove #A  
Street

Email DAN@JohnnyCopper.org

Green Cove Springs FL 32043  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

SB1006

2-20-23

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Appointments & Review

Committee

Amendment Barcode (if applicable)

Name Angela Weatherholt

Phone 407 340 7042

Address 32046 Chipola Trl

Email amw1142@gmail.com

Street

City Sorrento

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

2/20/2024

Meeting Date

SB 1006-7

Bill Number or Topic

Appropriations and Environmental

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Baha Kasem

Phone 901-647-4322

Address 3142 Boringer Hill

Street

Email Baha.Kasem@gmail.com

Tallahassee FL 32311

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

# APPEARANCE RECORD

SB1006

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

2/20/24

Meeting Date

Ag 9 Environment

Committee

Amendment Barcode (if applicable)

Name

Genie Crump

Phone

903-320-9899

Address

2450 Creighton Rd Unit B

Email

vapinagenie@yahoo.com

Street

Pensacola

Fl.

32504

City

State

Zip

Speaking:

For



Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf flsenate.gov](#)

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02-20-2024

SB 1006

# APPEARANCE RECORD

Meeting Date  
**Appropriations - Ag. & Enviro.**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee  
**Nick Orlando**

Amendment Barcode (if applicable)  
**813-784-3578**

Address  
**2655 East Bay Dr**

Email  
**nick@flsmokefree.org**

Street  
**Largo**                      **Florida**                      **33771**  
City                                      State                                      Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)*

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S-001 (08/10/2021)

**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 Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 1360

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senator Gruters

SUBJECT: Florida Red Tide Mitigation and Technology Development Initiative

DATE: January 22, 2024      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rogers</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1360 amends s. 379.2273, F.S., to:

- Remove the expiration date for the Florida Red Tide Mitigation and Technology Development Initiative of June 30, 2025.
- Direct the initiative to develop field trials for red tide mitigation approaches and technologies.

When the initiative develops a field trial deployment technology, the initiative will submit a report with its findings to the Department of Environmental Protection (DEP) the Fish and Wildlife Conservation Commission (FWC), the Department of Agriculture and Consumer Services (DACS), and other state agencies with regulatory oversight of field trial deployment of the technologies and approaches in state waters. The DEP shall evaluate the technologies and approaches and identify all existing state permits the Mote Marine Laboratory (Mote) may use to deploy and test the technologies and approaches in state waters. The DEP shall submit its evaluation to the Mote within 60 days after receipt of the report. If the DEP determines existing state permits may not be used, the DEP shall amend its regulatory or permitting processes to ensure the timely deployment if any red tide or similar harmful algal bloom mitigation and control technologies and approaches recommended by the initiative. Upon successful testing of the technologies and approaches, the DEP shall expedite regulatory reviews for the recurring use of the technologies and approaches in state waters to control and mitigate the impacts of red tide or similar harmful algal blooms.

The DEP may incur an indeterminate cost if it is required to amend its regulatory or permitting processes. This can be absorbed within existing resources. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

## II. Present Situation:

### Red Tide

Algae are a diverse group of plant-like organisms that produce oxygen and form the base of aquatic food webs, and they range from microscopic, single-celled organisms to large seaweeds.<sup>1</sup> When algae reproduce or accumulate far beyond their normal levels for a specific geographic area, it is known as a bloom.<sup>2</sup> When blooms occur they can have harmful effects such as smothering other marine life or blocking the sun, producing dangerous toxins, and depleting oxygen levels as the algae decays.<sup>3</sup> These events are known as harmful algal blooms.<sup>4</sup> In the waters around Florida, particularly in the Gulf of Mexico, such high concentrations of algae occur that the water turns red or brown.<sup>5</sup> These harmful algal blooms are known as “red tide,” and have been observed for centuries.<sup>6</sup> In the Gulf of Mexico and around Florida, the species that causes most red tide is *Karenia brevis* (*K. brevis*).<sup>7</sup>

*K. brevis* is a single-celled algae that occurs in marine and estuarine waters in Florida.<sup>8</sup> *K. brevis* is always present in low concentrations in the Gulf of Mexico with no apparent adverse effects.<sup>9</sup> However, when it blooms, typically in the late summer or early fall, this species can cause large-scale harmful algal blooms.<sup>10</sup> *K. brevis* produces neurotoxins called brevetoxins that can sicken

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<sup>1</sup> U.S. National Oceanic and Atmospheric Administration (NOAA), *What is a Harmful Algal Bloom?*, <https://www.noaa.gov/what-is-harmful-algal-bloom> (last visited Jan. 18, 2024); Florida Fish and Wildlife Conservation Commission (FWC), *What Is a Harmful Algal Bloom*, <https://myfwc.com/research/redtide/general/harmful-algal-bloom/> (last visited Jan. 18, 2024). Microscopic algae produce around half of the oxygen we breathe.

<sup>2</sup> FWC, *What Is a Harmful Algal Bloom?*, <https://myfwc.com/research/redtide/general/harmful-algal-bloom/> (last visited Jan. 18, 2024).

<sup>3</sup> *Id.*; NOAA, *What is a Harmful Algal Bloom?*, <https://www.noaa.gov/what-is-harmful-algal-bloom> (last visited Jan. 18, 2024).

<sup>4</sup> Gulf of Mexico Alliance, *A Primer on Gulf of Mexico Harmful Algal Blooms*, 2-5 (2013), available at <https://myfwc.com/media/15902/habprimer.pdf> (last visited Jan. 18, 2024). The term “harmful algal bloom” is sometimes abbreviated as “HAB.”

<sup>5</sup> FWC, *Red Tide FAQ*, <https://myfwc.com/research/redtide/faq/> (last visited Jan. 18, 2024).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> FWC, *Karenia Brevis: Fact Sheet*, <https://myfwc.com/media/12422/karenia-brevis-factsheet.pdf> (last visited Jan. 18, 2024); Mote Marine Laboratory, *Phytoplankton Ecology*, <https://mote.org/research/program/phytoplankton-ecology> (last visited Jan. 10, 2024). *K. brevis* is a “phytoplankton” because it does photosynthesis like a plant.

<sup>9</sup> R. H. Pierce and M. S. Henry, *Harmful Algal Toxins of the Florida Red Tide (Karenia brevis): Natural Chemical Stressors In South Florida Coastal Ecosystems*, *ECOTOXICOLOGY*, vol. 17, 7 (2008): 623-631, 2 (2008), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2683401/pdf/nihms101414.pdf> (last visited Jan. 18, 2024).

<sup>10</sup> FWC, *Karenia Brevis: Fact Sheet*, <https://myfwc.com/media/12422/karenia-brevis-factsheet.pdf> (last visited Jan. 18, 2024); FWC, *Red Tide Current Status*, <https://myfwc.com/research/redtide/statewide/> (last visited Jan. 18, 2024). FWC reports the current status of red tide using the concentration of *K. brevis* cells per liter of water.

or kill fish, seabirds, turtles, and marine mammals.<sup>11</sup> Wave action can break open *K. brevis* cells and release the brevetoxins into the air. With winds blowing onshore, this can lead to respiratory irritation in humans and potentially serious illness for people with severe or chronic respiratory conditions.<sup>12</sup> The red tide toxins can also accumulate in animals such as oysters and clams, which can lead to Neurotoxic Shellfish Poisoning in people who consume contaminated shellfish.<sup>13</sup> Though this is less common, blooms of *K. brevis* can also contribute to fish kills by depleting the water of dissolved oxygen.<sup>14</sup>

*K. brevis* cannot tolerate low-salinity waters for very long, so while red tide is found in bays and estuaries, it is not found in freshwater systems such as lakes or rivers.<sup>15</sup> The algae causing red tide is different from the cyanobacteria (often called “blue-green algae”) found in freshwater systems such as Lake Okeechobee.<sup>16</sup> Cyanobacteria is found in lakes, rivers, and estuaries, and it too is toxic and harmful.<sup>17</sup>

There is no demonstrated direct link between nutrient pollution and *K. brevis* red tide formation or frequency, and red tide has been observed since before Florida’s coastlines were heavily developed.<sup>18</sup> However, once red tides are transported to shore, they are capable of using human-caused nutrient pollution for their growth.<sup>19</sup> Currently, there is no practical and acceptable way to control or kill red tide blooms.<sup>20</sup> Harmful algal blooms can result in significant costs associated with public health, commercial fishery reduction, decreases in recreation and tourism, and management and monitoring.<sup>21</sup>

### **Fish and Wildlife Research Institute**

The FWC derives its authority from the State Constitution and chapter 379 of the Florida Statutes.<sup>22</sup> The FWC is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas the FWC’s staff is authorized to conduct management, research, and enforcement.<sup>23</sup> The Fish and Wildlife Research Institute (Institute) is the principal unit for research services within the FWC.<sup>24</sup>

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<sup>11</sup> FWC, *Karenia Brevis: Fact Sheet*, <https://myfwc.com/media/12422/karenia-brevis-factsheet.pdf> (last visited Jan. 18, 2024).

<sup>12</sup> Mote Marine Laboratory, *Florida Red Tide FAQ’s*, <https://mote.org/news/florida-red-tide> (last visited Jan. 18, 2024).

<sup>13</sup> FWC, *Karenia Brevis: Fact Sheet*, <https://myfwc.com/media/12422/karenia-brevis-factsheet.pdf> (last visited Jan. 18, 2024).

<sup>14</sup> *Id.*

<sup>15</sup> FWC, *Red Tide FAQ*, <https://myfwc.com/research/redtide/faq/> (last visited Jan. 18, 2024).

<sup>16</sup> *Id.*

<sup>17</sup> FWC, *Cyanobacteria in Florida’s Waters*, <https://myfwc.com/research/redtide/general/cyanobacteria/> (last visited Jan. 18, 2024); U.S. EPA, *Harmful Algal Blooms & Cyanobacteria Research*, <https://www.epa.gov/water-research/harmful-algal-blooms-cyanobacteria-research> (last visited Jan. 18, 2024). Although they are often called “blue-green algae” and exhibit characteristics of algae, cyanobacteria are classified as bacteria.

<sup>18</sup> Mote Marine Laboratory, *Florida Red Tide FAQ’s*, <https://mote.org/news/florida-red-tide> (last visited Jan. 18, 2024).

<sup>19</sup> *Id.*

<sup>20</sup> FWC, *Red Tide FAQ*, <https://myfwc.com/research/redtide/faq/> (last visited Jan. 18, 2024).

<sup>21</sup> *Id.*

<sup>22</sup> FLA. CONST. art. IV, s. 9., s. 9; see chapter 379, F.S.; see also s. 20.331, F.S.

<sup>23</sup> FLA. CONST. art. IV, s. 9.

<sup>24</sup> Section 20.331(4)(b), F.S.; FWC, *Fish and Wildlife Research Institute*, <https://myfwc.com/about/inside-fwc/fwri/> (last visited Jan. 18, 2024).



The FWC assigns to the Institute all of the following responsibilities and functions:

- Serve as the primary source of research and technical information and expertise on the status of marine life, freshwater aquatic life, and wild animal life resources in this state.
- Monitor the status and health of marine life, freshwater aquatic life, and wild animal life species and their habitat.
- Develop restoration and management techniques for habitat and enhancement of plant and animal populations.
- Respond to and provide critical technical support for catastrophes including oil spills, ship groundings, major species die-offs, hazardous spills, and natural disasters.
- Identify and monitor harmful algal blooms including red tides, evaluate their impacts, and provide technical support concerning state and local public health concerns.
- Provide state and local governments with technical information and research results concerning fish and wild animal life.<sup>25</sup>

The Harmful Algal Bloom Task Force, whose members are appointed by the Institute, was created for the purpose of determining research, monitoring, control, and mitigation strategies for red tide and other harmful algal blooms in Florida waters.<sup>26</sup> The task force develops priorities and strategies for mitigation and control of harmful algal blooms and is tasked with making recommendations to the Institute regarding harmful algal blooms.<sup>27</sup> The Legislature also requires the Institute to implement a program designed to improve understanding and allow for early detection of harmful algal blooms, including red tide, to facilitate accurate predictions and successful efforts to control and mitigate the effects of harmful algal blooms.<sup>28</sup>

The Institute provides many services and resources pertaining to red tide. It regularly publishes detailed information on the status of red tide in the state.<sup>29</sup> The Institute's teams of experts conduct cutting-edge ecological research and analysis on the organisms in Florida's waters, advancing the collective understanding of red tide and its impacts on the state.<sup>30</sup> The FWC scientists combine field sampling with tools maintained by state and federal partners to track red tide and its effects.<sup>31</sup> Through its webpages on the FWC's website, the Institute provides comprehensive information and resources to the public relating to red tide.<sup>32</sup> This includes resources for learning what causes red tide, tools for tracking red tide, and information for reporting on red tide and its effects.<sup>33</sup>

### **Mote Marine Laboratory**

The Mote Marine Laboratory (Mote) is a Florida nonprofit organization that was founded in

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<sup>25</sup> Section 20.331(7)(a), F.S.

<sup>26</sup> Section 379.2271(1), F.S.

<sup>27</sup> Section 379.2271, F.S.

<sup>28</sup> Section 379.2272, (1)(a), F.S.

<sup>29</sup> FWC, *Red Tide Current Status*, <https://myfwc.com/research/redtide/statewide/> (last visited Jan. 18, 2024).

<sup>30</sup> FWC, *Labs and People: About*, <https://myfwc.com/research/redtide/labs-people/about/> (last visited Jan. 18, 2024).

<sup>31</sup> FWC, *Tools for Tracking Red Tides*, <https://myfwc.com/research/redtide/tools/> (last visited Jan. 18, 2024).

<sup>32</sup> FWC, *Research: Red Tide*, <https://myfwc.com/research/redtide/> (last visited Jan. 18, 2024).

<sup>33</sup> FWC, *Red Tide-Related Hotlines and Information Sources*, <https://myfwc.com/research/redtide/contact/> (last visited Jan. 17, 2024).

1955.<sup>34</sup> The Mote’s focus is the advancement of marine and environmental sciences through scientific research, education and public outreach, leading to new discoveries, revitalization and sustainability of the oceans and greater public understanding of marine resources.<sup>35</sup>

The nonprofit organization is funded through federal, state, and local grants and through individual donors and foundations.<sup>36</sup> The FWC is authorized to expend certain money through grants and contracts to fund research with the Mote.<sup>37</sup> The proceeds of the annual use fee for the “Protect Our Reefs” license plates are distributed to the Mote.<sup>38</sup>

Since early on in its development, the Mote has been conducting research on red tide.<sup>39</sup> Its experts are conducting research on red tide with the goal of understanding how the blooms form, how they dissipate into the environment, and what effects it has on humans and marine animals.<sup>40</sup> The Mote monitors red tide by taking samples, including with the use of technology such as detectors specially developed by the laboratory and autonomous underwater vehicles, providing continuous data that is communicated back to the laboratory for analysis.<sup>41</sup> The laboratory’s Beach Conditions Report provides detailed information on the conditions at a number of Florida beaches.<sup>42</sup> Several of the laboratory’s research programs cover areas of science related to red tide, such as the effects of toxins on aquatic organisms, the environmental health aspects of airborne toxins in coastal areas, and phytoplankton ecology.<sup>43</sup>

### **Florida Red Tide Mitigation and Technology Development Initiative**

The Florida Red Tide Mitigation & Technology Development Initiative is a partnership between the Mote and the Institute codified in s. 379.2273, F.S., that establishes an independent and coordinated effort among public and private research entities to develop prevention, control and mitigation technologies and approaches that will decrease the impacts of Florida red tide on the environment, economy and quality of life in Florida. The state has appropriated \$3 million annually for Mote to secure additional private and federal funding in order to:

- Bring together the best and brightest scientists from Florida and around the world;
- Utilize innovative approaches and technologies to determine the most effective and ecologically sound methods for mitigating adverse impacts from red tide;

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<sup>34</sup> Mote Marine Laboratory, *Beyond 2020 Vision and Strategic Plan*, 26, available at [https://mote.org/media/uploads/files/StratPlan3.0\\_ffw.pdf](https://mote.org/media/uploads/files/StratPlan3.0_ffw.pdf) (last visited Jan. 10, 2024).

<sup>35</sup> Mote Marine Laboratory, *Beyond 2020 Vision and Strategic Plan*, 15, available at [https://mote.org/media/uploads/files/StratPlan3.0\\_ffw.pdf](https://mote.org/media/uploads/files/StratPlan3.0_ffw.pdf) (last visited Jan. 10, 2024).

<sup>36</sup> Mote Marine Laboratory, *Mote Marine Laboratory and Aquarium*, <https://mote.org/locations/details/mote-marine-laboratory-aquarium> (last visited Jan. 18, 2024).

<sup>37</sup> Section 379.2202, F.S.; Section 379.2201(1)(c), F.S. The section authorizes money from saltwater license and permit fees to be used for marine research and management; *see* s. 379.354, F.S.

<sup>38</sup> Section 320.08058(38), F.S.

<sup>39</sup> Kumar Mahadevan, Mote Marine Laboratory, *Exploring the Secrets of the Sea Since 1955*, 3 (Nov. 19, 2010) available at <https://mote.org/media/uploads/files/MoteMarineLaboratory-history.pdf> (last visited Jan. 18, 2024).

<sup>40</sup> Mote Marine Laboratory, *Red Tide Research*, <https://mote.org/news/red-tide-research> (last visited Jan. 18, 2024).

<sup>41</sup> *Id.*

<sup>42</sup> Mote Marine Laboratory, Sarasota Operations Coastal Oceans Observation Lab, *Beach Conditions Reporting System*, <https://visitbeaches.org/#> (last visited Jan. 18, 2024).

<sup>43</sup> Mote Marine Laboratory, *Red Tide Research*, <https://mote.org/news/red-tide-research> (last visited Jan. 18, 2024).

- Test technologies with combinations of lab-based, large-scale mesocosm and pilot-scale field studies ultimately leading to permitting for large-scale field testing and application;
- Develop novel detection systems to support public red tide forecasting, emergency response, and implementation of control strategies;
- Enhance public health protection with expansion of the Beach Conditions Reporting System ([visitbeaches.org](http://visitbeaches.org)), local community outreach and engagement; and
- Develop new technologies for smartphone apps to engage citizen science information collaborations and commercial fisherman reporting of red tide toxin concentrations.<sup>44</sup>

The initiative is required to submit an annual report that contains an overview of its accomplishments to date and priorities for subsequent years to the Governor and Legislature.<sup>45</sup> According to its January 2023 report, to date, the Mote has examined over 200 chemicals and compounds and more than 30 projects have been completed or are underway.<sup>46</sup> Most of these projects focused on natural, manmade and technological mitigation techniques. A few projects are also dedicated to the development of red tide public communication and monitoring technologies specifically aimed at decreasing impacts of red tide. Such projects include updating the Programmable Hyperspectral Seawater Scanner, in-situ biosensor for detecting brevetoxins for use by shellfish farmers, cost/benefit analysis of removing red tide impacted dead fish and utilization as a fertilizer, unmanned aerial system for near-shore red tide reporting, updating the Beach Condition Reporting System (now with more than 50 reporting locations), and developing citizen science tools for red tide detection using a smartphone.<sup>47</sup>

From the hundreds of mitigation tools and technologies that the initiative examined over the past three years and the more than 30 projects completed or underway, below are the most promising mitigation tools and technologies at reducing *K. brevis* cells and toxins:

- Six algicidal compounds from natural macroalgae;
- Ozonation, cavitation, oxidation water treatment process;
- Controlled release oxidant pellets;
- Nanotechnology enabled products;
- UV-C radiation from LEDs;
- Quaternary Ammonium Compounds;
- Clay or flocculant combined with an algicide compound;
- Existing products with similar proven/approved uses such as Microbe-lift, Xtreme, and De-Oil-It.

The initiative's next steps include mesocosms/raceways,<sup>48</sup> regulatory approvals and field testing, public engagement, and commercialization. As part of commercialization of its approaches to red tide mitigation, the Mote is coordinating with state and federal agencies to examine existing

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<sup>44</sup> Florida Red Tide Mitigation and Technology Development Initiative, *Accomplishments and priorities report*, 2 (Jan. 2023) available at [https://mote.org/media/uploads/files/RedTideInitiative\\_AccomplishmentsPrioritiesReport2022\\_ffw.pdf](https://mote.org/media/uploads/files/RedTideInitiative_AccomplishmentsPrioritiesReport2022_ffw.pdf).

<sup>45</sup> Section 379.2273, F.S.

<sup>46</sup> Florida Red Tide Mitigation and Technology Development Initiative, *Accomplishments and priorities report*, 5 (Jan. 2023) available at [https://mote.org/media/uploads/files/RedTideInitiative\\_AccomplishmentsPrioritiesReport2022\\_ffw.pdf](https://mote.org/media/uploads/files/RedTideInitiative_AccomplishmentsPrioritiesReport2022_ffw.pdf).

<sup>47</sup> *Id.*

<sup>48</sup> A mesocosm is any outdoor experimental system that examines the natural environment under controlled conditions. A raceway, also known as a flow-through system, is an artificial channel used in aquaculture to culture aquatic organisms.

water and pesticide regulatory and licensing frameworks for field red tide mitigation testing and implementation during future bloom events. The Mote has also hosted workshops addressing project status, regulatory requirements, deployment technologies, scalability, intellectual property rights, and how to effectively bring these science-based tools and technologies to the marketplace.<sup>49</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 379.2273, F.S., to:

- Remove the expiration date for the Florida Red Tide Mitigation and Technology Development Initiative of June 30, 2025.
- Direct the initiative to develop field trials for red tide mitigation approaches and technologies.

Specifically, the bill states that upon successful completion of science-based laboratory testing of prevention, control, and mitigation technologies and approaches, the initiative shall develop recommendations for field trial deployment technologies of the technologies and approaches in state waters. The initiative shall submit a report with its findings and recommendations to the DEP, the FWC, the DACS and other state agencies with regulatory oversight of field trial deployment of the technologies and approaches in state waters. The DEP shall evaluate the technologies and approaches and identify all existing state permits the Mote may use to deploy and test the technologies and approaches in state waters. The DEP shall submit its evaluation to the Mote within 60 days after receipt of the report. If the DEP determines existing state permits may not be used, the DEP shall amend its regulatory or permitting processes to ensure the timely deployment if any red tide or similar harmful algal bloom mitigation and control technologies and approaches recommended by the initiative. Upon successful testing of the technologies and approaches, the DEP shall expedite regulatory reviews for the recurring use of the technologies and approaches in state waters to control and mitigate the impacts of red tide or similar harmful algal blooms.

**Section 2** of the bill provides an effective date of July 1, 2024.

### IV. Constitutional Issues:

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

None.

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

None.

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<sup>49</sup> Florida Red Tide Mitigation and Technology Development Initiative, *Accomplishments and priorities report*, 6 (Jan. 2023) available at [https://mote.org/media/uploads/files/RedTideInitiative\\_AccomplishmentsPrioritiesReport2022\\_ffw.pdf](https://mote.org/media/uploads/files/RedTideInitiative_AccomplishmentsPrioritiesReport2022_ffw.pdf).

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:

None

C. Government Sector Impact:

The Florida Red Tide Mitigation and Technology Development Initiative currently has an annual appropriation of \$3 million in the base budget. The DEP may incur an indeterminate cost if it is required to amend its regulatory or permitting processes. This can be absorbed within existing resources.

**VI. Technical Deficiencies:**

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 379.2273 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 Appropriations Committee on Agriculture, Environment, and General Government on February 20, 2024:**

The committee substitute

- Adds agencies that the initiative report is sent to.
- Requires the DEP to submit an evaluation of the report within 60 days to Mote Marine Laboratory.

- Provides that if the DEP determines existing state permits may not be used, the DEP shall amend its regulatory or permitting processes to ensure the timely deployment of any red tide or similar harmful algal bloom mitigation and control technologies and approaches recommended by the initiative.
- Provides that upon successful testing of technologies and approaches, the DEP shall expedite regulatory reviews for the recurring use of the technologies and approaches in state waters to control and mitigate the impacts of red tide or similar harmful algal blooms.
- Removes the provisions that within 30 days after receipt of the report, the DEP must review the technology and approve, approve with conditions, or deny with explanation the use of the technology in state waters for certain red tide bloom concentrations. If the DEP does not act in 30 days, the technology is deemed approved.
- Removes the appropriation of \$2 million for Fiscal Years 2025-2026 and 2026-2027 from the General Revenue Fund to the FWC for the purposes of the Florida Red Tide Mitigation and Technology Development Initiative.
- Removes the expiration date for the Florida Red Tide Mitigation and Technology Development Initiative of June 30, 2025.

B. Amendments:

None.



494620

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present paragraphs (c) and (d) of subsection (2) of section 379.2273, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and subsection (4) of that section is amended, to read:

379.2273 Florida Red Tide Mitigation and Technology



494620

11 Development Initiative; Initiative Technology Advisory Council.—

12 (2) The Florida Red Tide Mitigation and Technology  
13 Development Initiative is established as a partnership between  
14 the Fish and Wildlife Research Institute within the commission  
15 and Mote Marine Laboratory.

16 (c) Upon successful completion of science-based laboratory  
17 testing of prevention, control, and mitigation technologies and  
18 approaches, the initiative shall develop recommendations for  
19 field trial deployment of the technologies and approaches in  
20 state waters. The initiative shall submit a report on its  
21 findings and recommendations to the department, the commission,  
22 the Department of Agriculture and Consumer Services, and other  
23 state agencies with regulatory oversight of field trial  
24 deployment of the technologies and approaches in state waters.  
25 The department shall evaluate the technologies and approaches  
26 and identify all existing state permits Mote Marine Laboratory  
27 may use to deploy and test the technologies and approaches in  
28 state waters. The department shall submit its evaluation to Mote  
29 Marine Laboratory within 60 days after receipt of the report. If  
30 the department determines existing state permits may not be  
31 used, the department shall amend its regulatory or permitting  
32 processes to ensure the timely deployment of any red tide or  
33 similar harmful algal bloom mitigation and control technologies  
34 and approaches recommended by the initiative. Upon successful  
35 testing of the technologies and approaches, the department shall  
36 expedite regulatory reviews for the recurring use of the  
37 technologies and approaches in state waters to control and  
38 mitigate the impacts of red tide or similar harmful algal  
39 blooms.





494620

40 ~~(4) This section expires June 30, 2025.~~

41 Section 2. This act shall take effect July 1, 2024.

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

44 And the title is amended as follows:

45 Delete everything before the enacting clause

46 and insert:

47 A bill to be entitled

48 An act relating to the Florida Red Tide Mitigation and  
49 Technology Development Initiative; amending s.

50 379.2273, F.S.; requiring the initiative to develop  
51 recommendations for deployment of certain technologies  
52 and approaches and submit a report to the Department  
53 of Environmental Protection, the Fish and Wildlife  
54 Conservation Commission, the Department of Agriculture  
55 and Consumer Services, and certain state agencies;  
56 requiring the department to submit an evaluation  
57 regarding the technologies and approaches to Mote  
58 Marine Laboratory within a specified time period and  
59 amend regulatory or permitting processes and expedite  
60 regulatory reviews under certain circumstances;  
61 removing the expiration date of the initiative;  
62 providing an effective date.

By Senator Gruters

22-01157A-24

20241360\_\_

A bill to be entitled

An act relating to the Florida Red Tide Mitigation and Technology Development Initiative; amending s. 379.2273, F.S.; requiring the initiative to develop certain deployment technologies and submit a report on the technologies to the Department of Environmental Protection; requiring the department to make certain determinations regarding the technologies within a specified time period; providing that the technologies are deemed approved for use in specified state waters under certain circumstances; extending the expiration date of the initiative; providing appropriations; providing an effective date.

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

Section 1. Present paragraphs (c) and (d) of subsection (2) of section 379.2273, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and subsection (4) of that section is amended, to read:

379.2273 Florida Red Tide Mitigation and Technology Development Initiative; Initiative Technology Advisory Council.-

(2) The Florida Red Tide Mitigation and Technology Development Initiative is established as a partnership between the Fish and Wildlife Research Institute within the commission and Mote Marine Laboratory.

(c) Upon successful completion of science-based laboratory testing of prevention, control, and mitigation approaches and

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

22-01157A-24

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technologies, the initiative shall develop field trial deployment technologies for the approaches and technologies. When the initiative develops a field trial deployment technology, the initiative shall submit a report with its findings to the department. Within 30 business days after receipt of the report, the department shall review the technology and approve, approve with conditions, or deny with explanation the use of the technology in state waters exhibiting red tide bloom concentrations of greater than 10,000 cells per liter. If the department fails to approve, approve with conditions, or deny with explanation a field trial deployment technology within 30 business days after receipt of the report, the technology shall be deemed approved for use in state waters exhibiting red tide bloom concentrations of greater than 10,000 cells per liter.

(4) This section expires June 30, ~~2027~~ 2025.

Section 2. For the 2025-2026 fiscal year and the 2026-2027 fiscal year, the sum of \$2 million is appropriated from the General Revenue Fund to the Fish and Wildlife Conservation Commission for the purpose of implementing s. 329.2273, Florida Statutes.

Section 3. This act shall take effect July 1, 2024.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Committee on Appropriations Committee on Agriculture, Environment, and  
General Government

**Subject:** Committee Agenda Request

**Date:** January 17, 2024

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I respectfully request that **Senate Bill # 1360**, relating to Florida Red Tide Mitigation and Technology Development Initiative, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters".

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Senator Joe Gruters  
Florida Senate, District 22

# APPEARANCE RECORD

SB 1360

Bill Number or Topic

2/20/24

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Ag. Environment + Gen Gov

Appropriations Committee

Amendment Barcode (if applicable)

Name

David Shepp

Phone

863 581-4250

Address

123 South Adams Street

Email

shepp@thesouthern.org.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Mote Marine Laboratory

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](https://www.flsenate.gov)

**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 Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/CS/SB 1624

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Regulated Industries Committee and Senator Collins

SUBJECT: Energy Resources

DATE: February 22, 2024      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Schrader/Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1624 amends several sections of Florida law and creates new statutory provisions relating to energy resources. In summary, the bill:

- Creates limitations on local government regulation of natural gas resiliency and reliability infrastructure.
- Revises energy guidelines for public businesses, deleting requirements relating to the Florida Climate-Friendly Preferred Products List, and state vehicle fuel efficiency.
- Requires the Department of Management Services (DMS) to develop the Florida Humane Preferred Products List to identify certain products that appear to be largely made free from forced labor.
- 
- 
- Adds “development districts” to a provision that prohibits a municipality, county, special district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy or taking any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by utilities, gas districts, natural gas transmission companies, and certain liquefied petroleum gas dealers, dispensers, and cylinder exchange operators.

- Adds “development districts” to a provision that prohibits a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types supplied by the entities above.
- Requires all electric cooperatives and municipal electric utilities to enter into and maintain certain mutual aid agreements and submit an annual attestation to qualify to receive state financial assistance for disaster recovery.
- 
- Permits the Public Service Commission (PSC) to approve upon petition by a public utility, certain electric vehicle (EV) charging programs if the PSC determines that the public utility’s general body of ratepayers, as a whole, will not pay to support recovery of its electric vehicle charging investment by the end of the useful life of the assets dedicated to the electric vehicle charging service.
- Requires the PSC to conduct an annual proceeding to determine prudently incurred natural gas facilities relocation costs for cost recovery by natural gas public utilities through a charge separate from the utility’s base rates.
- Substantially revises legislative intent as it pertains to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. The revisions also provide updated energy policy goals and state policies as they relate to energy resource planning and development.
- Eliminates a requirement that the Department of Agriculture and Consumer Services (DACS), when analyzing the energy data collected and preparing long-range forecasts of energy supply and demand, forecasts contain plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas. Instead, such forecasts must contain an analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in the state. It also revises certain related considerations and assessments.
- Revises the duties of the DACS as it relates to the promotion of the development and use of renewable energy sources. The section deletes a requirement that the DACS establish goals and strategies for increasing the use of renewable energy in the state.
- Repeals the Florida Energy and Climate Protection Act (Renewable Energy and Energy-Efficient Technologies Grants Program), Florida Green Government Grants Act, Energy Economic Zone Pilot Program, and Qualified Energy Conservation Bonds provisions.
- Provides procedures for handling existing applications and contracts relating to the above repealed programs.
- Prohibits the construction, operation, or expansion of offshore wind energy facilities and wind turbines located on real property within one mile of the state’s coastline or on waters of the state.
- Requires the Department of Environmental Protection (DEP) to review federal wind energy lease applications and signify DEP’s approval or objection.
- Increases the minimum length of an intrastate natural gas pipeline that requires certification under the Natural Gas Transmission Pipeline Siting Act from 15 miles to 100 miles.
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- 
- Prohibits homeowners associations from disallowing certain types or fuel sources of energy production and appliances that use such fuels in their governing documents.

- Directs the PSC to conduct an assessment, in consultation with the Department of Emergency Management (DEM), of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. The provision also requires the PSC to submit a report to the Legislature.
- Directs the PSC to study and evaluate, in partnership with public utilities and in consultation with the DEM, the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors (SMRs), to meet the state's electrical power needs, and research means to encourage and foster the installation and use of such technologies at military installations in the state. The provision also requires the PSC to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Directs the Florida Department of Transportation (FDOT), in consultation with the Office of Energy within the DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system. The provision also requires the FDOT to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Makes conforming changes.

The bill may have a significant negative fiscal impact on state expenditures. See Section V., Fiscal Impact Statement.

Except as expressly otherwise provided, the bill takes effect July 1, 2024.

## II. Present Situation:

### Florida Energy Consumption and Generation

Florida is the third-largest energy consuming state; however, it uses less energy per capita than all but six other states. Florida is also the second-largest producer of electricity in the nation (behind Texas). Natural gas is, by far, the largest energy source in Florida, and has been since 2003 when it surpassed coal.<sup>1</sup> As of 2022, the energy sources, as a percentage of all energy sources in Florida, are as follows:

- Natural gas: 69.55 percent
- Nuclear: 11.16
- Coal: 6.40
- Renewables: 5.76
- Other: 5.04
- Firm Inter-Region Interchange: 1.91
- Distillate (i.e. fuel oil/diesel fuel): 0.16
- Residual: 0.01

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<sup>1</sup> United States Energy Information Administration, *Florida Profile Analysis*, Feb. 15, 2024, <https://www.eia.gov/state/analysis.php?sid=FL#:~:text=Solar%20energy%20and%20biomass%20provide,generation%20> (last visited Feb. 20, 2024).

- Non-utility generators: less than 0.01<sup>2</sup>

## Renewable Energy

Section 366.91, F.S., establishes a number of renewable policies for the state. The purpose of these policies, as established in statute, states that it is in the public interest to promote the development of renewable energy resources in this state.<sup>3</sup> Further, the statute is intended to encourage fuel diversification to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourages investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.<sup>4</sup>

The section defines "renewable energy" to mean:

[E]lectrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.<sup>5</sup>

The section defines "biogas" as "a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas,"<sup>6</sup> and "biomass" as "a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas."<sup>7</sup>

## Biofuels

Unlike other renewable energy sources, biomass can be converted directly into a liquid fuel. These fuels, called "biofuels" can be used for transportation fuel and other energy uses. The most common types of biofuels currently in use are ethanol and biodiesel.<sup>8</sup>

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<sup>2</sup> Florida Reliability Coordinating Council, *2023 Regional Load & Resource Plan FRCC-MS-PL-502, Version: 1*, s-18, Jun. 6, 2023 (available at: [https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2023/FRCC\\_RLRP.pdf](https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2023/FRCC_RLRP.pdf)).

<sup>3</sup> Section 366.91(1), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Section 366.91(2)(e), F.S.

<sup>6</sup> Section 366.91(2)(a), F.S.

<sup>7</sup> Section 366.91(2)(b), F.S.

<sup>8</sup> United States Department of Energy, *Biofuel Basics*, <https://www.energy.gov/eere/bioenergy/biofuel-basics#:~:text=The%20two%20most%20common%20types,first%20generation%20of%20biofuel%20technology> (last visited Feb. 1, 2024).



Ethanol is made from various plant material and is an alcohol blending agent mixed with traditional gasoline to reduce emissions. The most common type is E10 (10 percent ethanol and 90 percent gasoline) and it is approved for use in most conventional gasoline powered engines. Some vehicles, called flexible fuel vehicles, are designed to run on E15 (15 percent ethanol and 85 percent gasoline). Approximately 97 percent of gasoline sold in the United States has some amount of ethanol in it. The most common method of producing ethanol is through fermentation, where microorganisms metabolize plant sugars to produce ethanol.<sup>9</sup>

Biodiesel differs from ethanol in that it is meant as a cleaner-burning replacement for conventional (i.e. petroleum-based) diesel fuel. It is derived, generally, from new and used vegetable oils and animal fats. Biodiesel is produced by combining alcohol with fats.<sup>10</sup> Biodiesel is generally blended with petroleum-based diesel for consumption as a vehicle fuel.<sup>11</sup>

Renewable diesel fuel is a growing industry. The fuel, chemically similar to petroleum-based diesel fuel, can be used as a “drop-in” replacement for petroleum-based diesel fuel and can be seamlessly blended, transported, and even co-processed with petroleum-based diesel.<sup>12</sup> The production method for renewable diesel fuel is more complex than biodiesel and most is produced by hydrogenation of triglycerides, a similar process to that used for desulfurization of petroleum diesel. Other methods can also be used for renewable diesel production, including gasification and pyrolysis.<sup>13</sup>

Other biofuels, including renewable heating oil, renewable jet fuel (sustainable aviation fuel, alternative jet fuel, biojet), renewable naphtha, and renewable gasoline are also currently in various stages of development and commercial implementation.<sup>14</sup>

### ***Natural Gas and Renewable Natural Gas***

Natural gas is a fossil energy source which forms beneath the earth’s surface. Natural gas contains many different compounds, the largest of which is methane.<sup>15</sup> Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and hydraulic fracturing, commonly referred to as “fracking.” The term renewable natural gas (RNG) refers to biogas that has been upgraded to use in place of fossil fuel natural gas (i.e. conventional natural gas).<sup>16</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> United States Energy Information Administration, *Biofuels explained*, Jul. 19, 2022, <https://www.eia.gov/energyexplained/biofuels/> (last visited Feb. 1, 2024).

<sup>12</sup> United States Energy Information Administration. *Biofuels explained: Biodiesel, renewable diesel, and other biofuels*, Jul. 29, 2022, <https://www.eia.gov/energyexplained/biofuels/biodiesel-rd-other-basics.php>, (last visited Feb. 1, 2024).

<sup>13</sup> *Id.*

<sup>14</sup> United States Energy Information Administration, *Biofuels explained*, *supra* note 11.

<sup>15</sup> United States Energy Information Administration, *Natural gas explained*, Dec. 27, 2022, <https://www.eia.gov/energyexplained/natural-gas/> (last visited Feb. 1, 2024)

<sup>16</sup> Environmental Protection Agency, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, <https://www.epa.gov/lmop/renewable-natural-gas> (last visited Feb. 1, 2024).

Section 366.91, F.S., identifies sources for producing RNG as a potential source of renewable energy.<sup>17</sup> The section specifically defines renewable natural gas as anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater. Under the definition, such gas may be used as a transportation fuel or for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.<sup>18</sup> Raw biogas has a methane content between 45 and 65 percent.<sup>19</sup> Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content comparable to natural gas and is thus a suitable energy source in applications that require pipeline-quality gas, such as vehicle applications.<sup>20</sup>

RNG meeting certain standards, qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.<sup>21</sup> This program was enacted by Congress in order to reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.<sup>22</sup>

### ***Hydrogen Fuel***

The production of hydrogen involves the separation of the element from other elements in which it occurs. While there are many different sources of hydrogen and methods for producing it as a fuel, the most common methods used currently are steam-methane reforming and electrolysis.<sup>23</sup> Through either method, hydrogen is not an energy source, per se, since it is produced using other energy sources. Rather, produced hydrogen is an energy carrier.<sup>24</sup>

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<sup>17</sup> Section 366.91(2)(e), F.S., defines “renewable energy, in part, as energy produced from biomass. Section 366.91(2)(b), F.S., defines “biomass” in part, as “a power source that is comprised of, but not limited to, combustible residues or gases from... waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.” RNG would be such a combustible gas.

<sup>18</sup> Environmental Protection Agency, *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> United States Department of Energy, *Renewable Natural Gas Production*, [https://afdc.energy.gov/fuels/natural\\_gas\\_renewable.html](https://afdc.energy.gov/fuels/natural_gas_renewable.html) (last visited Feb. 1, 2024).

<sup>21</sup> United States Department of Energy, *Renewable Fuel Standard*, [https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20\(RFS,Act%20of%202007%20\(EIS%20A\)](https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20(RFS,Act%20of%202007%20(EIS%20A)) (last visited: Feb. 1, 2024).

<sup>22</sup> Environmental Protection Agency, *Renewable Fuel Standard Program*, <https://www.epa.gov/renewable-fuel-standard-program> (last visited Feb. 1, 2024).

<sup>23</sup> United States Energy Information Administration, *Hydrogen Explained: Production of Hydrogen*, Jan. 21, 2022, [https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20\(splitting%20water%20with%20electricity.\(last](https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php#:~:text=The%20two%20most%20common%20methods,electrolysis%20(splitting%20water%20with%20electricity.(last) visited Feb. 1, 2024)

<sup>24</sup> International Renewable Energy Agency, *Hydrogen*, available at <https://www.irena.org/Energy-Transition/Technology/Hydrogen> (last visited Feb. 1, 2024).

### ***Steam-Methane Reforming***

The most-widely used method for hydrogen production, which accounts for nearly all commercially-produced hydrogen in the United States, is steam-methane reforming. With steam-methane reforming, hydrogen atoms are separated from carbon atoms in methane using high temperature (1,300-1,800 degrees Fahrenheit) under 3-25 bar pressure<sup>25</sup> in the presence of a catalyst. The end-result of this process is the production of hydrogen, carbon-monoxide, and a small amount of carbon dioxide.<sup>26</sup>

For industrial facilities and petroleum refineries, natural gas is the typical base material from which to produce hydrogen by steam-methane reforming. Biogas and landfill gas is also a base material to produce hydrogen used by several fuel cell power plants in the United States.

### ***Electrolysis***

Electrolysis, in the sense of hydrogen production, means a process where hydrogen is split from water using an electric current. On a large, commercial scale, the process may be referred to as power-to-gas, where power is electricity and gas is hydrogen.<sup>27</sup> This hydrogen is then captured and used or sold as an end product or as a fuel to generate electricity.<sup>28</sup> The electrolysis process itself is emission-free and has no by-products other than hydrogen and oxygen. However, the energy source used to power the electrolysis (which could be from renewables, nuclear, or fossil fuels) may or may not be emission-free or have other byproducts.

### ***Hydrogen Categories***

Recently, to distinguish between the energy sources used to power hydrogen production, hydrogen producers, marketers, government agencies, and others have used a color-coded system. The nine commonly used color categories are detailed below:

- Green: Hydrogen produced by water electrolysis and employing renewable electricity as the fuel source. It is so called because the process itself does not produce emissions.
- Blue: Hydrogen produced from fossil fuels, but the carbon dioxide produced by the process is sequestered underground. Thus, the process is considered carbon neutral.
- Gray: Hydrogen produced by steam-methane reforming and the emissions produced from the burning of fossil fuels in the method are released into the atmosphere.
- Black or Brown: Hydrogen produced from the burning of coal, “black” being from the burning of bituminous coal and “brown” being from the burning of lignite coal. A comparatively large amount of carbon dioxide and carbon monoxide is released into the atmosphere with this type of production.

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<sup>25</sup> One bar equals 14.5 pounds per square inch of pressure. For comparison, at sea level, the average air pressure on Earth is 1.0132 bars. National Oceanic and Atmospheric Administration, *Air Pressure*, <https://www.noaa.gov/jetstream/atmosphere/air-pressure#:~:text=The%20standard%20pressure%20at%20sea,the%20atmosphere%20decreases%20with%20height> (last visited Feb. 1, 2024).

<sup>26</sup> United States Energy Information Administration, *Hydrogen Explained: Production of Hydrogen*, *supra* note 23.

<sup>27</sup> *Id.*

<sup>28</sup> Florida Public Service Commission, *Bill Analysis for SB 1162* (Mar. 14, 2023) (on file with the Senate Regulated Industries Committee).

- Turquoise: This now experimental method of hydrogen production involves the thermal splitting of methane through pyrolysis. Though carbon is formed in this process, it is in a solid state that can be stored and not a carbon dioxide gas.
- Purple: Hydrogen made using nuclear power and heat through the combined chemo thermal electrolysis splitting of water.
- Pink: This is the production of hydrogen through electrolysis where the energy source is electricity from a nuclear power plant.
- Red: Hydrogen produced through high-temperature catalytic splitting of water using nuclear power thermal energy as an energy source.
- White: Naturally-occurring hydrogen.<sup>29</sup>

### ***Transmission and Use of Hydrogen Fuel***

Due to hydrogen's low volumetric energy density, transportation, storage, and final delivery to the point of use, it can have a significant impact on the cost of using hydrogen as a fuel carrier. These factors can lead to inefficiencies that increase the farther hydrogen must be transported before reaching its end use.<sup>30</sup> Thus, currently, most hydrogen is produced in close proximity to its end use.<sup>31</sup> However, technology is in development that may bring these costs down and allow for easier transport and transmission of hydrogen.<sup>32</sup>

The two typical methods for transporting hydrogen fuel currently are via pipeline or by truck through the use of cryogenic liquid tanker trucks or gaseous tube trailers. Pipelines are most popular in areas where demand is high and expected to remain stable or grow. Trucking of hydrogen is used in areas with less demand.<sup>33</sup>

Potential uses for hydrogen are in:<sup>34</sup>

- Industrial uses such as powering oil refineries and powering ammonia, methanol, and steel production. Currently, this is the largest use, by far, for hydrogen.
- Transportation, powering hydrogen-fueled vehicles.
- Buildings where hydrogen can be blended into existing natural gas networks. It is possible currently to blend small amounts of hydrogen in existing natural gas transmission systems with little to no changes to infrastructure, equipment, and appliances.
- Power generation where emerging technology is available to use hydrogen as a medium to store renewable energy, such as solar and wind. Hydrogen and ammonia can be used in gas turbines to increase power system flexibility, and ammonia can be used to reduce emissions from coal-fired power plants.

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<sup>29</sup> Bulletin H2, *Hydrogen Colours Codes*, available at <https://www.h2bulletin.com/knowledge/hydrogen-colours-codes/> (last visited: Jan. 25, 2024).

<sup>30</sup> United States Office of Energy Efficiency and Renewable Energy, *Hydrogen Delivery*, available at <https://www.energy.gov/eere/fuelcells/hydrogen-delivery> (last visited: Feb. 1, 2024).

<sup>31</sup> Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 28.

<sup>32</sup> See Florida Public Service Commission, *Bill Analysis for SB 1162*, *supra* note 2828, which describes potential new technologies that can overcome the transportation and transmission cost hurdle for hydrogen.

<sup>33</sup> United States Office of Energy Efficiency and Renewable Energy, *supra* note 30.

<sup>34</sup> International Renewable Energy Agency, *supra* note 24.

## Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.<sup>35</sup> The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.<sup>36</sup> In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.<sup>37</sup>

## Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid<sup>38</sup> and may order the addition or repair of infrastructure as necessary.<sup>39</sup> The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities<sup>40</sup> (called “public utilities” under ch. 366, F.S.).<sup>41</sup> However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.<sup>42</sup> Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative’s membership.

## *Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida*

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state’s electric utility customers.<sup>43</sup> Florida also has 27 municipally-owned gas utilities and four special gas districts.<sup>44</sup>

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<sup>35</sup> Section 350.001, F.S.

<sup>36</sup> See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Feb. 1, 2024).

<sup>37</sup> Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Feb. 1, 2024).

<sup>38</sup> Section 366.04(5) and (6), F.S.

<sup>39</sup> Section 366.05(1) and (8), F.S.

<sup>40</sup> Section 366.05, F.S.

<sup>41</sup> Section 366.02(8), F.S.

<sup>42</sup> Florida Public Service Commission, *About the PSC*, *supra* note 37.

<sup>43</sup> Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Feb. 1, 2024).

<sup>44</sup> Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf>). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

### ***Rural Electric Cooperatives in Florida***

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.<sup>45</sup> These cooperatives operate in 57 of Florida's 67 counties and have more than 2.7 million customers.<sup>46</sup> Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida's total electric utility customers, but their service territory covers 60 percent of Florida's total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.<sup>47</sup>

### ***Public Electric and Gas Utilities in Florida***

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).<sup>48</sup> In addition, there are eight investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, Florida Division of Chesapeake Utilities, FPUC, FPUC-Fort Meade Division, FPUC-Indiantown Division, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company. Of these eight gas IOUs, five engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, FPUC-Fort Meade Division, Peoples Gas System, and St. Joe Natural Gas Company. Florida Division of Chesapeake Utilities, FPUC-Indiantown Division, and Sebring Gas System are only engaged in firm transportation service.<sup>49</sup>

Electric IOU and Gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.<sup>50</sup>

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.<sup>51</sup>

### ***Natural Gas Transmission***

Natural gas transmission companies are regulated by the PSC under ch. 368, F.S. The term "natural gas transmission company," as defined in s. 368.103, F.S., "means any person owning or operating for compensation facilities located wholly within this state for the transmission or delivery for sale of natural gas." The term does not include "any person that owns or operates facilities primarily for the local distribution of natural gas or that is subject to the jurisdiction of

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<sup>45</sup> Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Feb 1, 2024).

<sup>46</sup> Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Feb. 1, 2024).

<sup>47</sup> *Id.*

<sup>48</sup> Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, *supra* note 44, at 5.

<sup>49</sup> *Id.* at 14. Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

<sup>50</sup> PSC, *2022 Annual Report*, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2022.pdf>) (last visited Feb. 1, 2024).

<sup>51</sup> *Id.*

the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. ss. 717 et seq., or any municipalities or any agency thereof, or a special district created by special act to distribute natural gas.” Section 364.104, F.S., authorizes the PSC to “fix and regulate rates and services of natural gas transmission companies, including, without limitation, rules and regulations for:”

- Determining customers and services classifications;
- Determining rate applicability; and
- “Ensuring that the provision (including access to transmission) or abandonment of service by a natural gas transmission company is not unreasonably preferential, prejudicial, or unduly discriminatory.”

Section 368.105, F.S., provides the procedures for the PSC to set rates and services requirements for natural gas transmission companies in Florida.

Under chapter 368, F.S., the PSC is authorized to inspect intrastate natural gas systems to ensure compliance with rules and regulations regarding safety standards.<sup>52</sup> Currently, Florida has three major pipelines: Florida Gas Transmission Company, Gulfstream Natural Gas System, and Sabal Trail Interstate Pipeline. The state also has two minor pipelines: Gulf South Pipeline Company and Southern Natural Gas.<sup>53</sup>

### ***Experimental and Transitional Rates***

Section 366.075, F.S., authorizes the PSC to approve experimental or transitional rates for the purpose of encouraging energy conservation or efficiency. This provision is used by the PSC to allow electric and natural gas utilities under its rate-regulatory jurisdiction to conduct limited scope pilot programs.

Such rates must be limited in geographic area and be for a limited period of time. The PSC may approve the area used in testing experimental rates and must specify in the order setting those rates the area that will be affected by those rates. The PSC can extend this time period “if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates.”

### **Mutual Aid Agreements for Electric Utilities**

Florida law requires electric utilities to take steps to minimize outages during major weather events. Electric IOUs are required to file a transmission and distribution storm protection plan, for approval by the PSC that covers their immediate 10-year planning period. This plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. This plan is updated every three years by the utility.<sup>54</sup>

For municipal electric utilities and rural electric cooperatives, the PSC rule requires the utilities to submit, every three years, a report as to the extent that their “construction standards, policies,

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<sup>52</sup> Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, *supra* note 44, at 13.

<sup>53</sup> *Id.*

<sup>54</sup> Section 366.96, F.S.

practices, and procedures are designed to address the ability of transmission and distribution facilities to mitigate damage caused by extreme weather.”<sup>55</sup>

During routine outage events, electric utilities will generally use their own crews or contractors to repair damage and restore power. However, during major natural disasters (such as a tropical weather system, severe winter weather, or wildfire), the task of restoring power is typically so considerable that utilities will need outside assistance to fully restore power in a timely manner.<sup>56</sup> Mutual aid agreements allow utilities to voluntarily form partnerships among utilities in a region to obtain this assistance at agreed-upon terms. These agreements allow utilities to avoid having to keep large numbers of emergency crews on staff all of the time. The types of resources shared during an assistance response include utility employees and contractors, specialized utility and construction equipment, supplies, and information.<sup>57</sup>

Many of the mutual aid agreements in the United States among electric IOUs are managed by one of seven regional mutual assistance groups (RMAGs).<sup>58</sup> RMAGs “facilitate the process of identifying available restoration workers and help companies coordinate the logistics and personnel involved in restoration efforts.”<sup>59</sup> The RMAG for Florida is the Southeastern Electric Exchange RMAG (SEE RMAG). The SEE RMAG has members in all the Gulf Coast states, the East Coast states (from Florida up to New Jersey), Pennsylvania, Ohio, Indiana, Illinois, Kentucky, and West Virginia.<sup>60</sup> Though membership in a mutual aid agreement is not required under Florida law for any electric utility, all four of Florida’s electric IOUs are members of the SEE RMAG.

Municipal utilities and rural electric cooperatives have their own mutual assistance programs. The American Public Power Association (APPA), together with state and regional public power utilities and organizations, coordinates a network of mutual aid agreements for public power (called the Mutual Aid Network).<sup>61</sup> The Mutual Aid Network connects over 2,000 organizations to give or receive assistance during major power outages,<sup>62</sup> and municipal electric utilities and rural electric cooperatives can join through executing a joint APPA/National Rural Electric Cooperative Association Agreement.<sup>63</sup> Of Florida’s 33 municipal electric utilities, 28 are part of

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<sup>55</sup> Fla. Admin. Code R. 25-6.0343(3).

<sup>56</sup> Miles Keogh and Sharon Thomas, National Association of Regulatory Commissioners, *Regional Mutual Assistance Groups: A Primer*, Nov. 2015 (available at: <https://pubs.naruc.org/pub/536E475E-2354-D714-5130-C13478337428>)(last visited Feb. 21, 2024).

<sup>57</sup> *Id.*

<sup>58</sup> PSC, *Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, at 24-25, (available at <https://www.floridapsc.com/pscfiles/websitefiles/PDF/Publications/Reports/ElectricGas//UtilityHurricanePreparednessRestorationActions2018.pdf>)(last visited Feb. 22, 2024)

<sup>59</sup> Edison Electric Institute, *Understanding the Electric Power Industry’s Response and Restoration Process*, Oct. 2016 (available at: [https://www.eei.org/-/media/Project/EEI/Documents/Issues-and-Policy/Reliability-and-Emergency-Response/MA\\_101.pdf](https://www.eei.org/-/media/Project/EEI/Documents/Issues-and-Policy/Reliability-and-Emergency-Response/MA_101.pdf))(last visited Feb. 22, 2024).

<sup>60</sup> Southeastern Electric Exchange, *About SEE*, <https://www.theexchange.org/aboutus.html> (last visited Feb. 22, 2024).

<sup>61</sup> PSC, *Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, at 25, *supra* note 58.

<sup>62</sup> APPA, *Mutual Aid and Emergency Response*, <https://www.publicpower.org/mutual-aid-and-emergency-response> (last visited Feb. 22, 2024).

<sup>63</sup> APPA, *APPA-NRECA Mutual Aid Agreement*, [https://www.publicpower.org/system/files/documents/APPA-NRECA%20Mutual%20Aid%20Agreement%20Updated\\_0.pdf](https://www.publicpower.org/system/files/documents/APPA-NRECA%20Mutual%20Aid%20Agreement%20Updated_0.pdf) (last visited Feb 22, 2024).



the Mutual Aid Network;<sup>64</sup> and 15 of Florida's 16 distribution rural electric cooperatives are part of the Mutual Aid Network.<sup>65</sup>

### **Preemption over Utility Service Restrictions**

Section 366.032, F.S., provides that “a municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied” by the following:<sup>66</sup>

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Category I liquefied petroleum gas dealers, category II liquefied petroleum gas dispensers, or category III liquefied petroleum gas cylinder exchange operator as defined in s. 527.01, F.S.

Section 366.032(2), F.S., also prohibits (except to enforce the Florida Building Code and Florida Fire Prevention Code) a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types used, delivered, converted, or supplied by the entities above.

The section also provides that it acts retroactively to any provision that existed before its enactment in 2021.

### **Electric Vehicles**

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, “electric-drive vehicles,” as referring collectively to hybrid electric vehicles (HEV), plug-in hybrid electric vehicles (PHEV), and all-electric vehicles (EV).<sup>67</sup> According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor using energy stored in a battery. The battery is charged through regenerative braking and the internal combustion engine, not by plugging in to charge.

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<sup>64</sup> APPA, *FEMA Mutual Aid Agreement-Region IV*, <https://www.publicpower.org/fema-mutual-aid-agreement-region-iv> (last visited Feb. 22, 2024).

<sup>65</sup> APPA, *NRECA Members*, <https://www.publicpower.org/system/files/documents/Cooperative%20Mutual%20Aid%20Signatories%20from%20NRECA.pdf> (last visited Feb. 22, 2024).

<sup>66</sup> To the extent of serving the customers they are authorized to serve.

<sup>67</sup> U.S. Dept. Energy, AFDC, *Hybrid and Plug-In Electric Vehicles*, <https://afdc.energy.gov/vehicles/electric.html> (last visited Feb. 22, 2024).

- PHEVs are powered by an internal combustion engine and an electric motor using energy stored in a battery. They can operate in all-electric mode through a larger battery, which can be plugged in to an electric power source to charge. Most can travel between 20 and 40 miles on electricity alone, and then will operate solely on gasoline, similar to a conventional hybrid.

EVs use a battery to store the electric energy that is charged by plugging the vehicle into charging equipment. EVs always operate in all-electric mode and have typical driving ranges from 150 to 400 miles.<sup>68</sup>

The primary difference between an EV and a traditional internal combustion engine (ICE) vehicle lies in their drive trains. The main components of an EV power train are its battery, a motor, and ancillary systems. The main components of an ICE power train are its liquid fuel storage, combustion chambers and related cooling system, transmission, and an exhaust system.<sup>69</sup>

For purposes of vehicle registration, Florida law currently defines the term “electric vehicle” to mean “a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.”<sup>70</sup>

Increased interest in EVs has been driven by higher gas prices and greenhouse gas emission concerns.<sup>71</sup> However, limited EV range (and the related range anxiety<sup>72</sup>), limitations in charging infrastructure, charging speed as it relates to time to refuel a traditional gasoline vehicle, and EV cost are some of the factors negatively impacting EV adoption.<sup>73</sup>

### ***Electric Vehicle Charging Stations***

EVs need access to charging stations. For most EV users, charging starts at home or at fleet facilities. Charging stations at other commonly-visited locations, however, such as work, public destinations, and along roadways, can offer more flexible fueling charging opportunities. The growth of charging stations has made longer distance travel with EVs more feasible and has helped grow the market for EVs.<sup>74</sup>

There are three general types of chargers:

- Level 1: Level 1 chargers use a standard 120-volt home outlet (i.e. a standard wall socket). Often EV automakers will include with the vehicle a charging cord that can plug directly into

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<sup>68</sup> *Id.*

<sup>69</sup> Brandon S. Tracy, Cong. Research Serv., R47227, *Critical Minerals in Electric Vehicle Batteries*, (2022) (available at <https://crsreports.congress.gov/product/pdf/R/R47227>).

<sup>70</sup> Section 320.01(36), F.S.

<sup>71</sup> *Id.*

<sup>72</sup> Range anxiety is the feeling an EV driver has when the battery charge is low, and the usual sources of electricity are unavailable, striking a fear of being stranded. J.D. Power, *What is Range Anxiety with Electric Vehicles?*, Nov. 3, 2020, <https://www.jdpower.com/cars/shopping-guides/what-is-range-anxiety-with-electric-vehicles> (last visited Feb. 1, 2024).

<sup>73</sup> EV Connect, *10 Factors That Affect Widespread EV Adoption*, <https://www.evconnect.com/blog/10-factors-affecting-ev-adoption> (last visited Feb. 1, 2024).

<sup>74</sup> U.S. Dept. of Energy, *Developing Infrastructure to Charge Electric Vehicles*, [https://afdc.energy.gov/fuels/electricity\\_infrastructure.html](https://afdc.energy.gov/fuels/electricity_infrastructure.html) (Feb. 1, 2024).

a 120-volt outlet. These are the slowest types of chargers and, on average, provide about five miles of driving distance per hour of charging.

- Level 2: Level 2 chargers use a 240-volt outlet. Such outlets are often used for larger home appliances with greater power needs, such as electric ovens and clothes dryers. To use such chargers at home, homeowners may need a professional to install a 240-volt outlet in a vehicle-accessible location and additional equipment installation may be necessary. Level 2 chargers can also be found in some public charging stations. Level two chargers, on average, provide about 25 miles of driving distance per hour of charging.
- Direct Charge Fast Chargers (DCFC): DCFC are the fastest types of chargers. These are not typically not found in homes, but are available at public charging stations and along roadways and highway routes. These types of chargers provide approximately 100 to 300 miles of driving for a 30-minute charge; some DCFC can charge even faster than this.<sup>75</sup>

### ***EV Charging in Florida***

Since the current regulatory structure of electric utilities in Florida includes exclusive service territories, the sale of electricity to retail, or end-use customers by a third party is not permitted.<sup>76</sup> The Florida Legislature created an exemption for electric vehicle charging in 2012, under s. 366.94(4), F.S., declaring that the provision of electric vehicle charging to the public by a non-utility is not considered a retail sale of electricity under ch. 366, F.S. The rates, terms, and conditions of EV charging by a non-utility are not subject to PSC regulation.<sup>77</sup>

Statistics provided by the U.S. Department of Energy show that Florida has the third largest EV charging infrastructure in the country, behind California and New York.<sup>78</sup> As of January 14, 2022, Florida has the following numbers of charging infrastructure:

- Station locations – 3,260.
- EV supply equipment ports – 9,072.
- Level 1 chargers – 24.
- Level 2 chargers – 6,843.
- DCFC – 2,205.

### **Natural Gas Transmission Pipeline Siting Act**

Part VIII of ch. 403, F.S., is the Natural Gas Transmission Pipeline Siting Act (NGTPSA), and is Florida's process for licensing the construction and operation of natural gas pipelines in the state. The Federal Energy Regulatory Commission regulates interstate natural gas transmission and reviews proposals to build interstate natural gas pipelines. The Florida Department of Environmental Protection's (DEP's) role regarding pipelines is to handle in-state environmental regulatory matters for wetlands crossings, discharge of hydrostatic test waters and other

<sup>75</sup> Environmental Protection Agency, *Plug-in Electric Vehicle Charging: The Basics*, <https://www.epa.gov/greenvehicles/plug-electric-vehicle-charging-basics> (Feb. 1, 2024).

<sup>76</sup> FDOT, *EV Infrastructure Master Plan* (July 2021), p. 16, <https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/fto/fdotevmp.pdf> (last visited Feb 1, 2024).

<sup>77</sup> Section 366.94(1), F.S.

<sup>78</sup> United States Department of Energy, *Alternative Fuels Data Center*, <https://afdc.energy.gov/> (last visited Feb. 1, 2024).

applicable areas.<sup>79</sup> Under s. 403.9422, F.S., the PSC also has the responsibility to determine the need for a proposed natural gas pipeline regulated by NGTPSA and issue certificates of need as appropriate.

Section 403.9405(2), F.S., provides that the NGTPSA does not apply to:

- Natural gas transmission pipelines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification of that pipeline;
- Natural gas transmission pipelines for which a certificate of public convenience and necessity has been issued under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a natural gas transmission pipeline certified as an associated facility to an electrical power plant pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518, F.S., unless the applicant elects to apply for certification of that pipeline; and
- Natural gas transmission pipelines that are owned or operated by a municipality or any agency thereof, by any person primarily for the local distribution of natural gas, or by a special district created by special act to distribute natural gas, unless the applicant elects to apply for certification of that pipeline.

## Nuclear Power

Nuclear power plants work, in a way, similarly to any other turbine-based power plant. In turbine-based power plants a moving fluid—water, steam, combustion gases, or even air—pushes blades mounted on a rotor. The force of the moving liquid spins the shaft of a generator. That generator then converts the kinetic energy of the spinning rotor to electrical energy. Types of turbines include steam, combustion (i.e. gas), hydroelectric, and wind.<sup>80</sup>

Nuclear power plants work the same way, in that steam is used to spin a turbine to produce electricity. The unique part of a nuclear power plant is how that steam is produced. In a nuclear power plant, heat is used to make steam, and this heat is produced by a controlled fission nuclear reaction.<sup>81</sup>

In a traditional nuclear power plant, uranium, which has been processed into small ceramic pellets and stacked together in a sealed metal tube (called a fuel rod), is the fuel source. Fuel rods are bundled together (typically in bundles of more than 200 rods) to form a fuel assembly. Reactor cores are generally made up of around 200 assemblies, depending on power level. In the reactor, fuel rods are immersed in water, which acts as a coolant and moderator. Control rods are then inserted into the reactor core to reduce the nuclear reaction or removed to increase the nuclear reaction. This reaction creates heat to turn water into the steam that fuels the turbine.

There are over 400 commercial reactors worldwide, including 93 in the United States.

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<sup>79</sup> Florida Department of Environmental Protection, *Natural Gas Pipeline Siting Act*, <https://floridadep.gov/water/siting-coordination-office/content/natural-gas-pipeline-siting-act> (last visited Feb. 1, 2024).

<sup>80</sup> United States Energy Information Administration, *Electricity Explained*, <https://www.eia.gov/energyexplained/electricity/how-electricity-is-generated.php> (last visited Feb. 1, 2024).

<sup>81</sup> United States Department of Energy, *NUCLEAR 101: How Does a Nuclear Reactor Work?*, <https://www.energy.gov/ne/articles/nuclear-101-how-does-nuclear-reactor-work> (last visited Feb. 1, 2024).

### ***Advanced Small Modular Reactors***

Advanced small modular reactors (SMRs) are currently under development in the United States. SMRs differ from traditional large nuclear power plants—which can take over a decade to build between planning, regulatory approval, and construction<sup>82</sup>—in that they are made in factories and transported to sites ready to “plug and play” upon arrival. This reduces both capital costs and construction times. The smaller size of these reactors also makes them ideal for smaller electric grids and other locations where a large nuclear power plant is not feasible.<sup>83</sup>

### ***Advanced Reactor Technologies***

The Office of Nuclear Energy’s Office of Advanced of Advanced Reactor Technologies (ART) sponsors research, development, and deployment of emerging nuclear reactor technologies. While the technologies are varied, ART’s main areas of focus currently are:

- Developing assessment methods for evaluating advanced SMR technologies and characteristics;
- Developing and testing of materials, fuels and fabrication techniques;
- Resolving key regulatory issues identified by Nuclear Regulatory Commission and the nuclear industry; and
- Developing advanced instrumentation and controls and human-machine interfaces.<sup>84</sup>

### **Wind Energy**

Wind energy is a form of renewable energy where wind is used to turn blades connected to a generator just downwind of the blades in the head (or nacelle) of a wind turbine. The spinning of this generator produces energy which can be used for specific needs or to provide power to the electric grid. A typical 2.8 megawatt, utility-scale wind turbine can produce enough electricity to power approximately 100,000 homes.<sup>85</sup> Wind power is the U.S.’s largest source of renewable energy;<sup>86</sup> however, its deployment in Florida is extremely limited. As of 2022, wind energy represented 0.38 percent of the total energy sources used in Florida;<sup>87</sup> none at the utility-scale. According to the United States Energy Information Administration, Florida does not have significant wind energy resources, onshore or offshore, and the state has no utility-scale-wind-powered generating capacity.<sup>88</sup>

Good places for wind turbines are where the annual average wind speed is nine miles per hour (or four meters per second) for small wind turbines and 13 miles per hour (or 5.8 meters per second) for utility scale. Favorable sites for development include tops of smooth, rounded hills; open plains and water; and mountain gaps that funnel and intensify wind—and wind speeds go

<sup>82</sup> United States Energy Information Administration, *Nuclear explained*, <https://www.eia.gov/energyexplained/nuclear/us-nuclear-industry.php> (last visited Feb. 1, 2024).

<sup>83</sup> United States Department of Energy, Office of Nuclear Energy, *Nuclear Reactor Technologies*, <https://www.energy.gov/ne/nuclear-reactor-technologies> (last visited Feb. 1, 2024).

<sup>84</sup> United States Department of Energy, Office of Nuclear Energy, *Advanced Reactor Technology*, <https://www.energy.gov/ne/advanced-reactor-technologies> (last visited Feb. 1, 2024).

<sup>85</sup> United States Office of Energy Efficiency and Reliability, *What is Wind Power*, <https://windexchange.energy.gov/what-is-wind> (last visited Feb. 22, 2024).

<sup>86</sup> *Id.*

<sup>87</sup> Florida Reliability Coordinating Council, *supra* note 2.

<sup>88</sup> United States Energy Information Administration, *Florida Profile Analysis*, *supra* note 1.

up with increasing elevation.<sup>89</sup> Florida's lower wind speed (like much of the rest of the southeast U.S. where there is also little wind energy development) and flat topography limit the viability of wind energy production in the states.

Offshore wind is the newest application of wind energy. Offshore wind involves placing wind turbines over bodies of water where wind speeds are generally higher and more constant.<sup>90</sup> In depths of less than 60 meters, turbines can be fixed to the bottom of a body of water. For deeper than 60 meters, turbines are floated, tethered to the floor of the body of water.<sup>91</sup> These turbines then use undersea cables to transmit electricity to the grid.<sup>92</sup>

### Customer-Owned Renewable Generation

Section 366.91(2)(c), F.S., defines “customer-owned renewable generation” as “an electric generating system located on a customer’s premises that is primarily intended to offset part or all of the customer’s electricity requirements with renewable energy.” Under the traditional utility model, an electric utility would produce (or purchase at wholesale) energy which it, in turn, would provide to customers to power their homes and businesses through its energy grid. However, with the advent of technologies like electric vehicles, rooftop solar systems, battery storage systems, and smart appliances, customers are now able to provide services to support grid operations.<sup>93</sup>

Customer-owned generation, such as rooftop solar and other small-scale distributed energy resources (DERs), offer a number of benefits to both customers and utilities, including:

- Reduction in reliance on the centralized grid which can increase energy resilience in times of power-interruption in times such as extreme weather events;
- Supplying affordable electricity to customers; and
- Supporting decarbonization efforts.<sup>94</sup>

Despite its benefits, DERs can present challenges for electric utilities. Many of the electric grids today were designed, originally, for the 20<sup>th</sup> century where distributed energy generation was comparatively small or non-existent.<sup>95</sup> The grid was traditionally designed for centralized power

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<sup>89</sup> United States Energy Information Administration, *Wind Explained*, Apr. 20, 2023, <https://www.eia.gov/energyexplained/wind/where-wind-power-is-harnessed.php> (last visited Feb. 22, 2024).

<sup>90</sup> American Geosciences Institute, *What are the advantages and disadvantages of offshore wind farms?*, <https://www.americangeosciences.org/critical-issues/faq/what-are-advantages-and-disadvantages-offshore-wind-farms> (last visited Feb. 22, 2024).

<sup>91</sup> United States Office of Energy Efficiency and Reliability, *What is Wind Power*, *supra* note 855.

<sup>92</sup> United States Energy Information Administration, *Top 10 Things You Didn't Know About Offshore Wind Energy*, <https://www.energy.gov/eere/wind/articles/top-10-things-you-didnt-know-about-offshore-wind-energy> (last visited Feb. 22, 2024).

<sup>93</sup> Utility Dive, *Consumers as partners: The evolving utility business model*, Jan. 17, 2023, <https://www.utilitydive.com/spons/consumers-as-partners-the-evolving-utility-business-model/640195/> (last visited Feb. 1, 2024).

<sup>94</sup> International Energy Agency, *Executive summary: Unlocking the Potential of Distributed Energy Resources*, <https://www.iea.org/reports/unlocking-the-potential-of-distributed-energy-resources/executive-summary> (last visited Feb. 1, 2024).

<sup>95</sup> *Id.*

generation and, primarily, a one-way power flow.<sup>96</sup> Greater system flexibility is needed where inputs of power may not be as predicable or controllable by the utilities themselves. The challenges for many grids include:

- The complexity of integrating a wide variety of highly-distributed energy sources.
- Variability of power production as wind and solar are not “always on” type of energy production methods, as this can present challenges in effective energy storage and management, reliability, and resilience.
- DERs can significantly influence electricity demand patterns, sometimes unpredictably. This can create issues with demand response and electricity load management.
- The wide deployment of DERs and smart technology has raised data privacy and security concerns as these devices integrate with the grid.<sup>97</sup>

Smart demand response programs and load management strategies can help mitigate or reduce these issues.<sup>98</sup>

### **Climate Friendly Public Business**

Section 286.29, F.S., requires state agencies to follow certain procedures to reduce greenhouse gas emissions in conducting public business. The section requires that state agencies:

- Consult with the “Florida Climate-Friendly Preferred Products List” produced by the Department of Management Services (DMS),<sup>99</sup> in procuring products from state term contracts.<sup>100</sup> If the price is comparable, they must procure such products.<sup>101</sup>
- Contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.<sup>102,103</sup>
- Ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.<sup>104</sup>
- When state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan that such vehicles are selected for greatest fuel efficiency available for a given use class when fuel economy data is available.<sup>105</sup>

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<sup>96</sup> Dynamic Ratings, *What are Distributed Energy Resources*, <https://www.dynamicratings.com/solutions/smart-infrastructure-solutions/distributed-energy-resources/> (Feb 1, 2024).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> The DMS keeps a Florida Climate-Friendly Preferred Products List at [https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_contracts\\_and\\_agreements/florida\\_climate\\_friendly\\_preferred\\_products\\_list](https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list), (last visited Feb. 1, 2024).

<sup>100</sup> Section 286.29(1), F.S.

<sup>101</sup> *Id.*

<sup>102</sup> The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida’s natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) communication and education with customers, employees, and the public; (2) waste reduction, reuse and recycling; (3) water conservation; (4) energy efficiency; and (5) indoor air quality. Florida Department of Environmental Protection, *Green Lodging*, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (Last visited Feb. 1, 2024).

<sup>103</sup> Section 286.29(2), F.S.

<sup>104</sup> Section 286.29(3), F.S.

<sup>105</sup> Section 286.29(4), F.S.

- Use ethanol and biodiesel blended fuels when available.<sup>106</sup>
- Procure biofuels for fleet, to the greatest extent practicable, if the agency administers central fueling operations.<sup>107</sup>

### **Department of Agriculture and Consumer Services**

The Department of Agriculture and Consumer Services (DACS) is a state agency created by s. 20.14, F.S., and is headed by an elected Commissioner of Agriculture—who is also designated by the Florida Constitution as one of the three members of the Florida cabinet.<sup>108</sup> The DACS’s responsibilities are wide-ranging, however, in general, they are to:

- Support and promote Florida agriculture;
- Protect the environment;
- Safeguard consumers; and
- Ensure the safety and wholesomeness of food.<sup>109</sup>

### ***Energy Planning and Development***

Section 377.601, F.S., provides the legislative intent in regards to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. The section states that the legislature finds that:

[T]he state’s energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida’s communities more resilient and less vulnerable to these impacts. In focusing the government’s policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida’s energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.

Relatedly, s. 377.601(2), F.S., provides that it is the policy of the state to:

- Develop and promote the effective use of energy, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible;

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<sup>106</sup> Section 286.29(5), F.S.

<sup>107</sup> *Id.*

<sup>108</sup> FLA. CONST. art. IV, s. 4.

<sup>109</sup> Florida Department of Agriculture and Consumer Services, *About Us*, <https://www.fdacs.gov/About-Us> (last visited Feb. 1, 2024).



- Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions;
- Include energy considerations in all state, regional, and local planning;
- Utilize and manage effectively energy resources used within state agencies;
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs;
- Include the full participation of citizens in the development and implementation of energy programs;
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible;
- Promote energy education and the public dissemination of information on energy and its environmental, economic, and social impact;
- Encourage the research, development, demonstration, and application of alternative energy resources, particularly renewable energy resources;
- Consider in its decision-making, the social, economic, and environmental impacts of energy-related activities, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized; and
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within Florida.

Section 377.6015, F.S.,<sup>110</sup> provides the role of the DACS in the state's energy resource planning and development. The section provides that the DACS may employ staff and counsel as needed in the performance of its duties, prosecute and defend legal actions in its own name, and form advisory groups consisting of members of the public to provide information on specific issues.

The section also requires the DACS to:

- Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program under s. 377.804, F.S.;
- Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant;
- Administer the Florida Green Government Grants Act pursuant to s. 377.808, F.S., and set annual priorities for grants;
- Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608, F.S.;
- Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804, F.S.;
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions;
- Be a party in the proceedings to adopt goals and submit comments to the PSC pursuant to s. 366.82, F.S., which requires the PSC to adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems; and

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<sup>110</sup> Section 377.703, F.S., also provides an extensive list of the DACS functions regarding energy supply and demand.

- Adopt rules pursuant to ch. 120, F.S., in order to implement all powers and duties described in the section.

### **Florida Renewable Energy and Green Government Programs**

Part III of ch. 377, F.S., provides the state’s renewable energy and green government programs, including the Florida Energy and Climate Protection Act in ss. 377.801-377.804, F.S.

The purpose of the Florida Energy and Climate Protection Act is to “provide incentives for Florida’s citizens, businesses, school districts, and local governments to take action to diversify the state’s energy supplies, reduce dependence on foreign oil, and mitigate the effects of climate change by providing funding for activities designed to achieve these goals.” The act’s grant programs “are intended to stimulate capital investment in and enhance the market for renewable energy technologies and technologies intended to diversify Florida’s energy supplies, reduce dependence on foreign oil, and combat or limit climate change impacts.”<sup>111</sup>

The grants provided under the act, as part of the Renewable Energy and Energy-Efficient Technologies Grants Program administered by the DACS, “provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings”<sup>112</sup> Grants under the program may be provided to municipalities and county governments, established for-profit companies licensed to do business in Florida, universities and colleges in the state, utilities located and operating within the state, not-for-profit organizations, and other qualified persons as determined by the DACS.

Part III of ch. 377, F.S., also includes additional programs not under the Florida Energy and Climate Protection Act:

- The energy and conservation clearinghouse which develops a clearinghouse of information regarding cost savings associated with various energy efficiency and conservation measures.<sup>113</sup>
- The Florida Green Governments Grant Act which provides grants to assist local governments in the development and implementation of programs that achieve green standards.<sup>114</sup>
- The Energy Economic Zone Pilot Program to develop “a model to help communities cultivate green economic development, encourage renewable electric energy generation, manufacture products that contribute to energy conservation and green jobs, and further implement chapter 2008-191, Laws of Florida, relative to discouraging sprawl and developing energy-efficient land use patterns and greenhouse gas reduction strategies.”<sup>115</sup>
- The Natural Gas Fuel Fleet Vehicle Rebate Program which provides rebates for eligible expenses relating to investments in in the conversion, purchase of a natural gas fleet vehicles.<sup>116</sup>

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<sup>111</sup> Section 377.802, F.S.

<sup>112</sup> Section 377.804, F.S.

<sup>113</sup> Section 377.805, F.S.

<sup>114</sup> Section 377.808, F.S.

<sup>115</sup> Section 377.809, F.S.

<sup>116</sup> Section 377.810, F.S.

- The Municipal Solid Waste-to-Energy program which provides grants to” municipal solid waste-to-energy facilities to incentivize the production and sale of energy from municipal solid waste-to-energy facilities while also reducing the amount of waste that would otherwise be disposed of in a landfill.”<sup>117</sup>
- A program where the DACS is authorized to post information on its website information about the alternative fueling stations or electric vehicle charging stations available in the state.<sup>118</sup>
- A program operated by Office of Energy within the DACS for allocating or reallocating the qualified energy conservation bond volume limitation provided by 26 U.S.C. s. 54D.<sup>119</sup>

### Acts of Destruction against Energy Infrastructure

The National Conference of State Legislatures (NCSL) suggests that states should be aware of and be prepared for actual physical threats perpetrated by humans to energy infrastructure.<sup>120</sup> The U.S. Department of Energy’s annual summary of Electric Emergency Incident and Disturbance Reports indicates at least 25 reports were filed as actual physical attacks in electric utilities perpetrated by humans in 2022, compared to six attacks in 2021.<sup>121</sup>

Cyber-attacks are also a growing threat to energy infrastructure. The growing reliance on digital technology to better utility infrastructure and business operations in general, has increased the exposure of these industries to cyber threats.<sup>122</sup> The annual summary of Electric Emergency Incident and Disturbance Reports indicated six cyber-related events in 2022, compared to seven for 2021.<sup>123</sup> However, according to the International Energy Agency, the publicly available information available on such cyber-attacks is limited due to under-reporting and lack of detection, and there is evidence that attacks have been growing rapidly since 2018.<sup>124</sup>

### Homeowners’ Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners’ associations. These

<sup>117</sup> Section 377.814, F.S.

<sup>118</sup> Section 377.815, F.S.

<sup>119</sup> Section 377.816, F.S. Qualified energy conservation bonds (QECBs) were created in the federal 2008 Energy Improvement and Extension Act. The purpose of the bonds were to federally fund states, territories, local governments, and tribal governments to issue QECBs to finance renewable energy and efficiency projects. United States Department of Energy, *Qualified Energy Conservation Bonds*, Aug. 2016 (available at: <https://www.energy.gov/sites/prod/files/2017/04/f34/qecbpaper0816.pdf>) (last visited Feb. 1, 2024). 26 U.S.C. s. 54D was repealed by Pub.L. 115-97, Title I, s. 13404(a), effective Dec. 22, 2017.

<sup>120</sup> The National Conference of State Legislatures, *Human-Driven Physical Threats to Energy Infrastructure*, updated May 22, 2023, available at [www.ncsl.org/energy/human-driven-physical-threats-to-energy-infrastructure](http://www.ncsl.org/energy/human-driven-physical-threats-to-energy-infrastructure) (last visited Feb. 1, 2024).

<sup>121</sup> *Id.*; U.S. Department of Energy, *Office of Cybersecurity, Energy Security, & Emergency Response, Electric Disturbance Events (OE-417) Annual Summaries*, available at [https://www.oe.netl.doe.gov/OE417\\_annual\\_summary.aspx](https://www.oe.netl.doe.gov/OE417_annual_summary.aspx) (last visited Feb. 1, 2024).

<sup>122</sup> International Energy Agency, *Cybersecurity – is the power system lagging behind?*,

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>125</sup>

A “homeowners’ association” is defined as a:

Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.<sup>126</sup>

Unless specifically stated to the contrary in the articles of incorporation, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.<sup>127</sup>

Homeowners’ associations are administered by a board of directors whose members are elected.<sup>128</sup> The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.<sup>129</sup> The officers and members of a homeowners’ association have a fiduciary relationship to the members who are served by the association.<sup>130</sup>

Unlike condominium associations, homeowners’ associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners’ associations:

The Legislature recognizes that it is not in the best interest of homeowners’ associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners’ associations. However, in accordance with s. 720.311, [F.S.], the Legislature finds that homeowners’ associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners’ associations and members thereof before the effective date of this act and that ss. 720.301-720.407[, F.S.], are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

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<sup>125</sup> See s. 720.302(1), F.S.

<sup>126</sup> Section 720.301(9), F.S.

<sup>127</sup> Section 720.302(5), F.S.

<sup>128</sup> See ss. 720.303 and 720.307, F.S.

<sup>129</sup> See ss. 720.301 and 720.303, F.S.

<sup>130</sup> Section 720.303(1), F.S.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation has limited regulatory authority over homeowners' associations. The division's authority is limited to the arbitration of recall election disputes.<sup>131</sup>

The governing document of a homeowners' association are:

- The recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and
- The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.<sup>132</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 163.3210, F.S., relating to natural gas resiliency and reliability infrastructure. The section provides that it is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable fuel sources for public utilities. The section finds that resiliency and reliability of fuel sources for public utilities is critical to Florida's economy; the ability of the state to recover from natural disasters; and to the health, safety, welfare, and quality of life of Florida residents.

Under the section, a resiliency facility<sup>133</sup> is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and all commercial, industrial, and manufacturing districts. Such facilities must comply with setback and landscape criteria that would apply to other similar uses and local governments may adopt ordinances specifying such requirements.<sup>134</sup>

The section also provides that, after July 1, 2024, local governments may not amend their comprehensive plans, land use maps, zoning districts, or land development regulations in a manner that would conflict with a resiliency facility's classification as a permitted and allowable use.

**Section 2** amends s. 286.29, F.S., regarding energy guidelines for public businesses. The bill deletes a provision relating to legislative intent and the following provisions:

- The Department of Management Services' (DMS's) Florida Climate-Friendly Preferred Products List;
- A requirement that state agencies contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program;
- A requirement that, when state agencies, state universities, community colleges, and local governments purchase vehicles under a state purchasing plan that such vehicles are selected

<sup>131</sup> See s. 720.306(9)(c), F.S.

<sup>132</sup> Section 720.301(8), F.S.

<sup>133</sup> The section defines "resiliency facility" as "a facility owned and operated by a public utility for the purposes of assembling, creating, holding, securing, or deploying natural gas reserves for temporary use during a system outage or natural disaster."

<sup>134</sup> Provided that such requirements are not more excessive than those applied to similar other uses.

for greatest fuel efficiency available for a given use class when fuel economy data is available.

The section also creates a new provision requiring the DMS, in consultation with the Florida Department of Commerce (FDC) and the Department of Agriculture and Consumer Services (DACS), to develop a Florida Humane Preferred Products List. In developing this list, the DMS must assess products currently available for purchase under state term contracts that contain or consist of an energy storage device with a capacity of greater than one kilowatt-hour or that contain or consist of an energy generation device with a capacity of greater than 500 watts. The DMS must then identify the specific products that appear to be largely made free from forced labor, irrespective of the age of the worker. The section defines “forced labor” as any work performed or service rendered that is:

- Obtained by intimidation, fraud, or coercion, including by threat of serious bodily harm to, or physical restraint against, a person, by means of a scheme intended to cause the person to believe that if he or she does not perform such labor or render such service, the person will suffer serious bodily harm or physical restraint, or by means of the abuse or threatened abuse of law or the legal process;
- Imposed on the basis of a characteristic that has been held by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability;
- Not performed or rendered voluntarily by a person; or
- In violation of the Child Labor Law<sup>135</sup> or otherwise performed or rendered through oppressive child labor.

State agencies and political subdivisions in the state must, when procuring such energy products from state term contracts, first consult the Florida Humane Preferred Energy Products List and may not purchase or procure products not included in the list.

**Section 3** amends s. 366.032, F.S., to include “development districts” in a provision that states a municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by utilities, gas districts, natural gas transmission companies, and certain liquefied petroleum gas dealers, dispensers, and cylinder exchange operators.

The section also includes “development districts” in a provision that prohibits a municipality, county, special district, or other political subdivision of the state from restricting or prohibiting the use of an appliance using the fuels or energy types supplied by the energy and gas providers above.

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<sup>135</sup> Part I of ch. 450, F.S., provides the Child Labor Law for Florida.

**Section 4** creates s. 366.042, F.S., relating to mutual aid agreements or electric cooperatives and municipal electric utilities. This section requires rural electric cooperatives<sup>136</sup> and municipal electric utilities to enter into and maintain, at least one of the following:

- A mutual aid agreement with a municipal electric utility;
- A mutual aid agreement with an electric cooperative;
- A mutual aid agreement with a public utility; or
- A pre-event agreement with a private contractor.

Rural electric cooperatives and municipal utilities must submit, on an annual basis by May 15, to the Public Service Commission (PSC) an attestation that they have complied with the above requirement. This provision does not give the PSC jurisdiction over the terms or conditions of such agreements. By May 30 of each year, the PSC must compile these attestations and submit them to the Department of Emergency Management (DEM). If a rural electric cooperative or municipal utility does not comply with this requirement, they are not eligible to receive state financial assistance, if such funding is available, for power restoration efforts following a natural disaster that is subject to a state of emergency declared by the Governor. Until the time the attestation is submitted, nothing in this section prevents a rural electric cooperative or municipal electric utility from receiving federal funds. This section does not alter the PSC's jurisdiction over public or electric utilities.

**Section 5** amends s. 366.94, F.S., to allow the PSC to approve, upon petition of a public utility, voluntary electric vehicle charging programs, to become effective on or after January 1, 2025, to include, but not be limited to, residential, fleet, and public electric vehicle charging. To be approved, the PSC must determine that the public utility's general body of ratepayers, as a whole, will not pay to support recovery of its electric vehicle charging investment by the end of the useful life of the assets dedicated to the electric vehicle charging service. The section also makes clear that it does not preclude cost recovery for electric vehicle charging programs approved by the PSC before January 1, 2024.

**Section 6** creates s. 366.99, F.S., authorizing natural gas public utilities to petition<sup>137</sup> the PSC to annually recover prudently incurred natural gas facilities relocation costs<sup>138</sup> to accommodate requirements imposed by the Florida Department of Transportation (FDOT) and local government entities. The section allows each utility to recover such costs through a charge separate and apart from base rates, referred to in the section as the natural gas facilities relocation cost recovery clause.

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<sup>136</sup> The bill uses the term "electric cooperatives;" however, the term used in ch. 366, F.S., to refer a cooperative organized and existing under the Rural Electric Cooperative Law is "rural electric cooperative." This section is written under the assumption that this was the type of entity that the section was intended to refer to.

<sup>137</sup> The petition should describe the utility's natural gas facilities relocation costs for the next calendar year, actual natural gas facilities relocation costs for the prior calendar year, and proposed cost-recovery factors designed to recover such costs. Proceeding with implementing a plan before filing this petition would not constitute imprudence on the part of the utility.

<sup>138</sup> Such costs would include, but not be limited to, the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to, costs associated with reviewing plans provided by an authority. The costs would not include any costs recovered through base rates.

The section directs the PSC to establish an annual proceeding to review these petitions. This review is limited to:

- Determining the prudence of the utility's actual incurred natural gas facilities relocation costs;
- Determining the reasonableness of the utility's projected natural gas facilities relocation costs for the next calendar year; and
- Providing for a true-up of the costs with the projections on which past factors were set.

Any refund or collection made pursuant to the true-up process must include applicable interest.

The section also requires all costs approved pursuant to this clause be allocated to customer classes pursuant to the rate design most recently approved by the PSC. If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

The section directs the PSC to adopt rules to implement the section as soon as practicable.

**Section 7** amends s. 377.601, F.S., to substantially revise the legislative intent as it pertains to part II, of ch. 377, F.S., which provides energy resource planning and development policies for Florida. It deletes the legislative intent section as described on [page 20](#) of this analysis. As rewritten, the intent provides that the purpose of the state's energy policy is to ensure an adequate, reliable, and cost-effective supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The revised intent further states that governance of the state's energy policy be efficiently directed toward achieving this purpose.

For the purposes of the above, the revised section states that the state's energy policy should be guided by all of the following goals:

- Ensuring a cost-effective and affordable energy supply.
- Ensuring adequate supply and capacity.
- Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources.
- Protecting public safety.
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- Protecting the state's natural resources, including its coastlines, tributaries, and waterways.
- Supporting economic growth.

In furtherance of the above goals, the rewritten section provides that it is state policy to:

- Promote the cost-effective development and effective use of a diverse supply of domestic energy resources in the state and discourage energy waste and deletes a provision on global climate change;
- Promote the cost-effective development and maintenance of energy infrastructure that is resilient to natural and manmade threats to the security and reliability of the state's energy supply and deletes programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions;



- Reduce reliance on foreign energy resources;
- Include energy reliability and security considerations in all state, regional, and local planning;
- Utilize and manage effectively energy resources used within state agencies;
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs;
- Include the full participation of citizens in the development and implementation of energy programs;
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible;
- Promote energy education and the public dissemination of information on energy and its impacts in relation to the goals stated above;
- Encourage the research, development, demonstration, and application of domestic energy resources, including the use of renewable energy resources;
- Consider, in its decision-making, the impacts of energy-related activities on the goals above, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized; and
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within the state Florida.

**Section 8** amends s. 377.6015, F.S., to revise the duties of the DACS to conform to the changes made by the bill and require that the DACS advocate for energy issues consistent with the goals in proposed s. 377.601(2), F.S., provided in Section 7 of the bill.

**Section 9** amends s. 377.703, F.S., to revise the duties of the DACS to conform to the changes made by the bill. It also eliminates a requirement that the DACS, when analyzing the energy data it collects and preparing long-range forecasts of energy supply and demand in coordination with the PSC (which is responsible for electricity and natural gas forecasts), that the forecasts contain plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas. Instead, such forecasts must contain an analysis of the extent to which domestic energy resources, including renewable energy sources, are being utilized in the state.

The section also deletes a requirement that the forecasts contain:

- Consideration of alternative scenarios of statewide energy supply and demand for five, 10, and 20 years to identify strategies for long-range action, including identification of potential social, economic, and environmental effects. Instead, such consideration must be made for potential impacts in relation to the goals in proposed s. 377.601(2), F.S., provided in Section 7 of the bill.
- An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both. Instead, such assessments must contain an analysis of anticipated impacts in relation to the goals in proposed s. 377.601(2), F.S.,

provided in Section 7 of the bill, resulting from energy resource development activities or from energy supply constraints, or both.

The section also revises the duties of the DACS as it relates to the promotion of the development and use of renewable energy sources. The section deletes a requirement that the DACS establish goals and strategies for increasing the use of renewable energy in the state.

**Section 10** creates s. 377.708, F.S., to provide the following definitions in relation to wind energy:

- "Coastline" means the established line of mean high water.
- "Offshore wind energy facility" means any wind energy facility located on waters of this state, including other buildings, structures, vessels, or electrical transmission cabling to be sited on waters of this state, or connected to corresponding onshore substations that are used to support the operation of one or more wind turbines sited or constructed on waters of this state and any submerged lands or territorial waters that are not under the jurisdiction of the state.
- "Real property" means land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably.
- "Waters of this state" means any navigable waters of the United States within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, canals and submerged lands under the jurisdiction of this state.
- "Wind energy facility" means an electrical wind generation facility or expansion thereof having at least a 400-watt rated capacity, including substations; meteorological data towers; aboveground, underground, and electrical transmission lines; and transformers, control systems, and other buildings or structures under common ownership or operating control used to support the operation of the facility the primary purpose of which is to offer electricity supply for sale.
- "Wind turbine" means a device or apparatus that has the capability to convert kinetic wind energy into rotational energy that drives an electrical generator consisting of a tower body and rotator with two or more blades. The term includes both horizontal and vertical axis turbines. The term does not include devices used to measure wind speed and direction, such as an anemometer.

The bill prohibits the construction, operation, or expansion of an offshore wind energy facility in Florida. The bill also prohibits the construction or operation of a wind turbine on real property within one mile of coastline, on waters of the state, and on any submerged lands. The bill authorizes the Department of Environmental Protection (DEP) to bring an action for injunctive relief against any person who owns, constructs, or operates an offshore wind energy facility or a wind turbine in violation of the provisions of the bill.

Under the bill, the DEP must review all applications for federal wind energy leases in the territorial waters of the United States adjacent to waters of Florida, and shall signify its approval or objection to each application.

**Section 11** repeals the following sections:

- Sections 377.801-804, F.S., providing the Florida Energy and Climate Protection Act (Renewable Energy and Energy-Efficient Technologies Grants Program);
- Section 377.808, F.S., providing the Florida Green Governments Grant Act;
- Section 377.809, F.S., providing the Energy Economic Zone Pilot Program;
- Section 377.816, F.S., providing a program operated by Office of Energy within the DACS for allocating or reallocating the qualified energy conservation bond volume limitation provided by 26 U.S.C. s. 54D.

**Section 12** provides for the programs deleted in Section 11 of the bill, there may not be:

- New or additional applications, certifications, or allocations approved.
- New letters of certification issued.
- New contracts or agreements executed.
- New awards made.

All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contracts or agreements authorized under those programs must continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. However, further modifications, extensions, or waivers may not be made or granted relating to those contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of a qualifying project.

**Section 13** amends s. 220.193, F.S., regarding the Florida renewable energy production credit, to conform to changes made by the bill.

**Section 14** amends s. 288.9606, F.S., relating to the issue of revenue bonds, to conform to changes made by the bill.

**Section 15** amends s. 380.0651, F.S., relating to statewide guidelines, standards, and exemptions, to conform to changes made by the bill.

**Section 16** amends s. 403.9405, F.S., to provide that the Natural Gas Transmission Pipeline Siting Act does not apply to natural gas transmission pipelines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification of that pipeline. The section increases the 15-mile limit for non-applicability to be 100 miles.

**Section 17** amends s. 720.3075, F.S., which relates to prohibited clauses in homeowners' association documents. The section provides that homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to customers within the homeowners' association that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;

- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Category I liquefied petroleum gas dealers, category II liquefied petroleum gas dispensers, or category III liquefied petroleum gas cylinder exchange operators as defined in s. 527.01, F.S.

The section also prohibits association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the use of an appliance,<sup>139</sup> including a stove or grill, which uses the types or fuel source of energy productions which may be used, delivered, converted, or supplied by the entities above.

**Section 18** requires the PSC to conduct an assessment, in consultation with the DEM, of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. In regards to the cyber threat assessment, the PSC is to also consult with the Florida Digital Service. The section also directs all electric utilities, natural gas utilities, and natural gas pipelines in the state to cooperate with the PSC to provide access to all information necessary to conduct the assessment. The bill requires the PSC, by July 1, 2025, to submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

**Section 19** directs the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors (SMRs), to meet the state's electrical power needs, and research means to encourage and foster the installation and use of such technologies at military installations in the state in partnership with public utilities. In conducting this study, the PSC is to consult with the FDOT and the DEM. The PSC is to submit a report of its findings, along with any recommendations for potential legislative or administrative actions, to the Governor, President of the Senate, and Speaker of the House of Representatives by April 1, 2025. The findings and recommendations must be consistent with the goals proposed in s. 377.601(2), F.S., provided in Section 7 of the bill.

**Section 20** directs the FDOT, in consultation with the Office of Energy within the DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system. The FDOT is to submit a report of its findings, along with any recommendations for potential legislative or administrative actions, to the Governor, President of the Senate, and Speaker of the House of Representatives by April 1, 2025. The findings and recommendations must be consistent with the goals proposed in s. 377.601(2), F.S., provided in Section 7 of the bill.

**Section 21** provides that the bill shall take effect July 1, 2024.

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<sup>139</sup> As used in this section, "appliance" means a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

**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:**

Section 17 of the bill prohibits homeowners' associations, in their governing documents, from disallowing certain types or fuel sources of energy production and appliances that use such fuels in their governing documents. If this provision was to apply retroactively to existing homeowners' association documents, it may raise an issue under the contracts clause of Florida's Constitution.

Under Florida law, statutes are presumed to operate prospectively, not retroactively. In other words, statutes generally apply only to actions that occur on or after the effective date of the legislation, not before the legislation becomes effective.

The Florida Supreme Court has noted that, under the rules of statutory construction, if statutes are to operate retroactively, the Legislature must clearly express such an intent for the statute to be valid.<sup>140</sup> When statutes that are expressly retroactive have been litigated and appealed, the courts have been asked to determine whether the statute applies to cases that were pending at the time the statute went into effect. The conclusion often turns on whether the statute is procedural or substantive.

The Florida Supreme Court has acknowledged that “[t]he distinction between substantive and procedural law is neither simple nor certain.”<sup>141</sup> The Court further acknowledged that its previous pronouncements regarding the retroactivity of procedural laws have been less than precise and have been unclear.<sup>142</sup>

Courts, however, have invalidated the retroactive application of a statute if the statute impairs vested rights, creates new obligations, or imposes new penalties.<sup>143</sup> Still, in other

<sup>140</sup> *Walker & LaBerge, Inc., v. Halligan*, 344 So. 2d 239 (Fla. 1977).

<sup>141</sup> *Love v. State*, 286 So. 3d 177, 183 (Fla. 2019) quoting *Caple v. Tuttle's Design-Build, Inc.*, 753 So. 2d 49, 53 (Fla. 2000).

<sup>142</sup> *Love*, *supra* note 141 at 184.

<sup>143</sup> *R.A.M. of South Florida, Inc. v. WCI Communities, Inc.*, 869 So. 2d 1210 (Fla 2004).

cases, the courts have permitted statutes to be applied retroactively if they do not create new, or take away, vested rights, but only operate to further a remedy or confirm rights that already exist.<sup>144</sup>

Florida's contracts clause states that "no bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed."<sup>145</sup> Regarding the impairment of an existing contract by the retroactive application of a statute, the Florida Supreme Court recently said:

"[V]irtually no degree of contract impairment is tolerable." However, we also recognized that the holding that "virtually" no impairment is tolerable "necessarily implies that some impairment is tolerable." The question thus becomes how much impairment is tolerable and how to determine that amount. To answer that question, in *Pomponio* we proposed a balancing test that "allow[ed] the court to consider the actual effect of the provision on the contract and to balance a party's interest in not having the contract impaired against the State's source of authority and the evil sought to be remedied." "[T]his becomes a balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the State's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective."

An impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. However, where the impairment is severe, "[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected." There must be a "significant and legitimate public purpose behind the regulation."<sup>146</sup>

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

The following provisions of the bill may have a fiscal impact on the private sector:

- Deleting requirements relating to the Florida Climate-Friendly Preferred Products List may have a negative impact on companies that have products on that list as they may see a reduction in purchases of those products.
- The provision requiring state agencies and political subdivisions to consult a Florida Humane Preferred Products List when procuring certain energy products, may

<sup>144</sup> *Ziccardi v. Strother*, 570 So. 2d 1319 (Fla. 1990).

<sup>145</sup> FLA. CONST. art. I, s. 10.

<sup>146</sup> *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1192 (Fla. 2017) (internal citations omitted for clarity).

positively financially impact those companies with products on the list. Conversely, companies with products not on the list may be negatively financially impacted.

- The provisions reducing the applicability of the Natural Gas Transmission Pipeline Siting Act will likely reduce regulatory costs for pipeline projects.

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### C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on state government expenditures because it imposes new requirements for specified state agencies, which may require the expenditure of resources. The directives of the bill likely expands the responsibilities of the following state agencies:

- Department of Management Services – due to the development of a Florida Humane Preferred Energy Products List;
- The Public Service Commission (PSC) – due to the assessment of the security and resiliency of the state’s electric grid and natural gas facilities;
- PSC – due to the study and evaluation of advanced nuclear power technologies;
- The Department of Agriculture and Consumer Services (DACS) – due to revised duties of the DACS to conform to the changes made by the bill and require that the DACS advocate for energy issues consistent with the goals in proposed s. 377.601(2), F.S.;
- The Department of Environmental Protection – required to review all applications for federal wind energy leases in the territorial waters of the United States adjacent to Florida and signify its approval or objection to each application; and
- 
- Florida Department of Transportation – due to the study and evaluation of potential development of hydrogen fueling infrastructure.

Most of the above agencies have not yet provided their analyses of this bill, so it is unknown at this time the extent to which the bill would impact those agencies’ operations. Affected agencies may be able to satisfy all or some of these requirements with existing resources. For example, the DMS may incur additional workload for the development of the Florida Humane Preferred Energy Products Lists; however, according to the DMS, such workload can be absorbed within the current resources of the DMS. The impact of requiring state agencies to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate.

The PSC, in its analysis of SB 1548, stated that implementing a similar provision in that bill to Section 19 of this bill (directing the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including small modular reactors) would likely require the PSC to secure outside experts because the “technology is in its infancy, and no such reactors have been put into operation either in Florida or elsewhere.” The PSC provided an estimated cost of such services of \$190,000, based on the inflation-adjusted cost of consultants it has hired for a previous research project.<sup>147</sup> Historically, traditional studies cost approximately \$200,000 to \$300,000.

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<sup>147</sup> Florida Public Service Commission, *Bill Analysis for SB 1548*, *supra* note 80.

**VI. Technical Deficiencies:**

Section 4 of the bill uses the term “electric cooperatives;” however, the terminology used in ch. 366, F.S. to refer to a cooperative organized and existing under the Rural Electric Cooperative Law is “rural electric cooperative.”

**VII. Related Issues:**

Section 3 of the bill uses the term “development district,” but does not define this term. It is unclear if this is intended to mean a community development district or another entity. The sponsor may wish to revise this term or include a definition.

Section 4 of the bill does not define the term “mutual aid agreement” or “pre-event agreement” and these terms are not used elsewhere in ch. 366, F.S. The sponsor may wish to provide a definition or requirement of what constitutes such an agreement. Also, as described in the Present Situation portion of this analysis, municipal electric utilities and rural electric cooperatives generally enter into a mutual aid network and not individual agreements with other utilities. Section 4 may not contemplate that such agreements would qualify under the requirements.

Section 10 of the bill requires the Department of Environmental Protection to “review all applications for federal wind energy leases in the territorial waters of the United States adjacent to waters of this state and shall signify its approval of or objection to each application. The section also does not provide on which basis the DEP is to review applications.” In addition, under current federal regulations, wind energy leases are generally granted by a competitive bidding process under 30 C.F.R. 585.210-216, managed by the Bureau of Ocean Energy Management (BOEM). There is also a process for non-competitive leases when there is no competitive interest in a proposed area. Under 30 C.F.R. 580.211, state participation is contemplated when identifying areas for consideration to be leased and, once BOEM issues a proposed sale notice before an auction sale, an affected state is notified and there is a 60 day comment period.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 286.29, 366.032, 366.94, 377.601, 377.6015, 377.703, 220.193, 288.9606, 380.0651, 403.9405, and 720.3075.

This bill creates the following section of the Florida Statutes: 163.3210, 366.042, 366.99, 377.708 and several undesignated sections of law.

This bill repeals the following sections of the Florida Statutes: 377.801, 377.802, 377.803, 377.804, 377.808, 377.809, and 377.816.



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

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

**CS by Appropriations Committee on Agriculture, Environment, and General Government on February 20, 2024**

The committee substitute:

- Regarding the Florida Humane Preferred Products List, revises the capacity of energy storage devices and energy generation devices that qualify for the provision requirements in the bill.
- Deletes a provision prohibiting the Florida Department of Transportation (FDOT) from assigning or transferring its permitting rights across any transportation right-of-way operated by the FDOT to a third party or governmental entity that does not operate the transportation right-of-way without prior approval of the Legislature.
- Deletes a provision prohibiting the FDOT and local government entities from requiring a utility within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor.
- Deletes a provision requiring the Public Service Commission (PSC) to create targeted storm reserve amounts for public utilities.
- Creates a provision requiring all electric cooperatives and municipal electric utilities to enter into and maintain certain mutual aid agreements and submit an annual attestation to qualify to receive state financial assistance for disaster recovery.
- Deletes a provision authorizing the PSC to establish an experimental mechanism to facilitate energy infrastructure investment.
- Revises a provision permitting the PSC to approve voluntary public utility programs for residential, customer-specific electric vehicle (EV) charging to amend the types of vehicles eligible for the programs and deletes requirements that an EV charging program may not adversely impact ratepayers and that revenue from a program must be credited to ratepayers. The amendment also adds a requirement that ratepayers will not pay to support the recovery of EV charging investments.
- Regarding a provision in the bill revising legislative intent regarding energy resource planning and development policies for Florida, the amendment adds cost-effectiveness. The amendment also deletes “ensuring consumer choice” from the updated energy policy goals and adds “reliability and security” to state policies.
- Deletes a requirement in s. 377.703, F.S., that the Department of Agriculture and Consumer Services to establish goals and strategies for increasing the use of renewable energy.
- Creates a provision prohibiting:
  - The construction, operation, or expansion of an offshore wind energy facility in the state;
  - Construction or operation of wind turbine within 1 mile of the state coastline; and
  - Construction or operation of a wind turbine in state waters or submerged lands.
- Creates a provision requiring the Department of Environmental Protection (DEP) to review federal wind energy lease applications and signify DEP’s approval or objection.

- Deletes a provision in the bill directing the Florida Department of Commerce to expand eligibility for the Low-Income Energy Assistance Program (LIHEAP) to persons in certain federal disability programs and develop a process for automated LIHEAP payments to home energy suppliers.
- Extends due dates for certain reports that the bill requires the PSC and DOT to submit.
- Creates new consultation requirements for provisions in the bill requiring the PSC to assess the state's electric grid and study small modular reactors.
- Makes technical and conforming changes..

**CS by Regulated Industries on January 30, 2024:**

The committee substitute:

- Adds a provision prohibiting the Florida Department of Transportation (FDOT) from assigning or transferring its permitting rights across any transportation right-of-way operated by the FDOT to a third party or governmental entity that does not operate the transportation right-of-way without prior approval of the Legislature.
- Adds a provision prohibiting the FDOT and local government entities from requiring a utility within a public road operated by the authority to be relocated on behalf of any other third-party or governmental agency project related to a separate public or private road or transportation corridor.
- Deletes a provision in the bill that created an electric vehicle battery deposit program within the Department of Highway Safety and Motor Vehicles and a related report.
- Deletes a provision in the bill that required the FDOT, when it enters a contract or has entered into a contract or license to allow a vendor to sell motor fuel or charging services along the turnpike system, offer access to potential vendors of other motor vehicle fuels or repowering services along the turnpike system.
- Deletes a provision in the bill that created a requirement that, before a public utility retires an electrical power plant, it must petition the Public Service Commission (PSC) for approval.
- Adds a provision requiring the PSC to create targeted storm reserve amounts for public utilities.
- Adds a provision authorizing the PSC to establish an experimental mechanism to facilitate energy infrastructure investment.
- Regarding a provision in the bill permitting the PSC to approve voluntary public utility programs for residential, customer-specific electric vehicle charging, it revises the applicability date for previously approved programs.
- Adds a provision requiring the PSC to conduct an annual proceeding to determine prudently incurred natural gas facilities relocation costs for cost recovery by natural gas public utilities.
- Adds a provision directing the Florida Department of Commerce (FDC) to expand eligibility for the Low-Income Energy Assistance Program (LIHEAP) to persons in certain federal disability programs.
- Adds a provision directing the FDC to develop a process for automated LIHEAP payments to home energy suppliers.
- Deletes a provision that directs the PSC to ensure technologies that allow businesses and consumers to use electrical energy for their own use are used in a way that best

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maintains the integrity of the state electricity grid. The deleted provision also required the PSC to establish programs and rate mechanisms, and submit a report to the legislature.

- Makes technical and conforming changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Collins) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 163.3210, Florida Statutes, is created  
to read:

163.3210 Natural gas resiliency and reliability  
infrastructure.—

(1) It is the intent of the Legislature to maintain,  
encourage, and ensure adequate and reliable fuel sources for



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11 public utilities. The resiliency and reliability of fuel sources  
12 for public utilities is critical to the state's economy; the  
13 ability of the state to recover from natural disasters; and the  
14 health, safety, welfare, and quality of life of the residents of  
15 the state.

16 (2) As used in this section, the term:

17 (a) "Natural gas" means all forms of fuel commonly or  
18 commercially known or sold as natural gas, including compressed  
19 natural gas and liquefied natural gas.

20 (b) "Natural gas reserve" means a facility that is capable  
21 of storing and transporting and, when operational, actively  
22 stores and transports a supply of natural gas.

23 (c) "Public utility" has the same meaning as defined in s.  
24 366.02.

25 (d) "Resiliency facility" means a facility owned and  
26 operated by a public utility for the purposes of assembling,  
27 creating, holding, securing, or deploying natural gas reserves  
28 for temporary use during a system outage or natural disaster.

29 (3) A resiliency facility is a permitted use in all  
30 commercial, industrial, and manufacturing land use categories in  
31 a local government comprehensive plan and all commercial,  
32 industrial, and manufacturing districts. A resiliency facility  
33 must comply with the setback and landscape criteria for other  
34 similar uses. A local government may adopt an ordinance  
35 specifying buffer and landscaping requirements for resiliency  
36 facilities, provided such requirements do not exceed the  
37 requirements for similar uses involving the construction of  
38 other facilities that are permitted uses in commercial,  
39 industrial, and manufacturing land use categories and zoning



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40 districts.

41 (4) After July 1, 2024, a local government may not amend  
42 its comprehensive plan, land use map, zoning districts, or land  
43 development regulations in a manner that would conflict with a  
44 resiliency facility's classification as a permitted and  
45 allowable use, including, but not limited to, an amendment that  
46 causes a resiliency facility to be a nonconforming use,  
47 structure, or development.

48 Section 2. Section 286.29, Florida Statutes, is amended to  
49 read:

50 286.29 Energy guidelines for Climate-friendly public  
51 business. ~~The Legislature recognizes the importance of~~  
52 ~~leadership by state government in the area of energy efficiency~~  
53 ~~and in reducing the greenhouse gas emissions of state government~~  
54 ~~operations. The following shall pertain to all state agencies~~  
55 ~~when conducting public business:~~

56 ~~(1) The Department of Management Services shall develop the~~  
57 ~~"Florida Climate-Friendly Preferred Products List." In~~  
58 ~~maintaining that list, the department, in consultation with the~~  
59 ~~Department of Environmental Protection, shall continually assess~~  
60 ~~products currently available for purchase under state term~~  
61 ~~contracts to identify specific products and vendors that offer~~  
62 ~~clear energy efficiency or other environmental benefits over~~  
63 ~~competing products. When procuring products from state term~~  
64 ~~contracts, state agencies shall first consult the Florida~~  
65 ~~Climate-Friendly Preferred Products List and procure such~~  
66 ~~products if the price is comparable.~~

67 ~~(2) State agencies shall contract for meeting and~~  
68 ~~conference space only with hotels or conference facilities that~~



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69 ~~have received the "Green Lodging" designation from the~~  
70 ~~Department of Environmental Protection for best practices in~~  
71 ~~water, energy, and waste efficiency standards, unless the~~  
72 ~~responsible state agency head makes a determination that no~~  
73 ~~other viable alternative exists.~~

74 ~~(1)~~ (3) Each state agency shall ensure that all maintained  
75 vehicles meet minimum maintenance schedules shown to reduce fuel  
76 consumption, which include:

77 (a) Ensuring appropriate tire pressures and tread depth. ~~;~~

78 (b) Replacing fuel filters and emission filters at  
79 recommended intervals. ~~;~~

80 (c) Using proper motor oils. ~~;~~ ~~and~~

81 (d) Performing timely motor maintenance.

82  
83 Each state agency shall measure and report compliance to the  
84 Department of Management Services through the Equipment  
85 Management Information System database.

86 ~~(4) When procuring new vehicles, all state agencies, state~~  
87 ~~universities, community colleges, and local governments that~~  
88 ~~purchase vehicles under a state purchasing plan shall first~~  
89 ~~define the intended purpose for the vehicle and determine which~~  
90 ~~of the following use classes for which the vehicle is being~~  
91 ~~procured:~~

92 ~~(a) State business travel, designated operator;~~

93 ~~(b) State business travel, pool operators;~~

94 ~~(c) Construction, agricultural, or maintenance work;~~

95 ~~(d) Conveyance of passengers;~~

96 ~~(e) Conveyance of building or maintenance materials and~~  
97 ~~supplies;~~



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- 98           ~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~  
99           ~~(g) Emergency response; or~~  
100          ~~(h) Other.~~

101  
102   ~~Vehicles described in paragraphs (a) through (h), when being~~  
103   ~~processed for purchase or leasing agreements, must be selected~~  
104   ~~for the greatest fuel efficiency available for a given use class~~  
105   ~~when fuel economy data are available. Exceptions may be made for~~  
106   ~~individual vehicles in paragraph (g) when accompanied, during~~  
107   ~~the procurement process, by documentation indicating that the~~  
108   ~~operator or operators will exclusively be emergency first~~  
109   ~~responders or have special documented need for exceptional~~  
110   ~~vehicle performance characteristics. Any request for an~~  
111   ~~exception must be approved by the purchasing agency head and any~~  
112   ~~exceptional performance characteristics denoted as a part of the~~  
113   ~~procurement process prior to purchase.~~

114        ~~(2)(5)~~ All state agencies shall use ethanol and biodiesel  
115   blended fuels when available. State agencies administering  
116   central fueling operations for state-owned vehicles shall  
117   procure biofuels for fleet needs to the greatest extent  
118   practicable.

119        (3) (a) The Department of Management Services shall, in  
120   consultation with the Department of Commerce and the Department  
121   of Agriculture and Consumer Services, develop a Florida Humane  
122   Preferred Energy Products List. In developing the list, the  
123   department must assess products currently available for purchase  
124   under state term contracts that contain or consist of an energy  
125   storage device with a capacity of greater than one kilowatt-hour  
126   or that contain or consist of an energy generation device with a





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127 capacity of greater than 500 watts and identify specific  
128 products that appear to be largely made free from forced labor,  
129 irrespective of the age of the worker. For purposes of this  
130 subsection, the term "forced labor" means any work performed or  
131 service rendered that is:

132 1. Obtained by intimidation, fraud, or coercion, including  
133 by threat of serious bodily harm to, or physical restraint  
134 against, a person, by means of a scheme intended to cause the  
135 person to believe that if he or she does not perform such labor  
136 or render such service, the person will suffer serious bodily  
137 harm or physical restraint, or by means of the abuse or  
138 threatened abuse of law or the legal process;

139 2. Imposed on the basis of a characteristic that has been  
140 held by the United States Supreme Court or the Florida Supreme  
141 Court to be protected against discrimination under the  
142 Fourteenth Amendment to the United States Constitution or under  
143 s. 2, Art. I of the State Constitution, including race, color,  
144 national origin, religion, gender, or physical disability;

145 3. Not performed or rendered voluntarily by a person; or

146 4. In violation of the Child Labor Law or otherwise  
147 performed or rendered through oppressive child labor.

148 (b) When procuring the types of energy products described  
149 in paragraph (a) from state term contracts, state agencies and  
150 political subdivisions shall first consult the Florida Humane  
151 Preferred Energy Products List and may not purchase or procure  
152 products not included in the list.

153 Section 3. Subsections (1), (2), and (5) of section  
154 366.032, Florida Statutes, are amended to read:

155 366.032 Preemption over utility service restrictions.-



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156 (1) A municipality, county, special district, development  
157 district, or other political subdivision of the state may not  
158 enact or enforce a resolution, ordinance, rule, code, or policy  
159 or take any action that restricts or prohibits or has the effect  
160 of restricting or prohibiting the types or fuel sources of  
161 energy production which may be used, delivered, converted, or  
162 supplied by the following entities to serve customers that such  
163 entities are authorized to serve:

164 (a) A public utility or an electric utility as defined in  
165 this chapter;

166 (b) An entity formed under s. 163.01 that generates, sells,  
167 or transmits electrical energy;

168 (c) A natural gas utility as defined in s. 366.04(3)(c);

169 (d) A natural gas transmission company as defined in s.  
170 368.103; or

171 (e) A Category I liquefied petroleum gas dealer or Category  
172 II liquefied petroleum gas dispenser or Category III liquefied  
173 petroleum gas cylinder exchange operator as defined in s.  
174 527.01.

175 (2) Except to the extent necessary to enforce the Florida  
176 Building Code adopted pursuant to s. 553.73 or the Florida Fire  
177 Prevention Code adopted pursuant to s. 633.202, a municipality,  
178 county, special district, development district, or other  
179 political subdivision of the state may not enact or enforce a  
180 resolution, an ordinance, a rule, a code, or a policy or take  
181 any action that restricts or prohibits or has the effect of  
182 restricting or prohibiting the use of an appliance, including a  
183 stove or grill, which uses the types or fuel sources of energy  
184 production which may be used, delivered, converted, or supplied



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185 by the entities listed in subsection (1). As used in this  
186 subsection, the term "appliance" means a device or apparatus  
187 manufactured and designed to use energy and for which the  
188 Florida Building Code or the Florida Fire Prevention Code  
189 provides specific requirements.

190 (5) Any municipality, county, special district, development  
191 district, or political subdivision charter, resolution,  
192 ordinance, rule, code, policy, or action that is preempted by  
193 this act that existed before or on July 1, 2021, is void.

194 Section 4. Section 366.042, Florida Statutes, is created to  
195 read:

196 366.042 Mutual aid agreements of electric cooperatives and  
197 municipal electric utilities.-

198 (1) For the purposes of restoring power following a natural  
199 disaster that is subject to a state of emergency declared by the  
200 Governor, all electric cooperatives and municipal electric  
201 utilities shall enter into and maintain, at a minimum, one of  
202 the following:

203 (a) A mutual aid agreement with a municipal electric  
204 utility;

205 (b) A mutual aid agreement with an electric cooperative;

206 (c) A mutual aid agreement with a public utility; or

207 (d) A pre-event agreement with a private contractor.

208 (2) All electric cooperatives and municipal electric  
209 utilities operating in this state shall annually submit to the  
210 commission an attestation, in conformity with s. 92.525, stating  
211 that the organization has complied with the requirements of this  
212 section on or before May 15. Nothing in this section shall be  
213 construed to give the commission jurisdiction over the terms and



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214 conditions of a mutual aid agreement or agreement with a private  
215 contractor entered into by an electric cooperative or a  
216 municipal electric utility.

217 (3) The commission shall compile the attestations and  
218 annually submit a copy to the Division of Emergency Management  
219 no later than May 30.

220 (4) An electric cooperative or municipal electric utility  
221 that submits the attestation required by this section is  
222 eligible to receive state financial assistance, if such funding  
223 is available, for power restoration efforts following a natural  
224 disaster that is subject to a state of emergency declared by the  
225 Governor.

226 (5) An electric cooperative or municipal electric utility  
227 that does not submit an attestation required by this section is  
228 ineligible to receive state financial assistance for power  
229 restoration efforts following a natural disaster that is subject  
230 to a state of emergency declared by the Governor, until such  
231 time as the attestation is submitted.

232 (6) Nothing in this section shall be construed to prohibit,  
233 limit, or disqualify an electric cooperative or municipal  
234 electric utility from receiving funding under The Stafford Act,  
235 42 U.S.C. 5121 et seq., or any other federal program, including  
236 programs administered by the state.

237 (7) This section does not expand or alter the jurisdiction  
238 of the commission over public utilities or electric utilities.

239 Section 5. Subsection (4) is added to section 366.94,  
240 Florida Statutes, to read:

241 366.94 Electric vehicle charging ~~stations.~~-

242 (4) Upon petition of a public utility, the commission may



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243 approve voluntary electric vehicle charging programs to become  
244 effective on or after January 1, 2025, to include, but not be  
245 limited to, residential, fleet, and public electric vehicle  
246 charging, upon a determination by the commission that the  
247 utility's general body of ratepayers, as a whole, will not pay  
248 to support recovery of its electric vehicle charging investment  
249 by the end of the useful life of the assets dedicated to the  
250 electric vehicle charging service. This provision does not  
251 preclude cost recovery for electric vehicle charging programs  
252 approved by the commission before January 1, 2024.

253 Section 6. Section 366.99, Florida Statutes, is created to  
254 read:

255 366.99 Natural gas facilities relocation costs.-

256 (1) As used in this section, the term:

257 (a) "Authority" has the same meaning as in s.

258 337.401(1) (a).

259 (b) "Facilities relocation" means the physical moving,  
260 modification, or reconstruction of public utility facilities to  
261 accommodate the requirements imposed by an authority.

262 (c) "Natural gas facilities" or "facilities" means gas  
263 mains, laterals, and service lines used to distribute natural  
264 gas to customers. The term includes all ancillary equipment  
265 needed for safe operations, including, but not limited to,  
266 regulating stations, meters, other measuring devices,  
267 regulators, and pressure monitoring equipment.

268 (d) "Natural gas facilities relocation costs" means the  
269 costs to relocate or reconstruct facilities as required by a  
270 mandate, a statute, a law, an ordinance, or an agreement between  
271 the utility and an authority, including, but not limited to,



272 costs associated with reviewing plans provided by an authority.  
273 The term does not include any costs recovered through the public  
274 utility's base rates.

275 (e) "Public utility" or "utility" has the same meaning as  
276 in s. 366.02, except that the term does not include an electric  
277 utility.

278 (2) A utility may submit to the commission, pursuant to  
279 commission rule, a petition describing the utility's projected  
280 natural gas facilities relocation costs for the next calendar  
281 year, actual natural gas facilities relocation costs for the  
282 prior calendar year, and proposed cost-recovery factors designed  
283 to recover such costs. A utility's decision to proceed with  
284 implementing a plan before filing such a petition does not  
285 constitute imprudence.

286 (3) The commission shall conduct an annual proceeding to  
287 determine each utility's prudently incurred natural gas  
288 facilities relocation costs and to allow each utility to recover  
289 such costs through a charge separate and apart from base rates,  
290 to be referred to as the natural gas facilities relocation cost  
291 recovery clause. The commission's review in the proceeding is  
292 limited to determining the prudence of the utility's actual  
293 incurred natural gas facilities relocation costs and the  
294 reasonableness of the utility's projected natural gas facilities  
295 relocation costs for the following calendar year; and providing  
296 for a true-up of the costs with the projections on which past  
297 factors were set. The commission shall require that any refund  
298 or collection made as a part of the true-up process includes  
299 interest.

300 (4) All costs approved for recovery through the natural gas



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301 facilities relocation cost recovery clause must be allocated to  
302 customer classes pursuant to the rate design most recently  
303 approved by the commission.

304 (5) If a capital expenditure is recoverable as a natural  
305 gas facilities relocation cost, the public utility may recover  
306 the annual depreciation on the cost, calculated at the public  
307 utility's current approved depreciation rates, and a return on  
308 the undepreciated balance of the costs at the public utility's  
309 weighted average cost of capital using the last approved return  
310 on equity.

311 (6) The commission shall adopt rules to implement and  
312 administer this section and shall propose a rule for adoption as  
313 soon as practicable after July 1, 2024.

314 Section 7. Section 377.601, Florida Statutes, is amended to  
315 read:

316 377.601 Legislative intent.—

317 (1) The purpose of the state's energy policy is to ensure  
318 an adequate, reliable, and cost-effective supply of energy for  
319 the state in a manner that promotes the health and welfare of  
320 the public and economic growth. The Legislature intends that  
321 governance of the state's energy policy be efficiently directed  
322 toward achieving this purpose ~~The Legislature finds that the~~  
323 ~~state's energy security can be increased by lessening dependence~~  
324 ~~on foreign oil; that the impacts of global climate change can be~~  
325 ~~reduced through the reduction of greenhouse gas emissions; and~~  
326 ~~that the implementation of alternative energy technologies can~~  
327 ~~be a source of new jobs and employment opportunities for many~~  
328 ~~Floridians. The Legislature further finds that the state is~~  
329 ~~positioned at the front line against potential impacts of global~~



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330 ~~climate change. Human and economic costs of these impacts can be~~  
331 ~~averted by global actions and, where necessary, adapted to by a~~  
332 ~~concerted effort to make Florida's communities more resilient~~  
333 ~~and less vulnerable to these impacts. In focusing the~~  
334 ~~government's policy and efforts to benefit and protect our~~  
335 ~~state, its citizens, and its resources, the Legislature believes~~  
336 ~~that a single government entity with a specific focus on energy~~  
337 ~~and climate change is both desirable and advantageous. Further,~~  
338 ~~the Legislature finds that energy infrastructure provides the~~  
339 ~~foundation for secure and reliable access to the energy supplies~~  
340 ~~and services on which Florida depends. Therefore, there is~~  
341 ~~significant value to Florida consumers that comes from~~  
342 ~~investment in Florida's energy infrastructure that increases~~  
343 ~~system reliability, enhances energy independence and~~  
344 ~~diversification, stabilizes energy costs, and reduces greenhouse~~  
345 ~~gas emissions.~~

346 (2) For the purposes of subsection (1), the state's energy  
347 policy must be guided by the following goals:

348 (a) Ensuring a cost-effective and affordable energy supply.

349 (b) Ensuring adequate supply and capacity.

350 (c) Ensuring a secure, resilient, and reliable energy  
351 supply, with an emphasis on a diverse supply of domestic energy  
352 resources.

353 (d) Protecting public safety.

354 (e) Protecting the state's natural resources, including its  
355 coastlines, tributaries, and waterways.

356 (f) Supporting economic growth.

357 (3)(2) In furtherance of the goals in subsection (2), it is  
358 the policy of the state of Florida to:





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359           (a) ~~Develop and~~ Promote the cost-effective development and  
360 ~~effective~~ use of a diverse supply of domestic energy resources  
361 in the state ~~and,~~ discourage all forms of energy waste, ~~and~~  
362 ~~recognize and address the potential of global climate change~~  
363 ~~wherever possible.~~

364           (b) Promote the cost-effective development and maintenance  
365 of energy infrastructure that is resilient to natural and  
366 manmade threats to the security and reliability of the state's  
367 energy supply ~~Play a leading role in developing and instituting~~  
368 ~~energy management programs aimed at promoting energy~~  
369 ~~conservation, energy security, and the reduction of greenhouse~~  
370 ~~gas emissions.~~

371           (c) Reduce reliance on foreign energy resources.

372           (d) ~~(e)~~ Include energy reliability and security  
373 considerations in all state, regional, and local planning.

374           (e) ~~(d)~~ Utilize and manage effectively energy resources used  
375 within state agencies.

376           (f) ~~(e)~~ Encourage local governments to include energy  
377 considerations in all planning and to support their work in  
378 promoting energy management programs.

379           (g) ~~(f)~~ Include the full participation of citizens in the  
380 development and implementation of energy programs.

381           (h) ~~(g)~~ Consider in its decisions the energy needs of each  
382 economic sector, including residential, industrial, commercial,  
383 agricultural, and governmental uses, and reduce those needs  
384 whenever possible.

385           (i) ~~(h)~~ Promote energy education and the public  
386 dissemination of information on energy and its impacts in  
387 relation to the goals in subsection (2) ~~environmental, economic,~~



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388 ~~and social impact.~~

389        (j)~~(i)~~ Encourage the research, development, demonstration,  
390 and application of domestic energy resources, including the use  
391 of alternative energy resources, particularly renewable energy  
392 resources.

393        (k)~~(j)~~ Consider, in its decisionmaking, the impacts of  
394 energy-related activities on the goals in subsection (2) ~~social,~~  
395 economic, and environmental impacts of energy-related  
396 activities, including the whole-life-cycle impacts of any  
397 potential energy use choices, so that detrimental effects of  
398 these activities are understood and minimized.

399        (l)~~(k)~~ Develop and maintain energy emergency preparedness  
400 plans to minimize the effects of an energy shortage within this  
401 state Florida.

402        Section 8. Subsection (2) of section 377.6015, Florida  
403 Statutes, is amended to read:

404        377.6015 Department of Agriculture and Consumer Services;  
405 powers and duties.—

406        (2) The department shall:

407        ~~(a) Administer the Florida Renewable Energy and Energy-~~  
408 ~~Efficient Technologies Grants Program pursuant to s. 377.804 to~~  
409 ~~assure a robust grant portfolio.~~

410        (a)~~(b)~~ Develop policy for requiring grantees to provide  
411 royalty-sharing or licensing agreements with state government  
412 for commercialized products developed under a state grant.

413        ~~(c) Administer the Florida Green Government Grants Act~~  
414 ~~pursuant to s. 377.808 and set annual priorities for grants.~~

415        (b)~~(d)~~ Administer the information gathering and reporting  
416 functions pursuant to ss. 377.601-377.608.



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417 ~~(e) Administer the provisions of the Florida Energy and~~  
418 ~~Climate Protection Act pursuant to ss. 377.801-377.804.~~

419 ~~(c)(f)~~ Advocate for energy and climate change issues  
420 consistent with the goals in s. 377.601(2) and provide  
421 educational outreach and technical assistance in cooperation  
422 with the state's academic institutions.

423 ~~(d)(g)~~ Be a party in the proceedings to adopt goals and  
424 submit comments to the Public Service Commission pursuant to s.  
425 366.82.

426 ~~(e)(h)~~ Adopt rules pursuant to chapter 120 in order to  
427 implement all powers and duties described in this section.

428 Section 9. Subsection (1) and paragraphs (e), (f), (h), and  
429 (m) of subsection (2) of section 377.703, Florida Statutes, are  
430 amended to read:

431 377.703 Additional functions of the Department of  
432 Agriculture and Consumer Services.—

433 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and  
434 demand questions have become a major area of concern to the  
435 state which must be dealt with by effective and well-coordinated  
436 state action, it is the intent of the Legislature to promote the  
437 efficient, effective, and economical management of energy  
438 problems, centralize energy coordination responsibilities,  
439 pinpoint responsibility for conducting energy programs, and  
440 ensure the accountability of state agencies for the  
441 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy  
442 policy. It is the specific intent of the Legislature that  
443 nothing in this act shall in any way change the powers, duties,  
444 and responsibilities assigned by the Florida Electrical Power  
445 Plant Siting Act, part II of chapter 403, or the powers, duties,



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446 and responsibilities of the Florida Public Service Commission.

447 (2) DUTIES.—The department shall perform the following  
448 functions, unless as otherwise provided, consistent with the  
449 development of a state energy policy:

450 (e) The department shall analyze energy data collected and  
451 prepare long-range forecasts of energy supply and demand in  
452 coordination with the Florida Public Service Commission, which  
453 is responsible for electricity and natural gas forecasts. To  
454 this end, the forecasts shall contain:

455 1. An analysis of the relationship of state economic growth  
456 and development to energy supply and demand, including the  
457 constraints to economic growth resulting from energy supply  
458 constraints.

459 2. ~~Plans for the development of renewable energy resources~~  
460 ~~and reduction in dependence on depletable energy resources,~~  
461 ~~particularly oil and natural gas, and~~ An analysis of the extent  
462 to which domestic energy resources, including renewable energy  
463 sources, are being utilized in this ~~the~~ state.

464 3. Consideration of alternative scenarios of statewide  
465 energy supply and demand for 5, 10, and 20 years to identify  
466 strategies for long-range action, including identification of  
467 potential impacts in relation to the goals in s. 377.601(2)  
468 ~~social, economic, and environmental effects.~~

469 4. An assessment of the state's energy resources, including  
470 examination of the availability of commercially developable and  
471 imported fuels, and an analysis of anticipated impacts in  
472 relation to the goals in s. 377.601(2) ~~effects on the state's~~  
473 ~~environment and social services~~ resulting from energy resource  
474 development activities or from energy supply constraints, or



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475 both.

476 (f) The department shall submit an annual report to the  
477 Governor and the Legislature reflecting its activities and  
478 making recommendations for policies for improvement of the  
479 state's response to energy supply and demand and its effect on  
480 the health, safety, and welfare of the residents of this state.  
481 The report must include a report from the Florida Public Service  
482 Commission on electricity and natural gas and information on  
483 energy conservation programs conducted and underway in the past  
484 year and include recommendations for energy efficiency and  
485 conservation programs for the state, including:

486 1. Formulation of specific recommendations for improvement  
487 in the efficiency of energy utilization in governmental,  
488 residential, commercial, industrial, and transportation sectors.

489 2. Collection and dissemination of information relating to  
490 energy efficiency and conservation.

491 3. Development and conduct of educational and training  
492 programs relating to energy efficiency and conservation.

493 4. An analysis of the ways in which state agencies are  
494 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy  
495 policy, and recommendations for better fulfilling this policy.

496 (h) The department shall promote the development and use of  
497 renewable energy resources, in conformance with chapter 187 and  
498 s. 377.601, by:

499 ~~1. Establishing goals and strategies for increasing the use  
500 of renewable energy in this state.~~

501 ~~1.2.~~ Aiding and promoting the commercialization of  
502 renewable energy resources, in cooperation with the Florida  
503 Energy Systems Consortium; the Florida Solar Energy Center; and



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504 any other federal, state, or local governmental agency that may  
505 seek to promote research, development, and the demonstration of  
506 renewable energy equipment and technology.

507 ~~2.3.~~ Identifying barriers to greater use of renewable  
508 energy resources in this state, and developing specific  
509 recommendations for overcoming identified barriers, with  
510 findings and recommendations to be submitted annually in the  
511 report to the Governor and Legislature required under paragraph  
512 (f).

513 ~~3.4.~~ In cooperation with the Department of Environmental  
514 Protection, the Department of Transportation, the Department of  
515 Commerce, the Florida Energy Systems Consortium, the Florida  
516 Solar Energy Center, and the Florida Solar Energy Industries  
517 Association, investigating opportunities, pursuant to the  
518 national Energy Policy Act of 1992, the Housing and Community  
519 Development Act of 1992, and any subsequent federal legislation,  
520 for renewable energy resources, electric vehicles, and other  
521 renewable energy manufacturing, distribution, installation, and  
522 financing efforts that enhance this state's position as the  
523 leader in renewable energy research, development, and use.

524 ~~4.5.~~ Undertaking other initiatives to advance the  
525 development and use of renewable energy resources in this state.

526

527 In the exercise of its responsibilities under this paragraph,  
528 the department shall seek the assistance of the renewable energy  
529 industry in this state and other interested parties and may  
530 enter into contracts, retain professional consulting services,  
531 and expend funds appropriated by the Legislature for such  
532 purposes.



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533 (m) In recognition of the devastation to the economy of  
534 this state and the dangers to the health and welfare of  
535 residents of this state caused by severe hurricanes, and the  
536 potential for such impacts caused by other natural disasters,  
537 the Division of Emergency Management shall include in its energy  
538 emergency contingency plan and provide to the Florida Building  
539 Commission for inclusion in the Florida Energy Efficiency Code  
540 for Building Construction specific provisions to facilitate the  
541 use of cost-effective ~~solar~~ energy technologies as emergency  
542 remedial and preventive measures for providing electric power,  
543 street lighting, and water heating service in the event of  
544 electric power outages.

545 Section 10. Section 377.708, Florida Statutes, is created  
546 to read:

547 377.708 Wind energy.—

548 (1) DEFINITIONS.—As used in this section, the term:

549 (a) "Coastline" means the established line of mean high  
550 water.

551 (b) "Department" means the Department of Environmental  
552 Protection.

553 (c) "Offshore wind energy facility" means any wind energy  
554 facility located on waters of this state, including other  
555 buildings, structures, vessels, or electrical transmission  
556 cabling to be sited on waters of this state, or connected to  
557 corresponding onshore substations that are used to support the  
558 operation of one or more wind turbines sited or constructed on  
559 waters of this state and any submerged lands or territorial  
560 waters that are not under the jurisdiction of the state.

561 (d) "Real property" has the same meaning as provided in s.



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562 192.001(12).

563 (e) "Waters of this state" has the same meaning as in s.  
564 327.02, except the term also includes all state submerged lands.

565 (f) "Wind energy facility" means an electrical wind  
566 generation facility or expansion thereof having at least a 400-  
567 watt rated capacity, including substations; meteorological data  
568 towers; aboveground, underground, and electrical transmission  
569 lines; and transformers, control systems, and other buildings or  
570 structures under common ownership or operating control used to  
571 support the operation of the facility the primary purpose of  
572 which is to offer electricity supply for sale.

573 (g) "Wind turbine" means a device or apparatus that has the  
574 capability to convert kinetic wind energy into rotational energy  
575 that drives an electrical generator consisting of a tower body  
576 and rotator with two or more blades. The term includes both  
577 horizontal and vertical axis turbines. The term does not include  
578 devices used to measure wind speed and direction, such as an  
579 anemometer.

580 (2) PROHIBITED ACTIVITIES.-

581 (a) The construction, operation, or expansion of an  
582 offshore wind energy facility in this state is prohibited.

583 (b) The construction or operation of a wind turbine on real  
584 property within 1 mile of coastline in this state is prohibited.

585 (c) The construction or operation of a wind turbine on  
586 waters of this state and any submerged lands is prohibited.

587 (3) REVIEW.-The department shall review all applications  
588 for federal wind energy leases in the territorial waters of the  
589 United States adjacent to waters of this state and shall signify  
590 its approval of or objection to each application.





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591           (4) INJUNCTIVE RELIEF.—The department may bring an action  
592 for injunctive relief against any person who owns, constructs,  
593 or operates an offshore wind energy facility or a wind turbine  
594 in this state in violation of this section.

595           Section 11. Sections 377.801, 377.802, 377.803, 377.804,  
596 377.808, 377.809, and 377.816, Florida Statutes, are repealed.

597           Section 12. (1) For programs established pursuant to s.  
598 377.804, s. 377.808, s. 377.809, or s. 377.816, Florida  
599 Statutes, there may not be:

600           (a) New or additional applications, certifications, or  
601 allocations approved.

602           (b) New letters of certification issued.

603           (c) New contracts or agreements executed.

604           (d) New awards made.

605           (2) All certifications or allocations issued under such  
606 programs are rescinded except for the certifications of, or  
607 allocations to, those certified applicants or projects that  
608 continue to meet the applicable criteria in effect before July  
609 1, 2024. Any existing contract or agreement authorized under any  
610 of these programs shall continue in full force and effect in  
611 accordance with the statutory requirements in effect when the  
612 contract or agreement was executed or last modified. However,  
613 further modifications, extensions, or waivers may not be made or  
614 granted relating to such contracts or agreements, except  
615 computations by the Department of Revenue of the income  
616 generated by or arising out of the qualifying project.

617           Section 13. Paragraph (d) of subsection (2) of section  
618 220.193, Florida Statutes, is amended to read:

619           220.193 Florida renewable energy production credit.—



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620 (2) As used in this section, the term:

621 (d) "Florida renewable energy facility" means a facility in  
622 the state that produces electricity for sale from renewable  
623 energy, ~~as defined in s. 377.803.~~

624 Section 14. Subsection (7) of section 288.9606, Florida  
625 Statutes, is amended to read:

626 288.9606 Issue of revenue bonds.—

627 (7) Notwithstanding any provision of this section, the  
628 corporation in its corporate capacity may, without authorization  
629 from a public agency under s. 163.01(7), issue revenue bonds or  
630 other evidence of indebtedness under this section to:

631 (a) Finance the undertaking of any project within the state  
632 that promotes renewable energy as defined in s. 366.91 ~~or s.~~  
633 ~~377.803;~~

634 (b) Finance the undertaking of any project within the state  
635 that is a project contemplated or allowed under s. 406 of the  
636 American Recovery and Reinvestment Act of 2009; ~~or~~

637 (c) If permitted by federal law, finance qualifying  
638 improvement projects within the state under s. 163.08; ~~or~~

639 (d) Finance the costs of acquisition or construction of a  
640 transportation facility by a private entity or consortium of  
641 private entities under a public-private partnership agreement  
642 authorized by s. 334.30.

643 Section 15. Paragraph (w) of subsection (2) of section  
644 380.0651, Florida Statutes, is amended to read:

645 380.0651 Statewide guidelines, standards, and exemptions.—

646 (2) STATUTORY EXEMPTIONS.—The following developments are  
647 exempt from s. 380.06:

648 ~~(w) Any development in an energy economic zone designated~~



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649 ~~pursuant to s. 377.809 upon approval by its local governing~~  
650 ~~body.~~

651  
652 If a use is exempt from review pursuant to paragraphs (a)-(u),  
653 but will be part of a larger project that is subject to review  
654 pursuant to s. 380.06(12), the impact of the exempt use must be  
655 included in the review of the larger project, unless such exempt  
656 use involves a development that includes a landowner, tenant, or  
657 user that has entered into a funding agreement with the state  
658 land planning agency under the Innovation Incentive Program and  
659 the agreement contemplates a state award of at least \$50  
660 million.

661 Section 16. Subsection (2) of section 403.9405, Florida  
662 Statutes, is amended to read:

663 403.9405 Applicability; certification; exemption; notice of  
664 intent.—

665 (2) ~~No construction of~~ A natural gas transmission pipeline  
666 ~~may not be constructed be undertaken after October 1, 1992,~~  
667 without first obtaining certification under ss. 403.9401-  
668 403.9425, but these sections do not apply to:

669 (a) Natural gas transmission pipelines which are less than  
670 100 ~~15~~ miles in length or which do not cross a county line,  
671 unless the applicant has elected to apply for certification  
672 under ss. 403.9401-403.9425.

673 (b) Natural gas transmission pipelines for which a  
674 certificate of public convenience and necessity has been issued  
675 under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a  
676 natural gas transmission pipeline certified as an associated  
677 facility to an electrical power plant pursuant to the Florida



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678 Electrical Power Plant Siting Act, ss. 403.501-403.518, unless  
679 the applicant elects to apply for certification of that pipeline  
680 under ss. 403.9401-403.9425.

681 (c) Natural gas transmission pipelines that are owned or  
682 operated by a municipality or any agency thereof, by any person  
683 primarily for the local distribution of natural gas, or by a  
684 special district created by special act to distribute natural  
685 gas, unless the applicant elects to apply for certification of  
686 that pipeline under ss. 403.9401-403.9425.

687 Section 17. Subsection (3) of section 720.3075, Florida  
688 Statutes, is amended to read:

689 720.3075 Prohibited clauses in association documents.—

690 (3) Homeowners' association documents, including  
691 declarations of covenants, articles of incorporation, or bylaws,  
692 may not preclude:

693 (a) The display of up to two portable, removable flags as  
694 described in s. 720.304(2)(a) by property owners. However, all  
695 flags must be displayed in a respectful manner consistent with  
696 the requirements for the United States flag under 36 U.S.C.  
697 chapter 10.

698 (b) Types or fuel sources of energy production which may be  
699 used, delivered, converted, or supplied by the following  
700 entities to serve customers within the association that such  
701 entities are authorized to serve:

702 1. A public utility or an electric utility as defined in  
703 chapter 366;

704 2. An entity formed under s. 163.01 that generates, sells,  
705 or transmits electrical energy;

706 3. A natural gas utility as defined in s. 366.04(3)(c);



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707 4. A natural gas transmission company as defined in s.  
708 368.103; or

709 5. A Category I liquefied petroleum gas dealer, a Category  
710 II liquefied petroleum gas dispenser, or a Category III  
711 liquefied petroleum gas cylinder exchange operator as defined in  
712 s. 527.01.

713 (c) The use of an appliance, including a stove or grill,  
714 which uses the types or fuel sources of energy production which  
715 may be used, delivered, converted, or supplied by the entities  
716 listed in paragraph (b). As used in this paragraph, the term  
717 "appliance" means a device or apparatus manufactured and  
718 designed to use energy and for which the Florida Building Code  
719 or the Florida Fire Prevention Code provides specific  
720 requirements.

721 Section 18. (1) The Public Service Commission shall conduct  
722 an assessment of the security and resiliency of the state's  
723 electric grid and natural gas facilities against both physical  
724 threats and cyber threats. In conducting this assessment, the  
725 commission shall consult with the Division of Emergency  
726 Management and, in its assessment of cyber threats, shall  
727 consult with the Florida Digital Service. All electric  
728 utilities, natural gas utilities, and natural gas pipelines  
729 operating in this state, regardless of ownership structure,  
730 shall cooperate with the commission to provide access to all  
731 information necessary to conduct the assessment.

732 (2) By July 1, 2025, the commission shall submit a report  
733 of its assessment to the Governor, the President of the Senate,  
734 and the Speaker of the House of Representatives. The report must  
735 also contain any recommendations for potential legislative or



736 administrative actions that may enhance the physical security or  
737 cyber security of the state's electric grid or natural gas  
738 facilities.

739 Section 19. (1) Recognizing the evolution and advances that  
740 have occurred and continue to occur in nuclear power  
741 technologies, the Public Service Commission shall study and  
742 evaluate the technical and economic feasibility of using  
743 advanced nuclear power technologies, including small modular  
744 reactors, to meet the electrical power needs of the state, and  
745 research means to encourage and foster the installation and use  
746 of such technologies at military installations in the state in  
747 partnership with public utilities. In conducting this study, the  
748 commission shall consult with the Department of Environmental  
749 Protection and the Division of Emergency Management.

750 (2) By April 1, 2025, the commission shall prepare and  
751 submit a report to the Governor, the President of the Senate,  
752 and the Speaker of the House of Representatives, containing its  
753 findings and any recommendations for potential legislative or  
754 administrative actions that may enhance the use of advanced  
755 nuclear technologies in a manner consistent with the energy  
756 policy goals in s. 377.601(2), Florida Statutes.

757 Section 20. (1) Recognizing the continued development of  
758 technologies that support the use of hydrogen as a  
759 transportation fuel and the potential for such use to help meet  
760 the state's energy policy goals in s. 377.601(2), Florida  
761 Statutes, the Department of Transportation, in consultation with  
762 the Office of Energy within the Department of Agriculture and  
763 Consumer Services, shall study and evaluate the potential  
764 development of hydrogen fueling infrastructure, including



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765 fueling stations, to support hydrogen-powered vehicles that use  
766 the State Highway System.

767 (2) By April 1, 2025, the Department of Transportation  
768 shall prepare and submit a report to the Governor, the President  
769 of the Senate, and the Speaker of the House of Representatives,  
770 containing its findings and any recommendations for potential  
771 legislative or administrative actions that may accommodate the  
772 future development of hydrogen fueling infrastructure in a  
773 manner consistent with the energy policy goals in s. 377.601(2),  
774 Florida Statutes.

775 Section 21. This act shall take effect July 1, 2024.

776

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

778 And the title is amended as follows:

779 Delete everything before the enacting clause  
780 and insert:

781 A bill to be entitled  
782 An act relating to energy resources; creating s.  
783 163.3210, F.S.; providing legislative intent; defining  
784 terms; providing that resilience facilities are a  
785 permitted use in certain land use categories in local  
786 government comprehensive plans and specified districts  
787 if certain criteria are met; authorizing local  
788 governments to adopt ordinances specifying certain  
789 requirements for resiliency facilities if such  
790 ordinances meet certain requirements; prohibiting  
791 amendments after a specified date to a local  
792 government's comprehensive plan, land use map, zoning  
793 districts, or land development regulations if such



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794 amendments would conflict with resiliency facility  
795 classification; amending s. 286.29, F.S.; revising  
796 energy guidelines for public businesses; eliminating  
797 the requirement that the Department of Management  
798 Services develop and maintain the Florida Climate-  
799 Friendly Preferred Products List; deleting the  
800 requirement that state agencies contract for meeting  
801 and conference space only with facilities that have a  
802 Green Lodging designations; deleting the requirement  
803 that state agencies, state universities, community  
804 colleges, and local governments that procure new  
805 vehicles under a state purchasing plan select certain  
806 vehicles under a specified circumstance; requiring the  
807 Department of Management Services to develop a Florida  
808 Humane Preferred Energy Products List in consultation  
809 with the Department of Commerce and the Department of  
810 Agriculture and Consumer Services; providing  
811 assessment requirements developing the list; defining  
812 the term "forced labor"; requiring state agencies and  
813 political subdivisions that procure energy products  
814 from state term contracts to consult the list and  
815 purchase or procure such products; prohibiting state  
816 agencies and political subdivisions from purchasing or  
817 procuring products not included on the list; amending  
818 s. 366.032, F.S.; including development districts as a  
819 type of political subdivision for purposes of  
820 preemption over utility service restrictions; creating  
821 s. 366.042, F.S.; requiring electric cooperatives and  
822 municipal electric utilities to enter into and





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823 maintain at least one mutual aid agreement or pre-  
824 event agreement with certain entities for purposes of  
825 restoring power after a natural disaster; requiring  
826 electric cooperatives and municipal electric utilities  
827 to annually submit attestations of compliance to the  
828 Public Service Commission; requiring the commission to  
829 compile the attestations and annually submit a copy of  
830 such attestations to the Division of Emergency  
831 Management; providing that the submission of such  
832 attestations makes electric cooperatives and municipal  
833 electric utilities eligible to receive state financial  
834 assistance; providing that electric cooperatives and  
835 municipal electric utilities that do not submit such  
836 attestations are not eligible to receive state  
837 financial assistance until such attestations are  
838 submitted; providing construction; amending s. 366.94,  
839 F.S.; removing terminology; authorizing the commission  
840 to approve voluntary electric vehicle charging  
841 programs upon petition of a public utility, to become  
842 effective on or after a specified date, if certain  
843 requirements are met; providing applicability;  
844 creating s. 366.99, F.S.; defining terms; authorizing  
845 public utilities to submit to the commission a  
846 petition for a proposed cost recovery for certain  
847 natural gas facilities relocation costs; requiring the  
848 commission to conduct annual proceedings to determine  
849 each utility's prudently incurred natural gas  
850 facilities relocation costs and to allow for the  
851 recovery of such costs; providing requirements for the



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852 commission's review; providing requirements for the  
853 allocation of such recovered costs; requiring the  
854 commission to adopt rules; providing a timeframe for  
855 such rulemaking; amending s. 377.601, F.S.; revising  
856 legislative intent; amending s. 377.6015, F.S.;  
857 revising the powers and duties of the Department of  
858 Agriculture and Consumer Services; conforming  
859 provisions to changes made by the act; amending s.  
860 377.703, F.S.; revising additional functions of the  
861 department relating to energy resources; conforming  
862 provisions to changes made by the act; creating s.  
863 377.708, F.S.; defining terms; prohibiting the  
864 construction, operation, or expansion of certain wind  
865 energy facilities and wind turbines in this state;  
866 requiring the Department of Environmental Protection  
867 to review applications for federal wind energy leases  
868 in territorial waters of the United States adjacent to  
869 waters of this state and signify its approval or  
870 objection to such applications; authorizing the  
871 department to seek injunctive relief for violations;  
872 repealing ss. 377.801, 377.802, 377.803, 377.804,  
873 377.808, 377.809, and 377.816, F.S., relating to the  
874 Florida Energy and Climate Protection Act, the purpose  
875 of the act, definitions under the act, the Renewable  
876 Energy and Energy-Efficient Technologies Grants  
877 Program, the Florida Green Government Grants Act, the  
878 Energy Economic Zone Pilot Program, and the Qualified  
879 Energy Conservation Bond Allocation Program,  
880 respectively; prohibiting the approval of new or



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881 additional applications, certifications, or  
882 allocations under such programs; prohibiting new  
883 contracts, agreements, and awards under such programs;  
884 rescinding all certifications or allocations issued  
885 under such programs; providing an exception; providing  
886 applicability relating to existing contracts or  
887 agreements under such programs; amending ss. 220.193,  
888 288.9606, and 380.0651, F.S.; conforming provisions to  
889 changes made by the act; amending s. 403.9405, F.S.;  
890 revising the applicability of the Natural Gas  
891 Transmission Pipeline Siting Act; amending s.  
892 720.3075, F.S.; prohibiting certain homeowners'  
893 association documents from precluding certain types or  
894 fuel sources of energy production and the use of  
895 certain appliances; defining the term "appliance";  
896 requiring the commission to conduct an assessment of  
897 the security and resiliency of the state's electric  
898 grid and natural gas facilities against physical  
899 threats and cyber threats; requiring the commission to  
900 consult with the Division of Emergency Management and  
901 the Florida Digital Service; requiring cooperation  
902 from all operating facilities in the state relating to  
903 such assessment; requiring the commission to submit by  
904 a specified date a report of such assessment to the  
905 Governor and the Legislature; providing additional  
906 content requirements for such report; requiring the  
907 commission to study and evaluate the technical and  
908 economic feasibility of using advanced nuclear power  
909 technologies to meet the electrical power needs of



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910 this state; requiring the commission to research means  
911 to encourage and foster the installation and use of  
912 such technologies at military installations in  
913 partnership with public utilities; requiring the  
914 commission to consult with the Department of  
915 Environmental Protection and the Division of Emergency  
916 Management; requiring the commission to submit by a  
917 specified date a report to the Governor and the  
918 Legislature which contains its findings and any  
919 additional recommendations for potential legislative  
920 or administrative actions; requiring the Department of  
921 Transportation, in consultation with the Office of  
922 Energy within the Department of Agriculture and  
923 Consumer Services, to study and evaluate the potential  
924 development of hydrogen fueling infrastructure to  
925 support hydrogen-powered vehicles; requiring the  
926 Department of Transportation to submit by a specified  
927 date a report to the Governor and the Legislature  
928 which contains its findings and recommendations for  
929 legislative or administrative actions that may  
930 accommodate the future development of hydrogen fueling  
931 infrastructure; providing an effective date.

By the Committee on Regulated Industries; and Senator Collins

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1 A bill to be entitled  
 2 An act relating to energy resources; creating s.  
 3 163.3210, F.S.; providing legislative intent; defining  
 4 terms; allowing resiliency facilities in certain land  
 5 use categories in local government comprehensive plans  
 6 and specified districts if certain criteria are met;  
 7 authorizing local governments to adopt ordinances for  
 8 resiliency facilities if certain requirements are met;  
 9 prohibiting amendments to a local government's  
 10 comprehensive plan, land use map, zoning districts, or  
 11 land development regulations in a manner that would  
 12 conflict with resiliency facility classification after  
 13 a specified date; amending s. 286.29, F.S.; revising  
 14 energy guidelines for public businesses; deleting the  
 15 requirement that the Department of Management Services  
 16 develop and maintain the Florida Climate-Friendly  
 17 Preferred Products List; deleting the requirement that  
 18 state agencies contract for meeting and conference  
 19 space only with facilities that have Green Lodging  
 20 designations; deleting the requirement that state  
 21 agencies, state universities, community colleges, and  
 22 local governments that procure new vehicles under a  
 23 state purchasing plan select certain vehicles under a  
 24 specified circumstance; requiring the Department of  
 25 Management Services to develop a Florida Humane  
 26 Preferred Energy Products List in consultation with  
 27 the Department of Commerce and the Department of  
 28 Agriculture and Consumer Services; providing for  
 29 assessment considerations in developing the list;

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30 defining the term "forced labor"; requiring state  
 31 agencies and political subdivisions that procure  
 32 energy products from state term contracts to consult  
 33 the list and purchase or procure such products;  
 34 prohibiting state agencies and political subdivisions  
 35 from purchasing or procuring products not included in  
 36 the list; amending s. 337.25, F.S.; prohibiting the  
 37 Department of Transportation from assigning or  
 38 transferring its permitting rights across  
 39 transportation rights-of-way operated by the  
 40 department to certain third parties under certain  
 41 circumstances; amending s. 337.403, F.S.; prohibiting  
 42 authorities from requiring the relocation of utilities  
 43 on behalf of certain other third-party or governmental  
 44 agency projects; amending s. 366.032, F.S.; including  
 45 development districts as a type of political  
 46 subdivision for purposes of preemption over utility  
 47 service restrictions; amending s. 366.04, F.S.;  
 48 requiring the Public Service Commission to approve  
 49 targeted storm reserve amounts for public utilities;  
 50 providing requirements for the targeted storm reserve  
 51 amounts; providing for base rate adjustments; amending  
 52 s. 366.075, F.S.; authorizing the commission to  
 53 establish an experimental mechanism to facilitate  
 54 energy infrastructure investment for renewable natural  
 55 gas; providing requirements for the experimental  
 56 mechanism; requiring the commission to adopt rules;  
 57 providing a timeframe for such rulemaking; amending s.  
 58 366.94, F.S.; deleting terminology; conforming

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59 provisions to changes made by the act; authorizing the  
60 commission upon a specified date to approve voluntary  
61 public utility programs for electric vehicle charging  
62 if certain requirements are met; requiring that all  
63 revenues received from such program be credited to the  
64 public utility's general body of ratepayers; providing  
65 applicability; creating s. 366.99, F.S.; defining  
66 terms; authorizing public utilities to submit to the  
67 commission a petition for a proposed cost recovery for  
68 certain natural gas facilities relocation costs;  
69 requiring the commission to conduct annual proceedings  
70 to determine each utility's prudently incurred natural  
71 gas facilities relocation costs and to allow for the  
72 recovery of such costs; providing requirements for the  
73 commission's review; providing requirements for the  
74 allocation of such recovered costs; requiring the  
75 commission to adopt rules; providing a timeframe for  
76 such rulemaking; amending s. 377.601, F.S.; revising  
77 legislative intent; amending s. 377.6015, F.S.;  
78 revising the powers and duties of the department;  
79 conforming provisions to changes made by the act;  
80 amending s. 377.703, F.S.; revising additional  
81 functions of the department relating to energy  
82 resources; conforming provisions to changes made by  
83 the act; repealing ss. 377.801, 377.802, 377.803,  
84 377.804, 377.808, 377.809, and 377.816, F.S., relating  
85 to the Florida Energy and Climate Protection Act, the  
86 purpose of the act, and definitions under the act, the  
87 Renewable Energy and Energy-Efficient Technologies

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88 Grants Program, the Florida Green Government Grants  
89 Act, the Energy Economic Zone Pilot Program, and the  
90 qualified energy conservation bond allocation;  
91 prohibiting the approval of new or additional  
92 applications, certifications, or allocations under  
93 such programs; prohibiting new contracts, agreements,  
94 and awards under such programs; rescinding all  
95 certifications or allocations issued under such  
96 programs; providing an exception; providing  
97 application relating to existing contracts or  
98 agreements under such programs; amending ss. 288.9606  
99 and 380.0651, F.S.; conforming provisions to changes  
100 made by the act; amending s. 403.9405, F.S.; revising  
101 the applicability of the Natural Gas Transmission  
102 Pipeline Siting Act; amending s. 409.508, F.S.;  
103 defining and redefining terms; requiring the  
104 Department of Commerce to expand categorical  
105 eligibility for the low-income home energy assistance  
106 program to include individuals who are enrolled in  
107 certain federal disability programs; requiring the  
108 department to develop a comprehensive process for  
109 automatic payments to be made on behalf of such  
110 individuals; providing requirements for such process;  
111 making technical changes; amending s. 720.3075, F.S.;  
112 prohibiting certain homeowners' association documents  
113 from precluding certain types or fuel sources of  
114 energy production and the use of certain appliances;  
115 defining the term "appliance"; requiring the  
116 commission to conduct an assessment of the security

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117 and resiliency of the state's electric grid and  
 118 natural gas facilities against physical threats and  
 119 cyber threats; requiring the commission to consult  
 120 with the Florida Digital Service; requiring  
 121 cooperation from all operating facilities in the state  
 122 relating to such assessment; requiring the commission  
 123 to submit by a specified date a report of such  
 124 assessment to the Governor and the Legislature;  
 125 providing additional content requirements for such  
 126 report; requiring the commission to study and evaluate  
 127 the technical and economic feasibility of using  
 128 advanced nuclear power technologies to meet the  
 129 electrical power needs of the state; requiring the  
 130 commission to submit by a specified date a report to  
 131 the Governor and the Legislature which contains its  
 132 findings and any additional recommendations for  
 133 potential legislative or administrative actions;  
 134 requiring the Department of Transportation, in  
 135 consultation with the Office of Energy within the  
 136 Department of Agriculture and Consumer Services, to  
 137 study and evaluate the potential development of  
 138 hydrogen fueling infrastructure to support hydrogen-  
 139 powered vehicles; requiring the department to submit,  
 140 by a specified date, a report to the Governor and the  
 141 Legislature that contains its findings and  
 142 recommendations for specified actions that may  
 143 accommodate the future development of hydrogen fueling  
 144 infrastructure; amending s. 220.193, F.S.; conforming  
 145 a cross-reference; providing an effective date.

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146  
 147 Be It Enacted by the Legislature of the State of Florida:  
 148  
 149 Section 1. Section 163.3210, Florida Statutes, is created  
 150 to read:  
 151 163.3210 Natural gas resiliency and reliability  
 152 infrastructure.—  
 153 (1) It is the intent of the Legislature to maintain,  
 154 encourage, and ensure adequate and reliable fuel sources for  
 155 public utilities. The resiliency and reliability of fuel sources  
 156 for public utilities is critical to the state's economy; the  
 157 ability of the state to recover from natural disasters; and to  
 158 the health, safety, welfare, and quality of life of the  
 159 residents of the state.  
 160 (2) As used in this section, the term:  
 161 (a) "Natural gas" means all forms of fuel commonly or  
 162 commercially known or sold as natural gas, including compressed  
 163 natural gas and liquefied natural gas.  
 164 (b) "Natural gas reserve" means a facility that is capable  
 165 of storing and transporting and, when operational, actively  
 166 stores and transports a supply of natural gas.  
 167 (c) "Public utility" has the same meaning as defined in s.  
 168 366.02.  
 169 (d) "Resiliency facility" means a facility owned and  
 170 operated by a public utility for the purposes of assembling,  
 171 creating, holding, securing, or deploying natural gas reserves  
 172 for temporary use during a system outage or natural disaster.  
 173 (3) A resiliency facility is a permitted use in all  
 174 commercial, industrial, and manufacturing land use categories in

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175 a local government comprehensive plan and all commercial,  
 176 industrial, and manufacturing districts. A resiliency facility  
 177 must comply with the setback and landscape criteria for other  
 178 similar uses. A local government may adopt an ordinance  
 179 specifying buffer and landscaping requirements for resiliency  
 180 facilities, provided that such requirements do not exceed the  
 181 requirements for similar uses involving the construction of  
 182 other facilities that are permitted uses in commercial,  
 183 industrial, and manufacturing land use categories and zoning  
 184 districts.

185 (4) After July 1, 2024, a local government may not amend  
 186 its comprehensive plan, land use map, zoning districts, or land  
 187 development regulations in a manner that would conflict with a  
 188 resiliency facility's classification as a permitted and  
 189 allowable use, including, but not limited to, an amendment that  
 190 causes a resiliency facility to be a nonconforming use,  
 191 structure, or development.

192 Section 2. Section 286.29, Florida Statutes, is amended to  
 193 read:

194 286.29 Energy guidelines for Climate-friendly public  
 195 business.~~The Legislature recognizes the importance of~~  
 196 ~~leadership by state government in the area of energy efficiency~~  
 197 ~~and in reducing the greenhouse gas emissions of state government~~  
 198 ~~operations. The following shall pertain to all state agencies~~  
 199 ~~when conducting public business.~~

200 ~~(1) The Department of Management Services shall develop the~~  
 201 ~~"Florida Climate Friendly Preferred Products List." In~~  
 202 ~~maintaining that list, the department, in consultation with the~~  
 203 ~~Department of Environmental Protection, shall continually assess~~

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204 ~~products currently available for purchase under state term~~  
 205 ~~contracts to identify specific products and vendors that offer~~  
 206 ~~clear energy efficiency or other environmental benefits over~~  
 207 ~~competing products. When procuring products from state term~~  
 208 ~~contracts, state agencies shall first consult the Florida~~  
 209 ~~Climate-Friendly Preferred Products List and procure such~~  
 210 ~~products if the price is comparable.~~

211 ~~(2) State agencies shall contract for meeting and~~  
 212 ~~conference space only with hotels or conference facilities that~~  
 213 ~~have received the "Green Lodging" designation from the~~  
 214 ~~Department of Environmental Protection for best practices in~~  
 215 ~~water, energy, and waste efficiency standards, unless the~~  
 216 ~~responsible state agency head makes a determination that no~~  
 217 ~~other viable alternative exists.~~

218 ~~(3) Each state agency shall ensure that all maintained~~  
 219 ~~vehicles meet minimum maintenance schedules shown to reduce fuel~~  
 220 ~~consumption, which include:~~

221 (a) Ensuring appropriate tire pressures and tread depth.

222 (b) Replacing fuel filters and emission filters at  
 223 recommended intervals.

224 (c) Using proper motor oils.

225 (d) Performing timely motor maintenance.

226  
 227 Each state agency shall measure and report compliance to the  
 228 Department of Management Services through the Equipment  
 229 Management Information System database.

230 ~~(4) When procuring new vehicles, all state agencies, state~~  
 231 ~~universities, community colleges, and local governments that~~  
 232 ~~purchase vehicles under a state purchasing plan shall first~~



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233 ~~define the intended purpose for the vehicle and determine which~~  
 234 ~~of the following use classes for which the vehicle is being~~  
 235 ~~procured:~~

- 236 ~~(a) State business travel, designated operator;~~
- 237 ~~(b) State business travel, pool operators;~~
- 238 ~~(c) Construction, agricultural, or maintenance work;~~
- 239 ~~(d) Conveyance of passengers;~~
- 240 ~~(e) Conveyance of building or maintenance materials and~~  
 241 ~~supplies;~~
- 242 ~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~
- 243 ~~(g) Emergency response; or~~
- 244 ~~(h) Other.~~

245

246 ~~Vehicles described in paragraphs (a) through (h), when being~~  
 247 ~~processed for purchase or leasing agreements, must be selected~~  
 248 ~~for the greatest fuel efficiency available for a given use class~~  
 249 ~~when fuel economy data are available. Exceptions may be made for~~  
 250 ~~individual vehicles in paragraph (g) when accompanied, during~~  
 251 ~~the procurement process, by documentation indicating that the~~  
 252 ~~operator or operators will exclusively be emergency first~~  
 253 ~~responders or have special documented need for exceptional~~  
 254 ~~vehicle performance characteristics. Any request for an~~  
 255 ~~exception must be approved by the purchasing agency head and any~~  
 256 ~~exceptional performance characteristics denoted as a part of the~~  
 257 ~~procurement process prior to purchase.~~

258 (2)(5) All state agencies shall use ethanol and biodiesel  
 259 blended fuels when available. State agencies administering  
 260 central fueling operations for state-owned vehicles shall  
 261 procure biofuels for fleet needs to the greatest extent

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262 practicable.

263 (3) (a) The Department of Management Services shall, in  
 264 consultation with the Department of Commerce and the Department  
 265 of Agriculture and Consumer Services, develop a Florida Humane  
 266 Preferred Energy Products List. In developing the list, the  
 267 department must assess products currently available for purchase  
 268 under state term contracts that contain or consist of an energy  
 269 storage device with a capacity of greater than one kilowatt or  
 270 that contain or consist of an energy generation device with a  
 271 capacity of greater than 500 kilowatts and identify specific  
 272 products that appear to be largely made free from forced labor,  
 273 irrespective of the age of the worker. For purposes of this  
 274 subsection, the term "forced labor" means any work performed or  
 275 service rendered that is:

- 276 1. Obtained by intimidation, fraud, or coercion, including  
 277 by threat of serious bodily harm to, or physical restraint  
 278 against, a person, by means of a scheme intended to cause the  
 279 person to believe that if he or she does not perform such labor  
 280 or render such service, the person will suffer serious bodily  
 281 harm or physical restraint, or by means of the abuse or  
 282 threatened abuse of law or the legal process;
- 283 2. Imposed on the basis of a characteristic that has been  
 284 held by the United States Supreme Court or the Florida Supreme  
 285 Court to be protected against discrimination under the  
 286 Fourteenth Amendment to the United States Constitution or under  
 287 s. 2, Art. I of the State Constitution, including race, color,  
 288 national origin, religion, gender, or physical disability;
- 289 3. Not performed or rendered voluntarily by a person; or
- 290 4. In violation of the Child Labor Law or otherwise

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291 performed or rendered through oppressive child labor.

292 (b) When procuring the types of energy products described  
 293 in paragraph (a) from state term contracts, state agencies and  
 294 political subdivisions shall first consult the Florida Humane  
 295 Preferred Energy Products List and may not purchase or procure  
 296 products not included in the list.

297 Section 3. Paragraph (e) is added to subsection (1) of  
 298 section 337.25, Florida Statutes, to read:

299 337.25 Acquisition, lease, and disposal of real and  
 300 personal property.-

301 (1)

302 (e) The department may not, without prior approval from the  
 303 Legislature, assign or transfer its permitting rights across any  
 304 transportation right-of-way operated by the department to a  
 305 third party or governmental entity that does not operate the  
 306 transportation right-of-way.

307 Section 4. Subsection (1) of section 337.403, Florida  
 308 Statutes, is amended to read:

309 337.403 Interference caused by utility; expenses.-

310 (1) If a utility that is placed upon, under, over, or  
 311 within the right-of-way limits of any public road or publicly  
 312 owned rail corridor is found by the authority to be unreasonably  
 313 interfering in any way with the convenient, safe, or continuous  
 314 use, or the maintenance, improvement, extension, or expansion,  
 315 of such public road or publicly owned rail corridor, the utility  
 316 owner shall, upon 30 days' written notice to the utility or its  
 317 agent by the authority, initiate the work necessary to alleviate  
 318 the interference at its own expense except as provided in  
 319 paragraphs (a)-(j). The authority may not require a utility

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320 within a public road operated by the authority to be relocated  
 321 on behalf of any other third-party or governmental agency  
 322 project related to a separate public or private road or  
 323 transportation corridor. The work must be completed within such  
 324 reasonable time as stated in the notice or such time as agreed  
 325 to by the authority and the utility owner.

326 (a) If the relocation of utility facilities, as referred to  
 327 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
 328 84-627, is necessitated by the construction of a project on the  
 329 federal-aid interstate system, including extensions thereof  
 330 within urban areas, and the cost of the project is eligible and  
 331 approved for reimbursement by the Federal Government to the  
 332 extent of 90 percent or more under the Federal-Aid Highway Act,  
 333 or any amendment thereof, then in that event the utility owning  
 334 or operating such facilities shall perform any necessary work  
 335 upon notice from the department, and the state shall pay the  
 336 entire expense properly attributable to such work after  
 337 deducting therefrom any increase in the value of a new facility  
 338 and any salvage value derived from an old facility.

339 (b) When a joint agreement between the department and the  
 340 utility is executed for utility work to be accomplished as part  
 341 of a contract for construction of a transportation facility, the  
 342 department may participate in those utility work costs that  
 343 exceed the department's official estimate of the cost of the  
 344 work by more than 10 percent. The amount of such participation  
 345 is limited to the difference between the official estimate of  
 346 all the work in the joint agreement plus 10 percent and the  
 347 amount awarded for this work in the construction contract for  
 348 such work. The department may not participate in any utility

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349 work costs that occur as a result of changes or additions during  
350 the course of the contract.

351 (c) When an agreement between the department and utility is  
352 executed for utility work to be accomplished in advance of a  
353 contract for construction of a transportation facility, the  
354 department may participate in the cost of clearing and grubbing  
355 necessary to perform such work.

356 (d) If the utility facility was initially installed to  
357 exclusively serve the authority or its tenants, or both, the  
358 authority shall bear the costs of the utility work. However, the  
359 authority is not responsible for the cost of utility work  
360 related to any subsequent additions to that facility for the  
361 purpose of serving others. For a county or municipality, if such  
362 utility facility was installed in the right-of-way as a means to  
363 serve a county or municipal facility on a parcel of property  
364 adjacent to the right-of-way and if the intended use of the  
365 county or municipal facility is for a use other than  
366 transportation purposes, the obligation of the county or  
367 municipality to bear the costs of the utility work shall extend  
368 only to utility work on the parcel of property on which the  
369 facility of the county or municipality originally served by the  
370 utility facility is located.

371 (e) If, under an agreement between a utility and the  
372 authority entered into after July 1, 2009, the utility conveys,  
373 subordinates, or relinquishes a compensable property right to  
374 the authority for the purpose of accommodating the acquisition  
375 or use of the right-of-way by the authority, without the  
376 agreement expressly addressing future responsibility for the  
377 cost of necessary utility work, the authority shall bear the

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378 cost of removal or relocation. This paragraph does not impair or  
379 restrict, and may not be used to interpret, the terms of any  
380 such agreement entered into before July 1, 2009.

381 (f) If the utility is an electric facility being relocated  
382 underground in order to enhance vehicular, bicycle, and  
383 pedestrian safety and in which ownership of the electric  
384 facility to be placed underground has been transferred from a  
385 private to a public utility within the past 5 years, the  
386 department shall incur all costs of the necessary utility work.

387 (g) An authority may bear the costs of utility work  
388 required to eliminate an unreasonable interference when the  
389 utility is not able to establish that it has a compensable  
390 property right in the particular property where the utility is  
391 located if:

- 392 1. The utility was physically located on the particular  
393 property before the authority acquired rights in the property;
- 394 2. The utility demonstrates that it has a compensable  
395 property right in adjacent properties along the alignment of the  
396 utility or, after due diligence, certifies that the utility does  
397 not have evidence to prove or disprove that it has a compensable  
398 property right in the particular property where the utility is  
399 located; and

- 400 3. The information available to the authority does not  
401 establish the relative priorities of the authority's and the  
402 utility's interests in the particular property.

403 (h) If a municipally owned utility or county-owned utility  
404 is located in a rural area of opportunity, as defined in s.  
405 288.0656(2), and the department determines that the utility is  
406 unable, and will not be able within the next 10 years, to pay

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407 for the cost of utility work necessitated by a department  
 408 project on the State Highway System, the department may pay, in  
 409 whole or in part, the cost of such utility work performed by the  
 410 department or its contractor.

411 (i) If the relocation of utility facilities is necessitated  
 412 by the construction of a commuter rail service project or an  
 413 intercity passenger rail service project and the cost of the  
 414 project is eligible and approved for reimbursement by the  
 415 Federal Government, then in that event the utility owning or  
 416 operating such facilities located by permit on a department-  
 417 owned rail corridor shall perform any necessary utility  
 418 relocation work upon notice from the department, and the  
 419 department shall pay the expense properly attributable to such  
 420 utility relocation work in the same proportion as federal funds  
 421 are expended on the commuter rail service project or an  
 422 intercity passenger rail service project after deducting  
 423 therefrom any increase in the value of a new facility and any  
 424 salvage value derived from an old facility. In no event shall  
 425 the state be required to use state dollars for such utility  
 426 relocation work. This paragraph does not apply to any phase of  
 427 the Central Florida Commuter Rail project, known as SunRail.

428 (j) If a utility is lawfully located within an existing and  
 429 valid utility easement granted by recorded plat, regardless of  
 430 whether such land was subsequently acquired by the authority by  
 431 dedication, transfer of fee, or otherwise, the authority must  
 432 bear the cost of the utility work required to eliminate an  
 433 unreasonable interference. The authority shall pay the entire  
 434 expense properly attributable to such work after deducting any  
 435 increase in the value of a new facility and any salvage value

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436 derived from an old facility.

437 Section 5. Subsections (1), (2), and (5) of section  
 438 366.032, Florida Statutes, are amended to read:

439 366.032 Preemption over utility service restrictions.—

440 (1) A municipality, county, special district, development  
 441 district, or other political subdivision of the state may not  
 442 enact or enforce a resolution, ordinance, rule, code, or policy  
 443 or take any action that restricts or prohibits or has the effect  
 444 of restricting or prohibiting the types or fuel sources of  
 445 energy production which may be used, delivered, converted, or  
 446 supplied by the following entities to serve customers that such  
 447 entities are authorized to serve:

448 (a) A public utility or an electric utility as defined in  
 449 this chapter;

450 (b) An entity formed under s. 163.01 that generates, sells,  
 451 or transmits electrical energy;

452 (c) A natural gas utility as defined in s. 366.04(3)(c);

453 (d) A natural gas transmission company as defined in s.  
 454 368.103; or

455 (e) A Category I liquefied petroleum gas dealer or Category  
 456 II liquefied petroleum gas dispenser or Category III liquefied  
 457 petroleum gas cylinder exchange operator as defined in s.  
 458 527.01.

459 (2) Except to the extent necessary to enforce the Florida  
 460 Building Code adopted pursuant to s. 553.73 or the Florida Fire  
 461 Prevention Code adopted pursuant to s. 633.202, a municipality,  
 462 county, special district, development district, or other  
 463 political subdivision of the state may not enact or enforce a  
 464 resolution, an ordinance, a rule, a code, or a policy or take

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465 any action that restricts or prohibits or has the effect of  
 466 restricting or prohibiting the use of an appliance, including a  
 467 stove or grill, which uses the types or fuel sources of energy  
 468 production which may be used, delivered, converted, or supplied  
 469 by the entities listed in subsection (1). As used in this  
 470 subsection, the term "appliance" means a device or apparatus  
 471 manufactured and designed to use energy and for which the  
 472 Florida Building Code or the Florida Fire Prevention Code  
 473 provides specific requirements.

474 (5) Any municipality, county, special district, development  
 475 district, or political subdivision charter, resolution,  
 476 ordinance, rule, code, policy, or action that is preempted by  
 477 this act that existed before or on July 1, 2021, is void.

478 Section 6. Subsection (10) is added to section 366.04,  
 479 Florida Statutes, to read:

480 366.04 Jurisdiction of commission.—

481 (10) The commission shall approve a targeted storm reserve  
 482 amount to be effective January 1, 2025, for each public utility.  
 483 The targeted storm reserve amount must be set at a level equal  
 484 to 80 percent of the approved incremental storm costs incurred  
 485 for the public utility's highest cost storm impacting its  
 486 service area over the 5 calendar years before January 2025. The  
 487 approved incremental storm costs that form the basis for the  
 488 targeted storm reserve amount must be based on the filings of  
 489 the public utility with the commission and orders issued by the  
 490 commission.

491 (a)1. The initial targeted storm reserve amount established  
 492 by the commission:

493 a. Is subject to adjustment on an annual basis for

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494 successive rolling 5-year periods;

495 b. Must be funded by an increase in base rates effective  
 496 January 1, 2025; and

497 c. Must be designed to allow the utility to recover the  
 498 costs to fund the targeted reserve level over a 4-year period.

499 2. All base rate adjustments and accompanying tariffs must  
 500 be:

501 a. Implemented by administrative approval of the commission  
 502 and employ the most recent authorized base rate structure for  
 503 the public utility;

504 b. Filed by October 15 together with the current storm  
 505 reserve and supporting documentation and the highest cost storm  
 506 over the prior 5 years as reflected by commission order; and

507 c. Administratively approved by each November 15 to take  
 508 effect on January 1 of the following calendar year.

509 (b) Suspension of base rate increases and implementation of  
 510 base rate adjustments under this subsection based on use and  
 511 depletion of the storm reserve and the determination of the  
 512 annual storm reserve amount must be administratively determined  
 513 and approved by the commission consistent with calendar  
 514 deadlines under paragraph (a).

515 (c) The adjustments to base rates must be designed to fund  
 516 the public utility storm reserves; the cost recovery of such  
 517 base rates must be without regard to any impact on a public  
 518 utility's previous, current, or projected earnings; and the  
 519 revenues from such base rates may not be considered in the  
 520 calculation of a public utility's earnings in earnings  
 521 surveillance reports filed with the commission.

522 Section 7. Section 366.075, Florida Statutes, is amended to

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523 read:

524 366.075 Experimental and transitional rates; experimental  
 525 mechanisms.—

526 (1) The commission is authorized to approve rates on an  
 527 experimental or transitional basis for any public utility to  
 528 encourage energy conservation or to encourage efficiency. The  
 529 application of such rates may be for limited geographic areas  
 530 and for a limited period.

531 (2) The commission is authorized to approve the geographic  
 532 area used in testing experimental rates and shall specify in the  
 533 order setting those rates the area affected. The commission may  
 534 extend the period designated for the test if it determines that  
 535 further testing is necessary to fully evaluate the effectiveness  
 536 of such experimental rates.

537 (3) The commission is authorized to establish an  
 538 experimental mechanism to facilitate energy infrastructure  
 539 investment consistent with the structure set forth in s.  
 540 366.96(7) and (8), the intent of s. 366.91(1), and the  
 541 definition of the term "renewable natural gas" in s.  
 542 366.91(2)(f). The commission shall have discretion to determine  
 543 whether to use an annual proceeding to conduct such experimental  
 544 mechanism. The commission shall adopt rules to implement and  
 545 administer this subsection and shall propose a rule for adoption  
 546 as soon as practicable after the effective date of this act, but  
 547 not later than October 31, 2024.

548 Section 8. Section 366.94, Florida Statutes, is amended to  
 549 read:

550 366.94 Electric vehicle charging ~~stations.~~—

551 (1) The provision of electric vehicle charging to the

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552 public by a nonutility is not the retail sale of electricity for  
 553 the purposes of this chapter. The rates, terms, and conditions  
 554 of electric vehicle charging services by a nonutility are not  
 555 subject to regulation under this chapter. This section does not  
 556 affect the ability of individuals, businesses, or governmental  
 557 entities to acquire, install, or use an electric vehicle charger  
 558 for their own vehicles.

559 (2) The Department of Agriculture and Consumer Services  
 560 shall adopt rules to provide definitions, methods of sale,  
 561 labeling requirements, and price-posting requirements for  
 562 electric vehicle charging ~~stations~~ to allow for consistency for  
 563 consumers and the industry.

564 (3)(a) It is unlawful for a person to stop, stand, or park  
 565 a vehicle that is not capable of using an electrical recharging  
 566 station within any parking space specifically designated for  
 567 charging an electric vehicle.

568 (b) If a law enforcement officer finds a motor vehicle in  
 569 violation of this subsection, the officer or specialist shall  
 570 charge the operator or other person in charge of the vehicle in  
 571 violation with a noncriminal traffic infraction, punishable as  
 572 provided in s. 316.008(4) or s. 318.18.

573 (4) The commission may approve voluntary public utility  
 574 programs to become effective on or after January 1, 2025, for  
 575 residential, customer-specific electric vehicle charging if the  
 576 commission determines that the rates and rate structure of the  
 577 program will not adversely impact the public utility's general  
 578 body of ratepayers. All revenues received from the program must  
 579 be credited to the public utility's retail ratepayers. This  
 580 provision does not preclude cost recovery for electric vehicle

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581 charging programs approved by the commission before January 1,  
 582 2024.

583 Section 9. Section 366.99, Florida Statutes, is created to  
 584 read:

585 366.99 Natural gas facilities relocation costs.-

586 (1) As used in this section, the term:

587 (a) "Authority" has the same meaning as in s.

588 337.401(1)(a).

589 (b) "Facilities relocation" means the physical moving,  
 590 modification, or reconstruction of public utility facilities to  
 591 accommodate the requirements imposed by an authority.

592 (c) "Natural gas facilities" or "facilities" means gas  
 593 mains, laterals, and service lines used to distribute natural  
 594 gas to customers. The term includes all ancillary equipment  
 595 needed for safe operations, including, but not limited to,  
 596 regulating stations, meters, other measuring devices,  
 597 regulators, and pressure monitoring equipment.

598 (d) "Natural gas facilities relocation costs" means the  
 599 costs to relocate or reconstruct facilities as required by a  
 600 mandate, a statute, a law, an ordinance, or an agreement between  
 601 the utility and an authority, including, but not limited to,  
 602 costs associated with reviewing plans provided by an authority.  
 603 The term does not include any costs recovered through the public  
 604 utility's base rates.

605 (e) "Public utility" or "utility" has the same meaning as  
 606 in s. 366.02, except that the term does not include an electric  
 607 utility.

608 (2) A utility may submit to the commission, pursuant to  
 609 commission rule, a petition describing the utility's projected

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610 natural gas facilities relocation costs for the next calendar  
 611 year, actual natural gas facilities relocation costs for the  
 612 prior calendar year, and proposed cost-recovery factors designed  
 613 to recover such costs. A utility's decision to proceed with  
 614 implementing a plan before filing such a petition does not  
 615 constitute imprudence.

616 (3) The commission shall conduct an annual proceeding to  
 617 determine each utility's prudently incurred natural gas  
 618 facilities relocation costs and to allow each utility to recover  
 619 such costs through a charge separate and apart from base rates,  
 620 to be referred to as the natural gas facilities relocation cost  
 621 recovery clause. The commission's review in the proceeding is  
 622 limited to determining the prudence of the utility's actual  
 623 incurred natural gas facilities relocation costs and the  
 624 reasonableness of the utility's projected natural gas facilities  
 625 relocation costs for the following calendar year; and providing  
 626 for a true-up of the costs with the projections on which past  
 627 factors were set. The commission shall require that any refund  
 628 or collection made as a part of the true-up process includes  
 629 interest.

630 (4) All costs approved for recovery through the natural gas  
 631 facilities relocation cost recovery clause must be allocated to  
 632 customer classes pursuant to the rate design most recently  
 633 approved by the commission.

634 (5) If a capital expenditure is recoverable as a natural  
 635 gas facilities relocation cost, the public utility may recover  
 636 the annual depreciation on the cost, calculated at the public  
 637 utility's current approved depreciation rates, and a return on  
 638 the undepreciated balance of the costs at the public utility's

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639 weighted average cost of capital using the last approved return  
 640 on equity.

641 (6) The commission shall adopt rules to implement and  
 642 administer this section and shall propose a rule for adoption as  
 643 soon as practicable after July 1, 2024.

644 Section 10. Section 377.601, Florida Statutes, is amended  
 645 to read:

646 377.601 Legislative intent.—

647 (1) The purpose of the state's energy policy is to ensure  
 648 an adequate and reliable supply of energy for the state in a  
 649 manner that promotes the health and welfare of the public and  
 650 economic growth. The Legislature intends that governance of the  
 651 state's energy policy be efficiently directed toward achieving  
 652 this purpose ~~The Legislature finds that the state's energy~~  
 653 ~~security can be increased by lessening dependence on foreign~~  
 654 ~~oil; that the impacts of global climate change can be reduced~~  
 655 ~~through the reduction of greenhouse gas emissions; and that the~~  
 656 ~~implementation of alternative energy technologies can be a~~  
 657 ~~source of new jobs and employment opportunities for many~~  
 658 ~~Floridians. The Legislature further finds that the state is~~  
 659 ~~positioned at the front line against potential impacts of global~~  
 660 ~~climate change. Human and economic costs of those impacts can be~~  
 661 ~~averted by global actions and, where necessary, adapted to by a~~  
 662 ~~concerted effort to make Florida's communities more resilient~~  
 663 ~~and less vulnerable to these impacts. In focusing the~~  
 664 ~~government's policy and efforts to benefit and protect our~~  
 665 ~~state, its citizens, and its resources, the Legislature believes~~  
 666 ~~that a single government entity with a specific focus on energy~~  
 667 ~~and climate change is both desirable and advantageous. Further,~~

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668 ~~the Legislature finds that energy infrastructure provides the~~  
 669 ~~foundation for secure and reliable access to the energy supplies~~  
 670 ~~and services on which Florida depends. Therefore, there is~~  
 671 ~~significant value to Florida consumers that comes from~~  
 672 ~~investment in Florida's energy infrastructure that increases~~  
 673 ~~system reliability, enhances energy independence and~~  
 674 ~~diversification, stabilizes energy costs, and reduces greenhouse~~  
 675 ~~gas emissions.~~

676 (2) For the purposes of subsection (1), the state's energy  
 677 policy must be guided by the following goals:

678 (a) Ensuring a cost-effective and affordable energy supply.

679 (b) Ensuring adequate supply and capacity.

680 (c) Ensuring a secure, resilient, and reliable energy  
 681 supply, with an emphasis on a diverse supply of domestic energy  
 682 resources.

683 (d) Protecting public safety.

684 (e) Ensuring consumer choice.

685 (f) Protecting the state's natural resources, including its  
 686 coastlines, tributaries, and waterways.

687 (g) Supporting economic growth.

688 (3)(2) In furtherance of the goals in subsection (2), it is  
 689 the policy of the state of Florida to:

690 (a) Develop and Promote the cost-effective development and  
 691 effective use of a diverse supply of domestic energy resources  
 692 in this the state and, discourage all forms of energy waste, and  
 693 recognize and address the potential of global climate change  
 694 wherever possible.

695 (b) Promote the cost-effective development and maintenance  
 696 of energy infrastructure that is resilient to natural and



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697 ~~manmade threats to the security and reliability of the state's~~  
 698 ~~energy supply. Play a leading role in developing and instituting~~  
 699 ~~energy management programs aimed at promoting energy~~  
 700 ~~conservation, energy security, and the reduction of greenhouse~~  
 701 ~~gas emissions.~~  
 702 (c) Reduce reliance on foreign energy resources.  
 703 ~~(d)(e)~~ Include energy considerations in all state,  
 704 regional, and local planning.  
 705 ~~(e)(d)~~ Utilize and manage effectively energy resources used  
 706 within state agencies.  
 707 ~~(f)(e)~~ Encourage local governments to include energy  
 708 considerations in all planning and to support their work in  
 709 promoting energy management programs.  
 710 (g)(f) Include the full participation of citizens in the  
 711 development and implementation of energy programs.  
 712 (h)(g) Consider in its decisions the energy needs of each  
 713 economic sector, including residential, industrial, commercial,  
 714 agricultural, and governmental uses, and reduce those needs  
 715 whenever possible.  
 716 (i)(h) Promote energy education and the public  
 717 dissemination of information on energy and its impacts in  
 718 relation to the goals in subsection (2) environmental, economic,  
 719 and social impact.  
 720 (j)(i) Encourage the research, development, demonstration,  
 721 and application of domestic energy resources, including the use  
 722 of alternative energy resources, particularly renewable energy  
 723 resources.  
 724 (k)(j) Consider, in its decisionmaking, the impacts of  
 725 energy-related activities on the goals in subsection (2) social,

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726 ~~economic, and environmental impacts of energy-related~~  
 727 ~~activities, including the whole-life-cycle impacts of any~~  
 728 ~~potential energy use choices, so that detrimental effects of~~  
 729 ~~these activities are understood and minimized.~~  
 730 ~~(l)(k)~~ Develop and maintain energy emergency preparedness  
 731 plans to minimize the effects of an energy shortage within this  
 732 state Florida.  
 733 Section 11. Subsection (2) of section 377.6015, Florida  
 734 Statutes, is amended to read:  
 735 377.6015 Department of Agriculture and Consumer Services;  
 736 powers and duties.—  
 737 (2) The department shall:  
 738 (a) ~~Administer the Florida Renewable Energy and Energy-~~  
 739 ~~Efficient Technologies Grants Program pursuant to s. 377.804 to~~  
 740 ~~assure a robust grant portfolio.~~  
 741 ~~(b)~~ Develop policy for requiring grantees to provide  
 742 royalty-sharing or licensing agreements with state government  
 743 for commercialized products developed under a state grant.  
 744 ~~(c) Administer the Florida Green Government Grants Act~~  
 745 ~~pursuant to s. 377.808 and set annual priorities for grants.~~  
 746 (b)(d) Administer the information gathering and reporting  
 747 functions pursuant to ss. 377.601-377.608.  
 748 ~~(e) Administer the provisions of the Florida Energy and~~  
 749 ~~Climate Protection Act pursuant to ss. 377.801-377.804.~~  
 750 (c)(f) Advocate for energy and ~~climate change~~ issues  
 751 consistent with the goals in s. 377.601(2) and provide  
 752 educational outreach and technical assistance in cooperation  
 753 with the state's academic institutions.  
 754 (d)(g) Be a party in the proceedings to adopt goals and

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755 submit comments to the Public Service Commission pursuant to s.  
756 366.82.

757 ~~(e)(4)~~ Adopt rules pursuant to chapter 120 in order to  
758 implement all powers and duties described in this section.

759 Section 12. Subsection (1) and paragraphs (e), (f), and (m)  
760 of subsection (2) of section 377.703, Florida Statutes, are  
761 amended to read:

762 377.703 Additional functions of the Department of  
763 Agriculture and Consumer Services.—

764 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and  
765 demand questions have become a major area of concern to the  
766 state which must be dealt with by effective and well-coordinated  
767 state action, it is the intent of the Legislature to promote the  
768 efficient, effective, and economical management of energy  
769 problems, centralize energy coordination responsibilities,  
770 pinpoint responsibility for conducting energy programs, and  
771 ensure the accountability of state agencies for the  
772 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy  
773 policy. It is the specific intent of the Legislature that  
774 nothing in this act shall in any way change the powers, duties,  
775 and responsibilities assigned by the Florida Electrical Power  
776 Plant Siting Act, part II of chapter 403, or the powers, duties,  
777 and responsibilities of the Florida Public Service Commission.

778 (2) DUTIES.—The department shall perform the following  
779 functions, unless as otherwise provided, consistent with the  
780 development of a state energy policy:

781 (e) The department shall analyze energy data collected and  
782 prepare long-range forecasts of energy supply and demand in  
783 coordination with the Florida Public Service Commission, which

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784 is responsible for electricity and natural gas forecasts. To  
785 this end, the forecasts shall contain:

786 1. An analysis of the relationship of state economic growth  
787 and development to energy supply and demand, including the  
788 constraints to economic growth resulting from energy supply  
789 constraints.

790 2. ~~Plans for the development of renewable energy resources~~  
791 ~~and reduction in dependence on depletable energy resources,~~  
792 ~~particularly oil and natural gas, and~~ An analysis of the extent  
793 to which domestic energy resources, including renewable energy  
794 sources, are being utilized in this ~~the~~ state.

795 3. Consideration of alternative scenarios of statewide  
796 energy supply and demand for 5, 10, and 20 years to identify  
797 strategies for long-range action, including identification of  
798 potential impacts in relation to the goals in s. 377.601(2)  
799 ~~social, economic, and environmental effects.~~

800 4. An assessment of the state's energy resources, including  
801 examination of the availability of commercially developable and  
802 imported fuels, and an analysis of anticipated impacts in  
803 relation to the goals in s. 377.601(2) ~~effects on the state's~~  
804 ~~environment and social services~~ resulting from energy resource  
805 development activities or from energy supply constraints, or  
806 both.

807 (f) The department shall submit an annual report to the  
808 Governor and the Legislature reflecting its activities and  
809 making recommendations for policies for improvement of the  
810 state's response to energy supply and demand and its effect on  
811 the health, safety, and welfare of the residents of this state.  
812 The report must include a report from the Florida Public Service

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813 Commission on electricity and natural gas and information on  
814 energy conservation programs conducted and underway in the past  
815 year and include recommendations for energy efficiency and  
816 conservation programs for the state, including:

817 1. Formulation of specific recommendations for improvement  
818 in the efficiency of energy utilization in governmental,  
819 residential, commercial, industrial, and transportation sectors.

820 2. Collection and dissemination of information relating to  
821 energy efficiency and conservation.

822 3. Development and conduct of educational and training  
823 programs relating to energy efficiency and conservation.

824 4. An analysis of the ways in which state agencies are  
825 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy  
826 policy, and recommendations for better fulfilling this policy.

827 (m) In recognition of the devastation to the economy of  
828 this state and the dangers to the health and welfare of  
829 residents of this state caused by severe hurricanes, and the  
830 potential for such impacts caused by other natural disasters,  
831 the Division of Emergency Management shall include in its energy  
832 emergency contingency plan and provide to the Florida Building  
833 Commission for inclusion in the Florida Energy Efficiency Code  
834 for Building Construction specific provisions to facilitate the  
835 use of cost-effective ~~sole~~ energy technologies as emergency  
836 remedial and preventive measures for providing electric power,  
837 street lighting, and water heating service in the event of  
838 electric power outages.

839 Section 13. Sections 377.801, 377.802, 377.803, 377.804,  
840 377.808, 377.809, and 377.816, Florida Statutes, are repealed.

841 Section 14. (1) For programs established pursuant to s.

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842 377.804, s. 377.808, s. 377.809, or s. 377.816, Florida  
843 Statutes, there may not be:

844 (a) New or additional applications, certifications, or  
845 allocations approved.

846 (b) New letters of certification issued.

847 (c) New contracts or agreements executed.

848 (d) New awards made.

849 (2) All certifications or allocations issued under such  
850 programs are rescinded except for the certifications of, or  
851 allocations to, those certified applicants or projects that  
852 continue to meet the applicable criteria in effect before July  
853 1, 2024. Any existing contract or agreement authorized under any  
854 of these programs shall continue in full force and effect in  
855 accordance with the statutory requirements in effect when the  
856 contract or agreement was executed or last modified. However,  
857 further modifications, extensions, or waivers may not be made or  
858 granted relating to such contracts or agreements, except  
859 computations by the Department of Revenue of the income  
860 generated by or arising out of the qualifying project.

861 Section 15. Subsection (7) of section 288.9606, Florida  
862 Statutes, is amended to read:

863 288.9606 Issue of revenue bonds.—

864 (7) Notwithstanding any provision of this section, the  
865 corporation in its corporate capacity may, without authorization  
866 from a public agency under s. 163.01(7), issue revenue bonds or  
867 other evidence of indebtedness under this section to:

868 (a) Finance the undertaking of any project within this the  
869 state that promotes renewable energy as defined in s. 366.91 ~~or~~  
870 s. 377.803;

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871 (b) Finance the undertaking of any project within the state  
872 that is a project contemplated or allowed under s. 406 of the  
873 American Recovery and Reinvestment Act of 2009; ~~or~~

874 (c) If permitted by federal law, finance qualifying  
875 improvement projects within the state under s. 163.08; ~~or~~

876 (d) Finance the costs of acquisition or construction of a  
877 transportation facility by a private entity or consortium of  
878 private entities under a public-private partnership agreement  
879 authorized by s. 334.30.

880 Section 16. Paragraph (w) of subsection (2) of section  
881 380.0651, Florida Statutes, is amended to read:

882 380.0651 Statewide guidelines, standards, and exemptions.—

883 (2) STATUTORY EXEMPTIONS.—The following developments are  
884 exempt from s. 380.06:

885 ~~(w) Any development in an energy economic zone designated~~  
886 ~~pursuant to s. 377.809 upon approval by its local governing~~  
887 ~~body.~~

889 If a use is exempt from review pursuant to paragraphs (a)-(u),  
890 but will be part of a larger project that is subject to review  
891 pursuant to s. 380.06(12), the impact of the exempt use must be  
892 included in the review of the larger project, unless such exempt  
893 use involves a development that includes a landowner, tenant, or  
894 user that has entered into a funding agreement with the state  
895 land planning agency under the Innovation Incentive Program and  
896 the agreement contemplates a state award of at least \$50  
897 million.

898 Section 17. Subsection (2) of section 403.9405, Florida  
899 Statutes, is amended to read:

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900 403.9405 Applicability; certification; exemption; notice of  
901 intent.—

902 (2) ~~No construction of~~ A natural gas transmission pipeline  
903 ~~may not be constructed be undertaken after October 1, 1992,~~  
904 without first obtaining certification under ss. 403.9401-  
905 403.9425, but these sections do not apply to:

906 (a) Natural gas transmission pipelines which are less than  
907 100 ~~15~~ miles in length or which do not cross a county line,  
908 unless the applicant has elected to apply for certification  
909 under ss. 403.9401-403.9425.

910 (b) Natural gas transmission pipelines for which a  
911 certificate of public convenience and necessity has been issued  
912 under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a  
913 natural gas transmission pipeline certified as an associated  
914 facility to an electrical power plant pursuant to the Florida  
915 Electrical Power Plant Siting Act, ss. 403.501-403.518, unless  
916 the applicant elects to apply for certification of that pipeline  
917 under ss. 403.9401-403.9425.

918 (c) Natural gas transmission pipelines that are owned or  
919 operated by a municipality or any agency thereof, by any person  
920 primarily for the local distribution of natural gas, or by a  
921 special district created by special act to distribute natural  
922 gas, unless the applicant elects to apply for certification of  
923 that pipeline under ss. 403.9401-403.9425.

924 Section 18. Section 409.508, Florida Statutes, is amended  
925 to read:

926 409.508 Low-income home energy assistance program.—

927 (1) As used in this section, the term:

928 (a) "Department" means the Department of Commerce.

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929 (b) "Eligible household" means a household eligible for  
 930 funds from the program ~~Low-income Home Energy Assistance Act of~~  
 931 ~~1981, 42 U.S.C. ss. 8621 et seq.~~

932 ~~(c)(b)~~ "Home energy" means a source of heating or cooling  
 933 in residential dwellings.

934 (d) "Program" means the federal low-income home energy  
 935 assistance program established pursuant to 42 U.S.C. ss. 8621 et  
 936 seq.

937 ~~(e)(c)~~ "Utility" means any person, corporation,  
 938 partnership, municipality, cooperative, association, or other  
 939 legal entity and its lessees, trustees, or receivers now or  
 940 hereafter owning, operating, managing, or controlling any plant  
 941 or other facility supplying electricity or natural gas to or for  
 942 the public within this state, directly or indirectly, for  
 943 compensation.

944 (2) The department ~~of Economic Opportunity~~ is designated as  
 945 the state agency to administer the program ~~Low-income Home~~  
 946 ~~Energy Assistance Act of 1981, 42 U.S.C. ss. 8621 et seq.~~ The  
 947 department may of Economic Opportunity is authorized to provide  
 948 home energy assistance benefits to eligible households which may  
 949 be in the form of cash, vouchers, certificates, or direct  
 950 payments to electric or natural gas utilities or other energy  
 951 suppliers and operators of low-rent, subsidized housing in  
 952 behalf of eligible households. Priority must ~~shall~~ be given to  
 953 eligible households having at least one elderly or handicapped  
 954 individual and to eligible households with the lowest incomes.

955 (3) (a) The department shall expand categorical eligibility  
 956 for the program to include households with residents of this  
 957 state who are enrolled in any of the following federal

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958 disability programs:

959 1. Social Security Disability Insurance program.

960 2. Social Security Insurance program.

961 3. United States Department of Veterans Affairs disability  
 962 benefits.

963 4. Supplemental Nutritional Assistance Program.

964 5. Temporary Assistance for Needy Families.

965 (b) The department shall develop a comprehensive process  
 966 for automatic program payments on behalf of such individuals to  
 967 be made directly to the household's home energy supplier. The  
 968 process must include all of the following:

969 1. Detailed requirements for any necessary statutory or  
 970 regulatory change, application process change, or other  
 971 requirement necessary to allow the department to identify  
 972 individuals who qualify under this subsection for automatic  
 973 program payments without requiring the individual to submit  
 974 additional program applications.

975 2. A data sharing process detailing the steps the  
 976 department will take to identify and share a list of  
 977 categorically eligible residents with home energy suppliers. A  
 978 home energy supplier that agrees to receive direct program  
 979 payments must apply the benefits as prescribed to the resident  
 980 accounts identified by the department and document such payments  
 981 in its annual program performance measures report.

982 (4) Agreements may be established between electric or  
 983 natural gas utility companies, other energy suppliers, the  
 984 department, and the Department of Revenue to provide, and the  
 985 Department of Economic Opportunity for the purpose of providing  
 986 payments to energy suppliers in the form of a credit against

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987 sales and use taxes due or direct payments to energy suppliers  
 988 for services rendered to low-income, eligible households.

989 ~~(5)(4)~~ The department of ~~Economic Opportunity~~ shall adopt  
 990 rules to carry out ~~the provisions of this section act~~.

991 Section 19. Subsection (3) of section 720.3075, Florida  
 992 Statutes, is amended to read:

993 720.3075 Prohibited clauses in association documents.—

994 (3) Homeowners' association documents, including  
 995 declarations of covenants, articles of incorporation, or bylaws,  
 996 may not preclude:

997 (a) The display of up to two portable, removable flags as  
 998 described in s. 720.304(2)(a) by property owners. However, all  
 999 flags must be displayed in a respectful manner consistent with  
 1000 the requirements for the United States flag under 36 U.S.C.  
 1001 chapter 10.

1002 (b) Types or fuel sources of energy production which may be  
 1003 used, delivered, converted, or supplied by the following  
 1004 entities to serve customers within the association that such  
 1005 entities are authorized to serve:

1006 1. A public utility or an electric utility as defined in  
 1007 this chapter;

1008 2. An entity formed under s. 163.01 that generates, sells,  
 1009 or transmits electrical energy;

1010 3. A natural gas utility as defined in s. 366.04(3)(c);

1011 4. A natural gas transmission company as defined in s.  
 1012 368.103; or

1013 5. A category I liquefied petroleum gas dealer, a category  
 1014 II liquefied petroleum gas dispenser, or a category III  
 1015 liquefied petroleum gas cylinder exchange operator as defined in

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1016 s. 527.01.

1017 (c) The use of an appliance, including a stove or grill,  
 1018 which uses the types or fuel sources of energy production which  
 1019 may be used, delivered, converted, or supplied by the entities  
 1020 listed in paragraph (b). As used in this paragraph, the term  
 1021 "appliance" means a device or apparatus manufactured and  
 1022 designed to use energy and for which the Florida Building Code  
 1023 or the Florida Fire Prevention Code provides specific  
 1024 requirements.

1025 Section 20. (1) The Public Service Commission shall conduct  
 1026 an assessment of the security and resiliency of the state's  
 1027 electric grid and natural gas facilities against both physical  
 1028 threats and cyber threats. The commission shall consult with the  
 1029 Florida Digital Service in assessing cyber threats. All electric  
 1030 utilities, natural gas utilities, and natural gas pipelines  
 1031 operating in this state, regardless of ownership structure,  
 1032 shall cooperate with the commission to provide access to all  
 1033 information necessary to conduct the assessment.

1034 (2) By January 1, 2025, the commission shall submit a  
 1035 report of its assessment to the Governor, the President of the  
 1036 Senate, and the Speaker of the House of Representatives. The  
 1037 report must also contain any recommendations for potential  
 1038 legislative or administrative actions that may enhance the  
 1039 physical security or cyber security of the state's electric grid  
 1040 or natural gas facilities.

1041 Section 21. (1) Recognizing the evolution and advances that  
 1042 have occurred and continue to occur in nuclear power  
 1043 technologies, the Public Service Commission shall study and  
 1044 evaluate the technical and economic feasibility of using

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1045 advanced nuclear power technologies, including small modular  
 1046 reactors, to meet the electrical power needs of the state, and  
 1047 research means to encourage and foster the installation and use  
 1048 of such technologies at military installations in this state.

1049 (2) By January 1, 2025, the commission shall prepare and  
 1050 submit a report to the Governor, the President of the Senate,  
 1051 and the Speaker of the House of Representatives, containing its  
 1052 findings and any recommendations for potential legislative or  
 1053 administrative actions that may enhance the use of advanced  
 1054 nuclear technologies in a manner consistent with the energy  
 1055 policy goals in s. 377.601(2), Florida Statutes.

1056 Section 22. (1) Recognizing the continued development of  
 1057 technologies that support the use of hydrogen as a  
 1058 transportation fuel and the potential for such use to help meet  
 1059 the state's energy policy goals in s. 377.601(2), Florida  
 1060 Statutes, the Department of Transportation, in consultation with  
 1061 the Office of Energy within the Department of Agriculture and  
 1062 Consumer Services, shall study and evaluate the potential  
 1063 development of hydrogen fueling infrastructure, including  
 1064 fueling stations, to support hydrogen-powered vehicles that use  
 1065 the state highway system.

1066 (2) By January 1, 2025, the department shall prepare and  
 1067 submit a report to the Governor, the President of the Senate,  
 1068 and the Speaker of the House of Representatives, containing its  
 1069 findings and any recommendations for potential legislative or  
 1070 administrative actions that may accommodate the future  
 1071 development of hydrogen fueling infrastructure in a manner  
 1072 consistent with the energy policy goals in s. 377.601(2),  
 1073 Florida Statutes.

Page 37 of 38

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1074 Section 23. Paragraph (d) of subsection (2) of section  
 1075 220.193, Florida Statutes, is amended to read:

1076 220.193 Florida renewable energy production credit.—

1077 (2) As used in this section, the term:

1078 (d) "Florida renewable energy facility" means a facility in  
 1079 the state that produces electricity for sale from renewable  
 1080 energy, ~~as defined in s. 377.803.~~

1081 Section 24. This act shall take effect July 1, 2024.

Page 38 of 38

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government


**Subject:** Committee Agenda Request

**Date:** February 1, 2024

---

I respectfully request that **Senate Bill # 1624**, relating to Energy Resources, be placed on the:

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



---

Senator Jay Collins  
Florida Senate, District 14



The Florida Senate

APPEARANCE RECORD

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February 20 Meeting Date

SB 1024 Bill Number or Topic

Appropriations Com on Agriculture Committee Environment and Gen Environment

Amendment Barcode (if applicable)

Name Tejan Sanders

Phone (904) 210-2702

Address 2195 W Tennessee St Street

Email tejan.sanders@yahoo.com

Tallahassee FL 32304 City State Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING: [x] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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2/20/24

Meeting Date

1624

Bill Number or Topic

AEF

Committee

Amendment Barcode (if applicable)

Name

Kim Russ

Phone

850-888-2565

Address

PO Box 1341

Email

admin@rethinkenergyflorida.org

Street

Tallahassee

FL

32302

City

State

Zip

Speaking:

For



Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

Rethink Energy FL

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flisenate.gov](https://www.flisenate.gov)

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The Florida Senate  
**APPEARANCE RECORD**

SB 1624

Meeting Date

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Samuel Doherty

Phone 410-460-7176

Address 500 Chapel Dr

Email samdoherty@gmail.com

Street

Tallahassee

FL

32304

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flisenate.gov\)](https://www.flisenate.gov/2020-2022JointRules.pdf)

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The Florida Senate

APPEARANCE RECORD

02/20/24

SB1624

Meeting Date

Approp. Committee on Agriculture  
Environment, and General Government  
Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Senanu Simpson Phone (850) 241-2776

Address 7983 Talley Ann Dr Email sms22k@fsu.edu  
Street

Tallahassee FL 32311  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

2/20/24

5B 1624

Meeting Date

Bill Number or Topic

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Aprop. comm. on Agriculture, enviro, & gen. government

Committee

Amendment Barcode (if applicable)

Name Samantha Kaddis

Phone 727 242 0579

Address 1767 Hermitage blvd Apt. 9204

Email skaddis@gencleoaction.org

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

gencleo Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/legistics/2020/2022-joint-rules).

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The Florida Senate

**APPEARANCE RECORD**

1624

2/20/24 10:30

Meeting Date

Bill Number or Topic

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**S AEG**

Committee

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **816 W THARPE ST**

Email **CULLENASEA@GMAIL.COM**

Street

**TALLAHASSEE**

**FL**

**32303**

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**SIERRA CLUB FLORIDA**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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Feb 20 2024

1624

Meeting Date

Bill Number or Topic

Approps Ag, Env & Government

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565948

Committee

Amendment Barcode (if applicable)

Name **Henry Kelley**

Phone **850-332-6126**

Address **7502 Sears Blvd**

Email **henry.kelley@bluewindtechnology.com**

Street

**Pensacola**

**FL**

**32514**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Blue Wind Technology LLC**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))*

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2-20-2024

Meeting Date

SB 1624

Bill Number or Topic

AEG

Committee

Amendment Barcode (if applicable)

Name Susan McLeod

Phone 850 264-4217

Address 801 Chestwood Ave

Email mcleodks801@gmail

Street

Tallahassee FL 32303

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov)

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The Florida Senate

**APPEARANCE RECORD**

SB 1624

2/20/2024

Meeting Date

Appropriations Committee on Agriculture, Environment, and General Government

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Garrett Wallace Phone 8507275000

Address 115 East Park Ave Email garrett.wallace@tnc.org

Street

Tallahassee FL 32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

The Nature Conservancy

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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SB1624 Bill Number or Topic

Approp Ag + Emer Committee

Amendment Barcode (if applicable)

Name EDWARD OAKSFORD

Phone 850-556-8325

Address 2520 HARRISMAN CIR Street

Email etoaksford@gmail.com

TALLY FL 32308 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING: [X] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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Meeting Date

SB 1624

Bill Number or Topic

AEG

Committee

Amendment Barcode (if applicable)

Name Brian Lee

Phone 850-766-7309

Address 1703 Buckingham Dr

Email brian@rethinkenergyflorida.org

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: Yes

For

Against

Information

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Rethink Energy Action Fund

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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The Florida Senate

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Meeting Date

JB 1624

Bill Number or Topic

AFG

Committee

Amendment Barcode (if applicable)

Name Shelia Morris

Phone 850-702-4224

Address 560 Pasco

Email Singriaevents3@gmail

Street

Jal

City

FL

State

32905

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [X] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[X] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Rethink Energy Fund

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df flsenate.gov

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2/20/24

Meeting Date

SB 1624

Bill Number or Topic

AEG

Committee

Amendment Barcode (if applicable)

Name Wallace Ward

Phone 850 284-1115

Address 1698 Kay Ave unit B

Email wallaceward82@gmail.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Rethink Energy Fund

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules. df flsenate.gov](https://www.flsenate.gov)

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2/20/24

Meeting Date

1624

Bill Number or Topic

AEG

Committee

Amendment Barcode (if applicable)

Name

Kim Ross

Phone

850-888-2565

Address

1203 Buckingham Dr

Email

kim@rethinkenergyflorida.org

Street

Tall

City

FL

State

32308

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

ReThink Energy Action Fund

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/legistics/2020/2020-2022-Joint-Rules).

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The Florida Senate

# APPEARANCE RECORD

20 Feb 2024

Meeting Date

1624

Bill Number or Topic

Deliver both copies of this form to  
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Approps - AEGG

Committee

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave

Email cstranburg@aaphg.org

Street

Tallahassee

State

FL

32301

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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The Florida Senate

APPEARANCE RECORD

SB 1624

Bill Number or Topic

2/2/24

Meeting Date

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App. By: Mr. Cherdron

Committee

Amendment Barcode (if applicable)

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State

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Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

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**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 Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/CS/SB 1662

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Governmental Oversight and Accountability Committee and Senator Collins

SUBJECT: Cybersecurity

DATE: February 22, 2024      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1662 revises the mission, goals, and responsibilities of the Florida Center for Cybersecurity and adds program oversight for the Enterprise Cybersecurity Resiliency program within the Department of Management Services.

The bill has no fiscal impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

Over the last decade, cybersecurity has rapidly become a growing concern. Cyberattacks are growing in frequency and severity. Cybercrime is expected to inflict \$8 trillion worth of damage globally in 2023.<sup>1</sup> The United States is often a target of cyberattacks,<sup>2</sup> including attacks on

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<sup>1</sup> Steve Morgan, CYBERCRIME MAGAZINE, *Cybercrime to Cost the World \$8 Trillion Annually in 2023* (Oct, 17, 2022), [Cybercrime To Cost The World 8 Trillion Annually In 2023 \(cybersecurityventures.com\)](https://www.cybersecurityventures.com) (last visited Jan. 31, 2024).

<sup>2</sup> Chris Jaikaran, CONGRESSIONAL RESEARCH SERVICE, *Cybersecurity: Selected Cyberattacks, 2012-2022* (Aug. 9, 2023), <https://crsreports.congress.gov/product/pdf/R/R46974> (last visited Jan. 25, 2024).

critical infrastructure, and has been a target of more significant cyberattacks<sup>3</sup> over the last 14 years than any other country.<sup>4</sup> The Colonial Pipeline is an example of critical infrastructure that was attacked, disrupting what is arguably the nation's most important fuel conduit.<sup>5</sup>

Ransomware is a type of cybersecurity incident where malware<sup>6</sup> that is designed to encrypt files on a device and renders the files and the systems that rely on them unusable. In other words, critical information is no longer accessible. During a ransomware attack, malicious actors demand a ransom in exchange for regained access through decryption. If the ransom is not paid, the ransomware actors will often threaten to sell or leak the data or authentication information. Even if the ransom is paid, there is no guarantee that the bad actor will follow through with decryption.

In recent years, ransomware incidents have become increasingly prevalent among the nation's state, local, tribal, and territorial government entities and critical infrastructure organizations.<sup>7</sup> For example, Tallahassee Memorial Hospital was hit by a ransomware attack February 2023, and the hospital's systems were forced to shut down, impacting many local residents in need of medical care.<sup>8</sup>

### **Information Technology and Cybersecurity Management**

The Department of Management Services (DMS) oversees information technology (IT)<sup>9</sup> governance and security for the executive branch in Florida.<sup>10</sup> The Florida Digital Service (FLDS) is housed within the DMS and was established in 2020 to replace the Division of State

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<sup>3</sup> "Significant cyber-attacks" are defined as cyber-attacks on a country's government agencies, defense and high-tech companies, or economic crimes with losses equating to more than a million dollars. Kyle Brasseur, FRA CONFERENCES, *Study: U.S. Largest Target for Significant Cyber-Attacks* (Jul. 13, 2020), <https://www.fraconferences.com/insights-articles/compliance/study-us-largest-target-for-significant-cyber-attacks/#:~:text=The%20United%20States%20has%20been%20on%20the%20receiving,article%20is%20from%20FRA%27s%20sister%20company%2C%20Compliance%20Week> (last visited Jan. 31, 2024).

<sup>4</sup> *Id.*

<sup>5</sup> S&P Global, *Pipeline operators must start reporting cyberattacks to government: TSA orders*, [https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/electric-power/052721-pipeline-operators-must-start-reporting-cyberattacks-to-government-tsa-orders?utm\\_campaign=corporatepro&utm\\_medium=contentdigest&utm\\_source=esgmay2021](https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/electric-power/052721-pipeline-operators-must-start-reporting-cyberattacks-to-government-tsa-orders?utm_campaign=corporatepro&utm_medium=contentdigest&utm_source=esgmay2021) (last visited Jan. 31, 2024).

<sup>6</sup> "Malware" means hardware, firmware, or software that is intentionally included or inserted in a system for a harmful purpose. [malware - Glossary | CSRC \(nist.gov\)](#) (last visited Jan. 31, 2024).

<sup>7</sup> Cybersecurity and Infrastructure Agency, *Ransomware 101*, <https://www.cisa.gov/stopransomware/ransomware-101> (last visited Jan. 31, 2024).

<sup>8</sup> Caitlyn Stroh-Page, TALLAHASSEE DEMOCRAT, *Social Security Numbers, Some Patient Treatment Info Involved in TMH Cybersecurity Incident* (Apr. 1, 2023) <https://www.tallahassee.com/story/news/local/2023/03/31/tmh-updates-what-information-was-affected-during-cybersecurity-incident/70069655007/> (last visited Jan. 25, 2024).

<sup>9</sup> The term "information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. Section 282.0041(19), F.S.

<sup>10</sup> *See* s. 20.22, F.S.

Technology.<sup>11</sup> The FLDS works under the DMS to implement policies for IT and cybersecurity for state agencies.<sup>12</sup>

The head of the FLDS is appointed by the Secretary of Management Services<sup>13</sup> and serves as the state chief information officer (CIO).<sup>14</sup> The CIO must have at least five years of experience in the development of IT system strategic planning and IT policy and, preferably, have leadership-level experience in the design, development, and deployment of interoperable software and data solutions.<sup>15</sup> The FLDS must propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation and interoperability, and to fully support Florida's cloud first policy.<sup>16</sup>

The DMS, through the FLDS, has the following powers, duties, and functions:<sup>17</sup>

- Develop IT policy for the management of the state's IT resources;
- Develop an enterprise architecture;
- Establish IT project management and oversight standards for state agencies;
- Provide oversight for all state agency IT projects that have a total cost of \$10 million or more and that are funded in the General Appropriations Act or any other law;<sup>18</sup> and
- Standardize and consolidate IT services that support interoperability, Florida's cloud first policy, and business functions and operations that are common across state agencies.

### **State Cybersecurity Act**

While it has existed in some form for more than 10 years, in 2022, the Legislature passed the State Cybersecurity Act,<sup>19</sup> which requires the DMS and the heads of the state agencies<sup>20</sup> to meet certain requirements to enhance the cybersecurity<sup>21</sup> of the state agencies.

The DMS through FLDS is tasked with completing the following:<sup>22</sup>

- Establish standards for assessing agency cybersecurity risks;

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<sup>11</sup> Chapter 2020-161, Laws of Fla.

<sup>12</sup> See s. 20.22(2)(b), F.S.

<sup>13</sup> The Secretary of Management Services serves as the head of the DMS and is appointed by the Governor, subject to confirmation by the Senate. Section 20.22(1), F.S.

<sup>14</sup> Section 282.0051(2)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 282.0051(1), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> The FLDS provides project oversight on IT projects that have a total cost of \$20 million or more for the Department of Financial Services, the Department of Legal Affairs, and the Department of Agriculture and Consumer Services.

Section 282.0051(1)(m), F.S.

<sup>19</sup> Section 282.318, F.S.

<sup>20</sup> For purposes of the State Cybersecurity Act, the term "state agency" includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services. Section 282.318(2), F.S.

<sup>21</sup> "Cybersecurity" means the protection afforded to an automated information system in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of data, information, and information technology resources. Section 282.0041(8), F.S.

<sup>22</sup> Section 282.318(3), F.S.

- Adopt rules to mitigate risk, support a security governance framework, and safeguard agency digital assets, data,<sup>23</sup> information, and IT resources;<sup>24</sup>
- Designate a chief information security officer (CISO);
- Develop and annually update a statewide cybersecurity strategic plan such as identification and mitigation of risk, protections against threats, and tactical risk detection for cyber incidents;<sup>25</sup>
- Develop and publish for use by state agencies a cybersecurity governance framework;
- Assist the state agencies in complying with the State Cybersecurity Act;
- Provide annual training on cybersecurity for information security managers and computer security incident response team members;
- Annually review the strategic and operational cybersecurity plans of state agencies;
- Track the state agencies' implementation of remediation plans;
- Provide cybersecurity training to all state agency technology professionals that develops, assesses, and documents competencies by role and skill level;
- Maintain a Cybersecurity Operations Center (CSOC) led by the CISO to serve as a clearinghouse for threat information and coordinate with the FDLE to support responses to incidents; and
- Lead an Emergency Support Function under the state emergency management plan.

The State Cybersecurity Act requires the head of each state agency to designate an information security manager to administer the state agency's cybersecurity program.<sup>26</sup> The head of the agency has additional tasks in protecting against cybersecurity threats as follows:<sup>27</sup>

- Establish a cybersecurity incident response team with the FLDS and the Cybercrime Office, which must immediately report all confirmed or suspected incidents to the CISO;
- Annually submit to the DMS the state agency's strategic and operational cybersecurity plans;
- Conduct and update a comprehensive risk assessment to determine the security threats once every three years;
- Develop and update written internal policies and procedures for reporting cyber incidents;
- Implement safeguards and risk assessment remediation plans to address identified risks;
- Ensure internal audits and evaluations of the agency's cybersecurity program are conducted;
- Ensure that the cybersecurity requirements for the solicitation, contracts, and service-level agreement of IT and IT resources meet or exceed applicable state and federal laws, regulations, and standards for cybersecurity, including the National Institute of Standards and Technology (NIST)<sup>28</sup> cybersecurity framework;

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<sup>23</sup> "Data" means a subset of structured information in a format that allows such information to be electronically retrieved and transmitted. Section 282.0041(9), F.S.

<sup>24</sup> "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training. Section 282.0041(22), F.S.

<sup>25</sup> "Incident" means a violation or imminent threat of violation, whether such violation is accidental or deliberate, of information technology resources, security, policies, or practices. An imminent threat of violation refers to a situation in which the state agency has a factual basis for believing that a specific incident is about to occur. Section 282.0041(19), F.S.

<sup>26</sup> Section 282.318(4)(a), F.S.

<sup>27</sup> Section 282.318(4), F.S.

<sup>28</sup> NIST, otherwise known as the National Institute of Standards and Technology, "is a non-regulatory government agency that develops technology, metrics, and standards to drive innovation and economic competitiveness at U.S.-based organizations in the science and technology industry." Nate Lord, *What is NIST Compliance*, DataInsider (May. 6, 2023), <https://www.digitalguardian.com/blog/what-nist-compliance> (last visited Jan. 31, 2024).

- Provide cybersecurity training to all agency employees within 30 days of employment;
- Develop a process that is consistent with the rules and guidelines established by the FLDS for detecting, reporting, and responding to threats, breaches, or cybersecurity incidents; and
- Submit an after-action report to the FLDS within one week after remediation of a cybersecurity incident or ransomware incident.

### **Florida Cybersecurity Advisory Council**

The Florida Cybersecurity Advisory Council<sup>29</sup> (CAC) within the DMS<sup>30</sup> assists state agencies in protecting IT resources from cyber threats and incidents.<sup>31</sup> The CAC must assist the FLDS in implementing best cybersecurity practices, taking into consideration the final recommendations of the Florida Cybersecurity Task Force – a task force created to review and assess the state’s cybersecurity infrastructure, governance, and operations.<sup>32</sup> The CAC meets at least quarterly to:<sup>33</sup>

- Review existing state agency cybersecurity policies;
- Assess ongoing risks to state agency IT;
- Recommend a reporting and information sharing system to notify state agencies of new risks;
- Recommend data breach simulation exercises;
- Assist the FLDS in developing cybersecurity best practice recommendations; and
- Examine inconsistencies between state and federal law regarding cybersecurity.

The CAC must work with NIST and other federal agencies, private sector businesses, and private security experts to identify which local infrastructure sectors, not covered by federal law, are at the greatest risk of cyber-attacks and to identify categories of critical infrastructure as critical cyber infrastructure if cyber damage to the infrastructure could result in catastrophic consequences.<sup>34</sup>

The CAC must also prepare and submit a comprehensive report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes data, trends, analysis, findings, and recommendations for state and local action regarding ransomware incidents as stated below:<sup>35</sup>

- Descriptive statistics, including the amount of ransom requested, duration of the incident, and overall monetary cost to taxpayers of the incident;
- A detailed statistical analysis of the circumstances that led to the ransomware incident which does not include the name of the state agency or local government, network information, or system identifying information;
- Statistical analysis of the level of cybersecurity employee training and frequency of data backup for the state agencies or local governments that reported incidents;

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<sup>29</sup> Under Florida law, an “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis. Generally, an advisory council is enacted to study the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.03(7), F.S.; *See also* s. 20.052, F.S.

<sup>30</sup> Section 282.319(1), F.S.

<sup>31</sup> Section 282.319(2), F.S.

<sup>32</sup> Section 282.319(2)-(3), F.S.

<sup>33</sup> Section 282.319(9), F.S.

<sup>34</sup> Section 282.319(10), F.S.

<sup>35</sup> Section 282.319(11), F.S.

- Specific issues identified with current policy, procedure, rule, or statute and recommendations to address those issues; and
- Other recommendations to prevent ransomware incidents.

### Cyber Incident Response

The National Cyber Incident Response Plan (NCIRP) was developed by the U.S. Department of Homeland Security, according to the direction of Presidential Policy Directive (PPD)-41.<sup>36</sup> The NCIRP is part of the broader National Preparedness System and establishes the strategic framework for a whole-of-Nation approach to mitigating, responding to, and recovering from cybersecurity incidents posing risk to critical infrastructure.<sup>37</sup> The NCIRP was developed in coordination with federal, state, local, and private sector entities and is designed to interface with industry best practice standards for cybersecurity, including the NIST Cybersecurity Framework.

The NCIRP adopted a common schema for describing the severity of cybersecurity incidents affecting the U.S. The schema establishes a common framework to evaluate and assess cybersecurity incidents to ensure that all departments and agencies have a common view of the severity of a given incident; urgency required for responding to a given incident; seniority level necessary for coordinating response efforts; and level of investment required for response efforts.<sup>38</sup>

The severity level of a cybersecurity incident in accordance with the NCIRP is determined as follows:

- **Level 5:** An emergency-level incident within the specified jurisdiction if the incident poses an imminent threat to the provision of wide-scale critical infrastructure services; national, state, or local security; or the lives of the country's, state's, or local government's citizens.
- **Level 4:** A severe-level incident if the incident is likely to result in a significant impact within the affected jurisdiction which affects the public health or safety; national, state, or local security; economic security; or individual civil liberties.
- **Level 3:** A high-level incident if the incident is likely to result in a demonstrable impact in the affected jurisdiction to public health or safety; national, state, or local security; economic security; civil liberties; or public confidence.
- **Level 2:** A medium-level incident if the incident may impact public health or safety; national, state, or local security; economic security; civil liberties; or public confidence.
- **Level 1:** A low-level incident if the incident is unlikely to impact public health or safety; national, state, or local security; economic security; or public confidence.<sup>39</sup>

State agencies and local governments in Florida, must report to the CSOC all ransomware incidents and any cybersecurity incidents at severity levels of three, four, or five as soon as

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<sup>36</sup> Annex for PPD-41: *U.S. Cyber Incident Coordination*, <https://obamawhitehouse.archives.gov/the-press-office/2016/07/26/annex-presidential-policy-directive-united-states-cyber-incident> (last visited Jan. 31, 2024).

<sup>37</sup> Cybersecurity & Infrastructure Security Agency, *Cybersecurity Incident Response*, <https://www.cisa.gov/topics/cybersecurity-best-practices/organizations-and-cyber-safety/cybersecurity-incident-response#:~:text=%20National%20Cyber%20Incident%20Response%20Plan%20%28NCIRP%29%20The,incidents%20and%20how%20those%20activities%20all%20fit%20together> (last visited Jan. 31, 2024).

<sup>38</sup> *Id.*

<sup>39</sup> Section 282.318(3)(c)9.a, F.S.

possible, but no later than 48 hours after discovery of a cybersecurity incident and no later than 12 hours after discovery of a ransomware incident.<sup>40</sup> The CSOC is required to notify the President of the Senate and the Speaker of the House of Representatives of any incidents at severity levels of three, four, or five as soon as possible, but no later than 12 hours after receiving the incident report from the state agency or local government.<sup>41</sup> For state agency incidents at severity levels one and two, they must report these to the CSOC and the Cybercrime Office at the FDLE as soon as possible.<sup>42</sup>

The notification must include a high-level description of the incident and the likely effects. An incident report for a cybersecurity or ransomware incident by a state agency or local government must include, at a minimum:

- A summary of the facts surrounding the cybersecurity or ransomware incident;
- The date on which the state agency or local government most recently backed up its data, the physical location of the backup, if the backup was affected, and if the backup was created using cloud computing;
- The types of data compromised by the cybersecurity or ransomware incident;
- The estimated fiscal impact of the cybersecurity or ransomware incident;
- In the case of a ransomware incident, the details of the ransom demanded; and
- If the reporting entity is a local government, a statement requesting or declining assistance from the CSOC, FDLE Cybercrime Office, or sheriff.<sup>43</sup>

In addition, the CSOC must provide consolidated incident reports to the President of the Senate, Speaker of the House of Representatives, and the CAC on a quarterly basis.<sup>44</sup> The consolidated incident reports to the CAC may not contain any state agency or local government name, network information, or system identifying information, but must contain sufficient relevant information to allow the CAC to fulfill its responsibilities.<sup>45</sup>

State agencies and local governments must submit an after-action report to the FLDS within one week of the remediation of a cybersecurity or ransomware incident.<sup>46</sup> The report must summarize the incident, state the resolution, and any insights from the incident.

### **Public Record and Public Meetings Exemption for Specific Cybersecurity Records Held by Agencies**

The State Cybersecurity Act makes confidential and exempt from public records copying and inspection requirements the portions of risk assessments, evaluations, external audits, and other agency cybersecurity program reports that are held by an agency, if the disclosure would facilitate unauthorized access to, modification, disclosure, or destruction of data or IT resources.<sup>47</sup> However, this information must be shared with the Auditor General, DLE

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<sup>40</sup> Sections 282.318(3)(c)9.c(I), F.S. and 282.3185(5)(b)1., F.S.

<sup>41</sup> Section 282.318(3)(c)9.c.(II), F.S.

<sup>42</sup> Section 282.318(3)(c)9.(d), F.S.

<sup>43</sup> Section 282.318(3)(c)9.b, F.S.

<sup>44</sup> Section 282.318(3)(c)9.e, F.S.

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

<sup>46</sup> Section 282.318(4)(k), F.S.

<sup>47</sup> Section 282.318(5), F.S.

Cybercrime Office, FLDS, and the Chief Inspector General. An agency may share its confidential and exempt documents with a local government, another agency, or a federal agency if given for a cybersecurity purpose, or in furtherance of the agency's official duties.<sup>48</sup> Additionally, any document that, when held by an agency, is exempt or confidential and exempt under s. 119.07(1), F.S., maintains its exempt status when the custodian agency shares it with the legislature.<sup>49</sup>

The State Cybersecurity Act also exempts portions of any public meeting that would reveal records that it makes confidential and exempt.<sup>50</sup>

### **Florida Fusion Center**

To help unify the Nation's efforts to share information and exchange intelligence, the Intelligence Reform and Terrorism Prevention Act of 2004 (Act) was passed. The Act provides guidance to agencies at all levels about information sharing, access and collaboration. Part of this guidance is the need to designate a single fusion center in each state to serve as the "hub" for these activities.<sup>51</sup>

The Florida Fusion Center (FFC), began operations in 2007 and is located in Tallahassee, Florida. The FFC was designated as the state's primary fusion center by the Governor in March of 2008 and serves as the head of the Network of Florida Fusion Centers. There are regional fusion centers in each of the seven FDLE regions to support local and state intelligence needs.<sup>52</sup>

The FFC provides connectivity and coordinates intelligence sharing among seven regional fusion centers located throughout the state. Operations are guided by the understanding that the key to effectiveness is the development and sharing of information to the fullest extent permitted by law and agency policy. The FFC consists of approximately 45 FDLE members, federal agencies, and twelve multi-disciplinary state agency partners; and includes outreach to private sector entities.<sup>53</sup>

### **Florida Center for Cybersecurity**

The Florida Center for Cybersecurity (Cyber Florida) is housed within the University of South Florida (USF) and was first established in 2014.<sup>54</sup> The goals of Cyber Florida are to:<sup>55</sup>

- Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement.
- Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce.

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<sup>48</sup> Section 282.318(7), F.S.

<sup>49</sup> Section 11.0431(2)(a), F.S.

<sup>50</sup> Section 282.318(6), F.S.

<sup>51</sup> Florida Department of Law Enforcement, *Florida Fusion Center History*, <https://www.fdle.state.fl.us/FFC/FusionCenterHistory> (last visited January 31, 2024).

<sup>52</sup> *Id.*

<sup>53</sup> Florida Department of Law Enforcement, *Long-Range Program Plan Fiscal Years 2010-2011 through 2014-2015, September 30, 2009*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2215&DocType=PDF> (last visited Jan. 31, 2024).

<sup>54</sup> Section 282.318(4)(k), F.S.

<sup>55</sup> Section 1004.444, F.S.



- Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training.
- Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives.
- Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.

### III. Effect of Proposed Changes:

#### Florida Center for Cybersecurity

**Section 1** provides that the Florida Center for Cybersecurity may also be referred to as “Cyber Florida.” The bill clarifies that Cyber Florida operates under the discretion of the University of South Florida’s (USF) president or designee. The USF president may assign, with the USF board of trustee’s approval, Cyber Florida to a college within USF that has a strong emphasis on cybersecurity, technology, or computer sciences and engineering.

The bill allows Cyber Florida, at the request of the DMS, FLDS, or other state agency, to assist any state-funded initiatives that relate to: (1) cybersecurity training, professional development, and education for state and local government employees, and (2) increasing the cybersecurity effectiveness of the state and local government technology platforms and infrastructure.

The bill also clarifies the mission and goals of Cyber Florida.

#### Enterprise Cybersecurity Resiliency Program Oversight

**Section 2** instructs the Department of Management Services to contract with an independent verification and validation (IV&V) provider to provide program oversight for the Enterprise Cybersecurity Resiliency Program. It further requires the IV&V vendor to complete a program assessment and provide recommendations to the legislature and Office of Policy and Budget by December 1, 2024, based on specific evaluation criteria.

**Section 3** provides that the bill takes effect July 1, 2024.

### IV. Constitutional Issues:

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

Not applicable. 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.

**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 section 1004.444 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.)

**CS by Appropriations Committee on Agriculture, Environment, and General  
Government on February 20, 2024:**

- Removes all statutory revisions related to the Florida Digital Service.
- Requires the Department of Management Services to contract with an independent verification and validation provider to provide program oversight and an assessment of the Enterprise Cybersecurity Resiliency program.

**CS by Governmental Oversight and Accountability on January 29, 2024:**

- Removes provisions of the bill that designate certain information security personnel positions as selected exempt positions.
- Removes provisions of the bill that require each state agency head to designate a chief information security officer that reports to the Florida Digital Services' (FLDS) chief information officer, and instead amends the role of the currently-serving agency information security manager to "ensure compliance with cybersecurity governance and with the state's enterprise security program and incident response plan." This amendment also requires the agency information security manager to coordinate with information security personnel within his or her agency and the Cybersecurity Operations Center within the FLDS.
- Updates the mission, goals, and responsibilities of the Florida Center for Cybersecurity ("Cyber Florida") housed within University of South Florida (USF), and authorizes the USF president to assign the Center to an appropriate college within the university, with approval of the board of trustees.

**B. Amendments:**

None.



712374

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Collins) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 1004.444, Florida Statutes, is amended  
to read:

1004.444 Florida Center for Cybersecurity.-

(1) The Florida Center for Cybersecurity, which may also be referred to as "Cyber Florida," is established within the University of South Florida, under the direction of the



712374

11 president of the university or the president's designee. The  
12 president may assign the center to a college of the university  
13 if the college has a strong emphasis on cybersecurity,  
14 technology, or computer sciences and engineering, as determined  
15 and approved by the university's board of trustees.

16 (2) The mission and goals of the center are to:

17 (a) Position Florida as the national leader in  
18 cybersecurity and its related workforce primarily through  
19 advancing and funding education and, research and development  
20 initiatives in cybersecurity and related fields, with a  
21 secondary emphasis on, and community engagement and  
22 cybersecurity awareness.

23 (b) Assist in the creation of jobs in the state's  
24 cybersecurity industry and enhance the existing cybersecurity  
25 workforce through education, research, applied science, and  
26 engagements and partnerships with the private and military  
27 sectors.

28 (c) Act as a cooperative facilitator for state business and  
29 higher education communities to share cybersecurity knowledge,  
30 resources, and training.

31 (d) Seek out research and development agreements and other  
32 partnerships with major military installations and affiliated  
33 contractors to assist, when possible, in homeland cybersecurity  
34 defense initiatives.

35 (e) Attract cybersecurity companies and jobs to this the  
36 state, with an emphasis on the defense, finance, health care,  
37 transportation, and utility sectors.

38 (f) Conduct, fund, and facilitate research and applied  
39 science that leads to the creation of new technologies and



40 software packages that have military and civilian applications  
41 and that can be transferred for military and homeland defense  
42 purposes or for sale or use in the private sector.

43 (3) Upon receiving a request for assistance from the  
44 Department of Management Services, the Florida Digital Service,  
45 or another state agency, the center is authorized, but may not  
46 be compelled by the agency, to conduct, consult on, or otherwise  
47 assist any state-funded initiatives related to:

48 (a) Cybersecurity training, professional development, and  
49 education for state and local government employees, including  
50 school districts and the judicial branch; and

51 (b) Increasing the cybersecurity effectiveness of the  
52 state's and local governments' technology platforms and  
53 infrastructure, including school districts and the judicial  
54 branch.

55 Section 2. (1) In order to ensure the use of best practices  
56 and seamless functionality within the enterprise, the Department  
57 of Management Services shall contract with an independent  
58 verification and validation (IV&V) provider to provide IV&V  
59 services for all agency staff and vendor work needed to  
60 implement the enterprise cybersecurity resiliency program.

61 (2) The IV&V provider shall complete an assessment of the  
62 current program by December 1, 2024. The assessment must  
63 include, but need not be limited to, recommendations based on  
64 the evaluation of:

65 (a) The use of Cybersecurity Operations Center tools  
66 relative to their inherent capabilities to enhance efficiency  
67 and effectiveness;

68 (b) The existing processes to identify and address



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69 inefficiencies and areas requiring improvement;

70 (c) The interoperability among different systems to ensure  
71 compatibility and facilitate smooth data exchange;

72 (d) The alignment of strategic initiatives and resource  
73 allocation with organizational objectives; and

74 (e) The effectiveness of established communication channels  
75 to facilitate collaboration and dissemination of information  
76 across state entities.

77 (3) The IV&V contract must require that monthly reports and  
78 deliverables be simultaneously provided to the Department of  
79 Management Services, the Executive Office of the Governor's  
80 Office of Policy and Budget, the chair of the Senate  
81 Appropriations Committee, and the chair of the House of  
82 Representatives Appropriations Committee.

83 Section 3. This act shall take effect July 1, 2024.

84  
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete everything before the enacting clause  
88 and insert:

89 A bill to be entitled

90 An act relating to cybersecurity; amending s.

91 1004.444, F.S.; providing that the Florida Center for

92 Cybersecurity may also be referred to as "Cyber

93 Florida"; providing that the center is established

94 under the direction of the president of the University

95 of South Florida, or his or her designee, and, subject

96 to the approval of the university's board of trustees,

97 may be assigned by the president to a college that



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98 meets certain requirements; revising the mission and  
99 goals of the center; authorizing the center to take  
100 certain actions relating to certain initiatives;  
101 requiring the Department of Management Services to  
102 contract with an independent verification and  
103 validation provider for specified services for all  
104 agency staff and vendor work to implement the  
105 enterprise cybersecurity resiliency program; requiring  
106 such provider to complete an assessment of the current  
107 program by a specified date; requiring that the  
108 assessment include recommendations based on certain  
109 evaluations; requiring that the contract require that  
110 monthly reports and deliverables be simultaneously  
111 provided to specified entities and parties; providing  
112 an effective date.



By the Committee on Governmental Oversight and Accountability;  
and Senator Collins

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1 A bill to be entitled  
2 An act relating to cybersecurity; amending s.  
3 282.0041, F.S.; defining terms; amending s. 282.0051,  
4 F.S.; revising the purposes for which the Florida  
5 Digital Service is established; requiring the Florida  
6 Digital Service to ensure that independent project  
7 oversight on certain state agency information  
8 technology projects is performed in a certain manner;  
9 revising the date by which the Department of  
10 Management Services, acting through the Florida  
11 Digital Service, must provide certain recommendations  
12 to the Executive Office of the Governor and the  
13 Legislature; removing certain duties of the Florida  
14 Digital Service; revising the total project cost of  
15 certain projects for which the Florida Digital Service  
16 must provide project oversight; specifying the date by  
17 which the Florida Digital Service must provide certain  
18 reports; requiring the state chief information  
19 officer, in consultation with the Secretary of  
20 Management Services, to designate a state chief  
21 technology officer; providing duties of the state  
22 chief technology officer; revising the total project  
23 cost of certain projects for which certain procurement  
24 actions must be taken; removing provisions prohibiting  
25 the department, acting through the Florida Digital  
26 Service, from retrieving or disclosing certain data in  
27 certain circumstances; amending s. 282.00515, F.S.;  
28 conforming a cross-reference; amending s. 282.318,  
29 F.S.; providing that the Florida Digital Service is

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30 the lead entity for a certain purpose; requiring the  
31 Cybersecurity Operations Center to provide certain  
32 notifications; requiring the state chief information  
33 officer to make certain reports in consultation with  
34 the state chief information security officer; revising  
35 the timeframe for a state agency to report ransomware  
36 and cybersecurity incidents to the Cybersecurity  
37 Operations Center; requiring the Cybersecurity  
38 Operations Center to immediately notify certain  
39 entities of reported incidents and take certain  
40 actions; requiring the state chief information  
41 security officer to notify the Legislature of certain  
42 incidents within a certain period; requiring that a  
43 certain notification be provided in a secure  
44 environment; requiring the Cybersecurity Operations  
45 Center to provide a certain report to certain entities  
46 by a specified date; requiring the department, acting  
47 through the Florida Digital Service, to provide  
48 cybersecurity briefings to certain legislative  
49 committees; authorizing the department, acting through  
50 the Florida Digital Service, to obtain certain access  
51 to certain infrastructure and direct certain measures;  
52 revising the purpose of a state agency's information  
53 security manager and the date by which he or she must  
54 be designated; authorizing the department to brief  
55 certain legislative committees in a closed setting on  
56 certain records that are confidential and exempt from  
57 public records requirements; requiring such  
58 legislative committees to maintain the confidential

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59 and exempt status of certain records; authorizing  
 60 certain legislators to attend meetings of the Florida  
 61 Cybersecurity Advisory Council; amending s. 282.3185,  
 62 F.S.; requiring local governments to report ransomware  
 63 and certain cybersecurity incidents to the  
 64 Cybersecurity Operations Center within certain time  
 65 periods; requiring the Cybersecurity Operations Center  
 66 to immediately notify certain entities of certain  
 67 incidents and take certain actions; requiring the  
 68 state chief information security officer to provide  
 69 certain notification to the Legislature within a  
 70 certain timeframe and in a secure environment;  
 71 amending s. 282.319, F.S.; revising the membership of  
 72 the Florida Cybersecurity Advisory Council; amending  
 73 s. 1004.444, F.S.; providing that the Florida Center  
 74 for Cybersecurity may be referred to as "Cyber  
 75 Florida"; providing that such center is under the  
 76 direction of the president of the University of South  
 77 Florida or his or her designee; authorizing the  
 78 president to assign the center within a certain  
 79 college of the university; revising the mission and  
 80 goals of the center; authorizing the center, if  
 81 requested by specified entities, to conduct, consult  
 82 on, or assist on specified state-funded initiatives;  
 83 providing an effective date.

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

87 Section 1. Present subsections (3), (4), and (5), (6)

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88 through (16), and (17) through (38) of section 282.0041, Florida  
 89 Statutes, are redesignated as subsections (4), (5), and (6), (8)  
 90 through (18), and (20) through (41), respectively, and new  
 91 subsections (3), (7), and (19) are added to that section, to  
 92 read:

93 282.0041 Definitions.—As used in this chapter, the term:

94 (3) "As a service" means the contracting with or  
 95 outsourcing to a third party of a defined role or function as a  
 96 means of delivery.

97 (7) "Cloud provider" means an entity that provides cloud-  
 98 computing services.

99 (19) "Enterprise digital data" means information held by a  
 100 state agency in electronic form that is deemed to be data owned  
 101 by the state and held for state purposes by the state agency.

102 Enterprise digital data that is subject to statutory  
 103 requirements for particular types of sensitive data or to  
 104 contractual limitations for data marked as trade secrets or  
 105 sensitive corporate data held by state agencies shall be treated  
 106 in accordance with such requirements or limitations. The  
 107 department must maintain personnel with appropriate licenses,  
 108 certifications, or classifications to steward such enterprise  
 109 digital data, as necessary. Enterprise digital data must be  
 110 maintained in accordance with chapter 119. This subsection may  
 111 not be construed to create or expand an exemption from public  
 112 records requirements under s. 119.07(1) or s. 24(a), Art. I of  
 113 the State Constitution.

114 Section 2. Subsections (1), (4), and (5) of section  
 115 282.0051, Florida Statutes, are amended, and paragraph (c) is  
 116 added to subsection (2) of that section, to read:

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117 282.0051 Department of Management Services; Florida Digital  
118 Service; powers, duties, and functions.-

119 (1) The Florida Digital Service is established ~~has been~~  
120 ~~created~~ within the department to lead enterprise cybersecurity  
121 efforts, to safeguard enterprise digital data, to propose, test,  
122 develop, and deploy innovative solutions that securely modernize  
123 state government, including technology and information services,  
124 to achieve value through digital transformation and  
125 interoperability, and to fully support the cloud-first policy as  
126 specified in s. 282.206. The department, through the Florida  
127 Digital Service, shall have the following powers, duties, and  
128 functions:

129 (a) Develop and publish information technology policy for  
130 the management of the state's information technology resources.

131 (b) Develop an enterprise architecture that:

132 1. Acknowledges the unique needs of the entities within the  
133 enterprise in the development and publication of standards and  
134 terminologies to facilitate digital interoperability;

135 2. Supports the cloud-first policy as specified in s.  
136 282.206; and

137 3. Addresses how information technology infrastructure may  
138 be modernized to achieve cloud-first objectives.

139 (c) Establish project management and oversight standards  
140 with which state agencies must comply when implementing  
141 information technology projects. The department, acting through  
142 the Florida Digital Service, shall provide training  
143 opportunities to state agencies to assist in the adoption of the  
144 project management and oversight standards. To support data-  
145 driven decisionmaking, the standards must include, but are not

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146 limited to:

147 1. Performance measurements and metrics that objectively  
148 reflect the status of an information technology project based on  
149 a defined and documented project scope, cost, and schedule.

150 2. Methodologies for calculating acceptable variances in  
151 the projected versus actual scope, schedule, or cost of an  
152 information technology project.

153 3. Reporting requirements, including requirements designed  
154 to alert all defined stakeholders that an information technology  
155 project has exceeded acceptable variances defined and documented  
156 in a project plan.

157 4. Content, format, and frequency of project updates.

158 5. Technical standards to ensure an information technology  
159 project complies with the enterprise architecture.

160 (d) Ensure that independent ~~Perform~~ project oversight on  
161 all state agency information technology projects that have total  
162 project costs of \$25 ~~\$10~~ million or more and that are funded in  
163 the General Appropriations Act or any other law is performed in  
164 compliance with applicable state and federal law. The  
165 department, acting through the Florida Digital Service, shall  
166 report at least quarterly to the Executive Office of the  
167 Governor, the President of the Senate, and the Speaker of the  
168 House of Representatives on any information technology project  
169 that the department identifies as high-risk due to the project  
170 exceeding acceptable variance ranges defined and documented in a  
171 project plan. The report must include a risk assessment,  
172 including fiscal risks, associated with proceeding to the next  
173 stage of the project, and a recommendation for corrective  
174 actions required, including suspension or termination of the

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175 project.

176 (e) Identify opportunities for standardization and  
 177 consolidation of information technology services that support  
 178 interoperability and the cloud-first policy, as specified in s.  
 179 282.206, and business functions and operations, including  
 180 administrative functions such as purchasing, accounting and  
 181 reporting, cash management, and personnel, and that are common  
 182 across state agencies. The department, acting through the  
 183 Florida Digital Service, shall biennially on January 15 ~~4~~ of  
 184 each even-numbered year provide recommendations for  
 185 standardization and consolidation to the Executive Office of the  
 186 Governor, the President of the Senate, and the Speaker of the  
 187 House of Representatives.

188 (f) Establish best practices for the procurement of  
 189 information technology products and cloud-computing services in  
 190 order to reduce costs, increase the quality of data center  
 191 services, or improve government services.

192 (g) Develop standards for information technology reports  
 193 and updates, including, but not limited to, operational work  
 194 plans, project spend plans, and project status reports, for use  
 195 by state agencies.

196 (h) Upon request, assist state agencies in the development  
 197 of information technology-related legislative budget requests.

198 ~~(i) Conduct annual assessments of state agencies to  
 199 determine compliance with all information technology standards  
 200 and guidelines developed and published by the department and  
 201 provide results of the assessments to the Executive Office of  
 202 the Governor, the President of the Senate, and the Speaker of  
 203 the House of Representatives.~~

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204 ~~(i)~~ (j) Conduct a market analysis not less frequently than  
 205 every 3 years beginning in 2021 to determine whether the  
 206 information technology resources within the enterprise are  
 207 utilized in the most cost-effective and cost-efficient manner,  
 208 while recognizing that the replacement of certain legacy  
 209 information technology systems within the enterprise may be cost  
 210 prohibitive or cost inefficient due to the remaining useful life  
 211 of those resources; whether the enterprise is complying with the  
 212 cloud-first policy specified in s. 282.206; and whether the  
 213 enterprise is utilizing best practices with respect to  
 214 information technology, information services, and the  
 215 acquisition of emerging technologies and information services.  
 216 Each market analysis shall be used to prepare a strategic plan  
 217 for continued and future information technology and information  
 218 services for the enterprise, including, but not limited to,  
 219 proposed acquisition of new services or technologies and  
 220 approaches to the implementation of any new services or  
 221 technologies. Copies of each market analysis and accompanying  
 222 strategic plan must be submitted to the Executive Office of the  
 223 Governor, the President of the Senate, and the Speaker of the  
 224 House of Representatives not later than December 31 of each year  
 225 that a market analysis is conducted.

226 ~~(j)~~ (k) Recommend other information technology services that  
 227 should be designed, delivered, and managed as enterprise  
 228 information technology services. Recommendations must include  
 229 the identification of existing information technology resources  
 230 associated with the services, if existing services must be  
 231 transferred as a result of being delivered and managed as  
 232 enterprise information technology services.

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233 ~~(k)(1)~~ In consultation with state agencies, propose a  
 234 methodology and approach for identifying and collecting both  
 235 current and planned information technology expenditure data at  
 236 the state agency level.

237 ~~(l)1.(m)1.~~ Notwithstanding any other law, provide project  
 238 oversight on any information technology project of the  
 239 Department of Financial Services, the Department of Legal  
 240 Affairs, and the Department of Agriculture and Consumer Services  
 241 which has a total project cost of \$25 ~~\$20~~ million or more. Such  
 242 information technology projects must also comply with the  
 243 applicable information technology architecture, project  
 244 management and oversight, and reporting standards established by  
 245 the department, acting through the Florida Digital Service.

246 2. When performing the project oversight function specified  
 247 in subparagraph 1., report by the 30th day after the end of each  
 248 quarter ~~at least quarterly~~ to the Executive Office of the  
 249 Governor, the President of the Senate, and the Speaker of the  
 250 House of Representatives on any information technology project  
 251 that the department, acting through the Florida Digital Service,  
 252 identifies as high-risk due to the project exceeding acceptable  
 253 variance ranges defined and documented in the project plan. The  
 254 report shall include a risk assessment, including fiscal risks,  
 255 associated with proceeding to the next stage of the project and  
 256 a recommendation for corrective actions required, including  
 257 suspension or termination of the project.

258 ~~(m)(n)~~ If an information technology project implemented by  
 259 a state agency must be connected to or otherwise accommodated by  
 260 an information technology system administered by the Department  
 261 of Financial Services, the Department of Legal Affairs, or the

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262 Department of Agriculture and Consumer Services, consult with  
 263 these departments regarding the risks and other effects of such  
 264 projects on their information technology systems and work  
 265 cooperatively with these departments regarding the connections,  
 266 interfaces, timing, or accommodations required to implement such  
 267 projects.

268 ~~(n)(o)~~ If adherence to standards or policies adopted by or  
 269 established pursuant to this section causes conflict with  
 270 federal regulations or requirements imposed on an entity within  
 271 the enterprise and results in adverse action against an entity  
 272 or federal funding, work with the entity to provide alternative  
 273 standards, policies, or requirements that do not conflict with  
 274 the federal regulation or requirement. The department, acting  
 275 through the Florida Digital Service, shall annually by January  
 276 15 report such alternative standards to the Executive Office of  
 277 the Governor, the President of the Senate, and the Speaker of  
 278 the House of Representatives.

279 ~~(o)1.(p)1.~~ Establish an information technology policy for  
 280 all information technology-related state contracts, including  
 281 state term contracts for information technology commodities,  
 282 consultant services, and staff augmentation services. The  
 283 information technology policy must include:

- 284 a. Identification of the information technology product and  
 285 service categories to be included in state term contracts.  
 286 b. Requirements to be included in solicitations for state  
 287 term contracts.  
 288 c. Evaluation criteria for the award of information  
 289 technology-related state term contracts.  
 290 d. The term of each information technology-related state

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291 term contract.

292 e. The maximum number of vendors authorized on each state

293 term contract.

294 f. At a minimum, a requirement that any contract for

295 information technology commodities or services meet the National

296 Institute of Standards and Technology Cybersecurity Framework.

297 g. For an information technology project wherein project

298 oversight is required pursuant to paragraph (d) or paragraph (1)

299 ~~(m)~~, a requirement that independent verification and validation

300 be employed throughout the project life cycle with the primary

301 objective of independent verification and validation being to

302 provide an objective assessment of products and processes

303 throughout the project life cycle. An entity providing

304 independent verification and validation may not have technical,

305 managerial, or financial interest in the project and may not

306 have responsibility for, or participate in, any other aspect of

307 the project.

308 2. Evaluate vendor responses for information technology-

309 related state term contract solicitations and invitations to

310 negotiate.

311 3. Answer vendor questions on information technology-

312 related state term contract solicitations.

313 4. Ensure that the information technology policy

314 established pursuant to subparagraph 1. is included in all

315 solicitations and contracts that are administratively executed

316 by the department.

317 (p) ~~(q)~~ Recommend potential methods for standardizing data

318 across state agencies which will promote interoperability and

319 reduce the collection of duplicative data.

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320 (q) ~~(r)~~ Recommend open data technical standards and

321 terminologies for use by the enterprise.

322 (r) ~~(s)~~ Ensure that enterprise information technology

323 solutions are capable of utilizing an electronic credential and

324 comply with the enterprise architecture standards.

325 (2)

326 (c) The state chief information officer, in consultation

327 with the Secretary of Management Services, shall designate a

328 state chief technology officer who shall be responsible for all

329 of the following:

330 1. Establishing and maintaining an enterprise architecture

331 framework that ensures information technology investments align

332 with the state's strategic objectives and initiatives pursuant

333 to paragraph (1) (b).

334 2. Conducting comprehensive evaluations of potential

335 technological solutions and cultivating strategic partnerships,

336 internally with state enterprise agencies and externally with

337 the private sector, to leverage collective expertise, foster

338 collaboration, and advance the state's technological

339 capabilities.

340 3. Supervising program management of enterprise information

341 technology initiatives pursuant to paragraphs (1) (c), (d), and

342 (1); providing advisory support and oversight for technology-

343 related projects; and continuously identifying and recommending

344 best practices to optimize outcomes of technology projects and

345 enhance the enterprise's technological efficiency and

346 effectiveness.

347 (4) For information technology projects that have a total

348 project cost of \$25 ~~\$10~~ million or more:

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349 (a) State agencies must provide the Florida Digital Service  
350 with written notice of any planned procurement of an information  
351 technology project.

352 (b) The Florida Digital Service must participate in the  
353 development of specifications and recommend modifications to any  
354 planned procurement of an information technology project by  
355 state agencies so that the procurement complies with the  
356 enterprise architecture.

357 (c) The Florida Digital Service must participate in post-  
358 award contract monitoring.

359 ~~(5) The department, acting through the Florida Digital  
360 Service, may not retrieve or disclose any data without a shared  
361 data agreement in place between the department and the  
362 enterprise entity that has primary custodial responsibility of,  
363 or data-sharing responsibility for, that data.~~

364 Section 3. Subsection (1) of section 282.00515, Florida  
365 Statutes, is amended to read:

366 282.00515 Duties of Cabinet agencies.—

367 (1) The Department of Legal Affairs, the Department of  
368 Financial Services, and the Department of Agriculture and  
369 Consumer Services shall adopt the standards established in s.  
370 282.0051(1)(b), (c), and (g) and (3)(e) s. 282.0051(1)(b), (c),  
371 ~~and (x) and (3)(e)~~ or adopt alternative standards based on best  
372 practices and industry standards that allow for open data  
373 interoperability.

374 Section 4. Present subsection (10) of section 282.318,  
375 Florida Statutes, is redesignated subsection (11), a new  
376 subsection (10) is added to that section, and subsection (3) and  
377 paragraph (a) of subsection (4) of that section are amended, to

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378 read:

379 282.318 Cybersecurity.—

380 (3) The ~~department, acting through the~~ Florida Digital  
381 Service, is the lead entity responsible for leading  
382 cybersecurity efforts, safeguarding enterprise digital data,  
383 establishing standards and processes for assessing state agency  
384 cybersecurity risks, and determining appropriate security  
385 measures. Such standards and processes must be consistent with  
386 generally accepted technology best practices, including the  
387 National Institute for Standards and Technology Cybersecurity  
388 Framework, for cybersecurity. The department, acting through the  
389 Florida Digital Service, shall adopt rules that mitigate risks;  
390 safeguard state agency digital assets, data, information, and  
391 information technology resources to ensure availability,  
392 confidentiality, and integrity; and support a security  
393 governance framework. The department, acting through the Florida  
394 Digital Service, shall also:

395 (a) Designate an employee of the Florida Digital Service as  
396 the state chief information security officer. The state chief  
397 information security officer must have experience and expertise  
398 in security and risk management for communications and  
399 information technology resources. The state chief information  
400 security officer is responsible for the development, operation,  
401 and oversight of cybersecurity for state technology systems. The  
402 Cybersecurity Operations Center shall immediately notify the  
403 state chief information officer and the state chief information  
404 security officer ~~shall be notified~~ of all confirmed or suspected  
405 incidents or threats of state agency information technology  
406 resources. The state chief information officer, in consultation

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407 with the state chief information security officer, and must  
 408 report such incidents or threats to ~~the state chief information~~  
 409 ~~officer and~~ the Governor.

410 (b) Develop, and annually update by February 1, a statewide  
 411 cybersecurity strategic plan that includes security goals and  
 412 objectives for cybersecurity, including the identification and  
 413 mitigation of risk, proactive protections against threats,  
 414 tactical risk detection, threat reporting, and response and  
 415 recovery protocols for a cyber incident.

416 (c) Develop and publish for use by state agencies a  
 417 cybersecurity governance framework that, at a minimum, includes  
 418 guidelines and processes for:

419 1. Establishing asset management procedures to ensure that  
 420 an agency's information technology resources are identified and  
 421 managed consistent with their relative importance to the  
 422 agency's business objectives.

423 2. Using a standard risk assessment methodology that  
 424 includes the identification of an agency's priorities,  
 425 constraints, risk tolerances, and assumptions necessary to  
 426 support operational risk decisions.

427 3. Completing comprehensive risk assessments and  
 428 cybersecurity audits, which may be completed by a private sector  
 429 vendor, and submitting completed assessments and audits to the  
 430 department.

431 4. Identifying protection procedures to manage the  
 432 protection of an agency's information, data, and information  
 433 technology resources.

434 5. Establishing procedures for accessing information and  
 435 data to ensure the confidentiality, integrity, and availability

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436 of such information and data.

437 6. Detecting threats through proactive monitoring of  
 438 events, continuous security monitoring, and defined detection  
 439 processes.

440 7. Establishing agency cybersecurity incident response  
 441 teams and describing their responsibilities for responding to  
 442 cybersecurity incidents, including breaches of personal  
 443 information containing confidential or exempt data.

444 8. Recovering information and data in response to a  
 445 cybersecurity incident. The recovery may include recommended  
 446 improvements to the agency processes, policies, or guidelines.

447 9. Establishing a cybersecurity incident reporting process  
 448 that includes procedures for notifying the department and the  
 449 Department of Law Enforcement of cybersecurity incidents.

450 a. The level of severity of the cybersecurity incident is  
 451 defined by the National Cyber Incident Response Plan of the  
 452 United States Department of Homeland Security as follows:

453 (I) Level 5 is an emergency-level incident within the  
 454 specified jurisdiction that poses an imminent threat to the  
 455 provision of wide-scale critical infrastructure services;  
 456 national, state, or local government security; or the lives of  
 457 the country's, state's, or local government's residents.

458 (II) Level 4 is a severe-level incident that is likely to  
 459 result in a significant impact in the affected jurisdiction to  
 460 public health or safety; national, state, or local security;  
 461 economic security; or civil liberties.

462 (III) Level 3 is a high-level incident that is likely to  
 463 result in a demonstrable impact in the affected jurisdiction to  
 464 public health or safety; national, state, or local security;



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465 economic security; civil liberties; or public confidence.

466 (IV) Level 2 is a medium-level incident that may impact  
467 public health or safety; national, state, or local security;  
468 economic security; civil liberties; or public confidence.

469 (V) Level 1 is a low-level incident that is unlikely to  
470 impact public health or safety; national, state, or local  
471 security; economic security; civil liberties; or public  
472 confidence.

473 b. The cybersecurity incident reporting process must  
474 specify the information that must be reported by a state agency  
475 following a cybersecurity incident or ransomware incident,  
476 which, at a minimum, must include the following:

477 (I) A summary of the facts surrounding the cybersecurity  
478 incident or ransomware incident.

479 (II) The date on which the state agency most recently  
480 backed up its data; the physical location of the backup, if the  
481 backup was affected; and if the backup was created using cloud  
482 computing.

483 (III) The types of data compromised by the cybersecurity  
484 incident or ransomware incident.

485 (IV) The estimated fiscal impact of the cybersecurity  
486 incident or ransomware incident.

487 (V) In the case of a ransomware incident, the details of  
488 the ransom demanded.

489 c. (I) A state agency shall report all ransomware incidents  
490 and any cybersecurity incidents ~~incident determined by the state~~  
491 ~~agency to be of severity level 3, 4, or 5~~ to the Cybersecurity  
492 Operations Center and the Cybercrime Office of the Department of  
493 Law Enforcement as soon as possible but no later than 12 ~~48~~

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494 hours after discovery of the cybersecurity incident and no later  
495 than 6 ~~12~~ hours after discovery of the ransomware incident. The  
496 report must contain the information required in sub-subparagraph  
497 b.

498 (II) The Cybersecurity Operations Center shall:

499 (A) Immediately notify the Cybercrime Office of the  
500 Department of Law Enforcement of a reported incident and provide  
501 to the Cybercrime Office of the Department of Law Enforcement  
502 regular reports on the status of the incident, preserve forensic  
503 data to support a subsequent investigation, and provide aid to  
504 the investigative efforts of the Cybercrime Office of the  
505 Department of Law Enforcement upon the office's request if the  
506 state chief information security officer finds that the  
507 investigation does not impede remediation of the incident and  
508 that there is no risk to the public and no risk to critical  
509 state functions.

510 (B) Immediately notify the state chief information officer  
511 and the state chief information security officer of a reported  
512 incident. The state chief information security officer shall  
513 notify the President of the Senate and the Speaker of the House  
514 of Representatives of any severity level 3, 4, or 5 incident as  
515 soon as possible but no later than 24 ~~12~~ hours after receiving a  
516 state agency's incident report. The notification must include a  
517 high-level description of the incident and the likely effects  
518 and must be provided in a secure environment.

519 ~~d. A state agency shall report a cybersecurity incident~~  
520 ~~determined by the state agency to be of severity level 1 or 2 to~~  
521 ~~the Cybersecurity Operations Center and the Cybercrime Office of~~  
522 ~~the Department of Law Enforcement as soon as possible. The~~

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523 ~~report must contain the information required in sub-subparagraph~~  
 524 ~~b.~~

525 ~~e.~~ The Cybersecurity Operations Center shall provide a  
 526 consolidated incident report by the 30th day after the end of  
 527 each quarter on a quarterly basis to the Governor, the Attorney  
 528 General, the executive director of the Department of Law  
 529 Enforcement, the President of the Senate, the Speaker of the  
 530 House of Representatives, and the Florida Cybersecurity Advisory  
 531 Council. The report provided to the Florida Cybersecurity  
 532 Advisory Council may not contain the name of any agency, network  
 533 information, or system identifying information but must contain  
 534 sufficient relevant information to allow the Florida  
 535 Cybersecurity Advisory Council to fulfill its responsibilities  
 536 as required in s. 282.319(9).

537 10. Incorporating information obtained through detection  
 538 and response activities into the agency's cybersecurity incident  
 539 response plans.

540 11. Developing agency strategic and operational  
 541 cybersecurity plans required pursuant to this section.

542 12. Establishing the managerial, operational, and technical  
 543 safeguards for protecting state government data and information  
 544 technology resources that align with the state agency risk  
 545 management strategy and that protect the confidentiality,  
 546 integrity, and availability of information and data.

547 13. Establishing procedures for procuring information  
 548 technology commodities and services that require the commodity  
 549 or service to meet the National Institute of Standards and  
 550 Technology Cybersecurity Framework.

551 14. Submitting after-action reports following a

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552 cybersecurity incident or ransomware incident. Such guidelines  
 553 and processes for submitting after-action reports must be  
 554 developed and published by December 1, 2022.

555 (d) Assist state agencies in complying with this section.

556 (e) In collaboration with the Cybercrime Office of the  
 557 Department of Law Enforcement, annually provide training for  
 558 state agency information security managers and computer security  
 559 incident response team members that contains training on  
 560 cybersecurity, including cybersecurity threats, trends, and best  
 561 practices.

562 (f) Annually review the strategic and operational  
 563 cybersecurity plans of state agencies.

564 (g) Annually provide cybersecurity training to all state  
 565 agency technology professionals and employees with access to  
 566 highly sensitive information which develops, assesses, and  
 567 documents competencies by role and skill level. The  
 568 cybersecurity training curriculum must include training on the  
 569 identification of each cybersecurity incident severity level  
 570 referenced in sub-subparagraph (c)9.a. The training may be  
 571 provided in collaboration with the Cybercrime Office of the  
 572 Department of Law Enforcement, a private sector entity, or an  
 573 institution of the State University System.

574 (h) Operate and maintain a Cybersecurity Operations Center  
 575 led by the state chief information security officer, which must  
 576 be primarily virtual and staffed with tactical detection and  
 577 incident response personnel. The Cybersecurity Operations Center  
 578 shall serve as a clearinghouse for threat information and  
 579 coordinate with the Department of Law Enforcement to support  
 580 state agencies and their response to any confirmed or suspected

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581 cybersecurity incident.

582 (i) Lead an Emergency Support Function, ~~ESF-20 ESF CYBER~~,  
583 under the state comprehensive emergency management plan as  
584 described in s. 252.35.

585 (j) Provide cybersecurity briefings to the members of any  
586 legislative committee or subcommittee responsible for policy  
587 matters relating to cybersecurity.

588 (k) Have the authority to obtain immediate access to public  
589 or private infrastructure hosting enterprise digital data and to  
590 direct, in consultation with the state agency that holds the  
591 particular enterprise digital data, measures to assess, monitor,  
592 and safeguard the enterprise digital data.

593 (4) Each state agency head shall, at a minimum:

594 (a) Designate an information security manager to ensure  
595 compliance with cybersecurity governance and with the state's  
596 enterprise security program and incident response plan. The  
597 information security manager must coordinate with the agency's  
598 information security personnel and the Cybersecurity Operations  
599 Center to ensure that the unique needs of the agency are met  
600 administer the cybersecurity program of the state agency. This  
601 designation must be provided annually in writing to the  
602 department by January 15 ~~±~~. A state agency's information  
603 security manager, for purposes of these information security  
604 duties, shall report directly to the agency head.

605 (10) The department may brief any legislative committee or  
606 subcommittee responsible for cybersecurity policy in a meeting  
607 or other setting closed by the respective body under the rules  
608 of such legislative body at which the legislative committee or  
609 subcommittee is briefed on records made confidential and exempt

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610 under subsections (5) and (6). The legislative committee or  
611 subcommittee must maintain the confidential and exempt status of  
612 such records. A legislator serving on a legislative committee or  
613 subcommittee responsible for cybersecurity policy may also  
614 attend meetings of the Florida Cybersecurity Advisory Council,  
615 including any portions of such meetings that are exempt from s.  
616 286.011 and s. 24(b), Art. I of the State Constitution.

617 Section 5. Paragraphs (b) and (c) of subsection (5) of  
618 section 282.3185, Florida Statutes, are amended to read:

619 282.3185 Local government cybersecurity.-

620 (5) INCIDENT NOTIFICATION.-

621 (b)1. A local government shall report all ransomware  
622 incidents and any cybersecurity incident determined by the local  
623 government to be of severity level 3, 4, or 5 as provided in s.  
624 282.318(3)(c) to the Cybersecurity Operations Center, ~~the~~  
625 ~~Cybercrime Office of the Department of Law Enforcement, and the~~  
626 ~~sheriff who has jurisdiction over the local government~~ as soon  
627 as possible but no later than 12 ~~48~~ hours after discovery of the  
628 cybersecurity incident and no later than 6 ~~12~~ hours after  
629 discovery of the ransomware incident. The report must contain  
630 the information required in paragraph (a).

631 2. The Cybersecurity Operations Center shall:

632 a. Immediately notify the Cybercrime Office of the  
633 Department of Law Enforcement and the sheriff who has  
634 jurisdiction over the local government of a reported incident  
635 and provide to the Cybercrime Office of the Department of Law  
636 Enforcement and the sheriff who has jurisdiction over the local  
637 government regular reports on the status of the incident,  
638 preserve forensic data to support a subsequent investigation,

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639 and provide aid to the investigative efforts of the Cybercrime  
 640 Office of the Department of Law Enforcement upon the office's  
 641 request if the state chief information security officer finds  
 642 that the investigation does not impede remediation of the  
 643 incident and that there is no risk to the public and no risk to  
 644 critical state functions.

645 b. Immediately notify the state chief information security  
 646 officer of a reported incident. The state chief information  
 647 security officer shall notify the President of the Senate and  
 648 the Speaker of the House of Representatives of any severity  
 649 level 3, 4, or 5 incident as soon as possible but no later than  
 650 24 42 hours after receiving a local government's incident  
 651 report. The notification must include a high-level description  
 652 of the incident and the likely effects and must be provided in a  
 653 secure environment.

654 (c) A local government may report a cybersecurity incident  
 655 determined by the local government to be of severity level 1 or  
 656 2 as provided in s. 282.318(3)(c) to the Cybersecurity  
 657 Operations Center, the Cybercrime Office of the Department of  
 658 Law Enforcement, and the sheriff who has jurisdiction over the  
 659 local government. The report shall contain the information  
 660 required in paragraph (a). The Cybersecurity Operations Center  
 661 shall immediately notify the Cybercrime Office of the Department  
 662 of Law Enforcement and the sheriff who has jurisdiction over the  
 663 local government of a reported incident and provide regular  
 664 reports on the status of the cybersecurity incident, preserve  
 665 forensic data to support a subsequent investigation, and provide  
 666 aid to the investigative efforts of the Cybercrime Office of the  
 667 Department of Law Enforcement upon request if the state chief

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668 information security officer finds that the investigation does  
 669 not impede remediation of the cybersecurity incident and that  
 670 there is no risk to the public and no risk to critical state  
 671 functions.

672 Section 6. Paragraph (j) of subsection (4) of section  
 673 282.319, Florida Statutes, is amended, and paragraph (m) is  
 674 added to that subsection, to read:

675 282.319 Florida Cybersecurity Advisory Council.—

676 (4) The council shall be comprised of the following  
 677 members:

678 (j) Three representatives from critical infrastructure  
 679 sectors, one of whom must be from a utility provider water  
 680 treatment facility, appointed by the Governor.

681 (m) A representative of local government.

682 Section 7. Section 1004.444, Florida Statutes, is amended  
 683 to read:

684 1004.444 Florida Center for Cybersecurity.—

685 (1) The Florida Center for Cybersecurity, which may also be  
 686 referred to as "Cyber Florida," is established as a center  
 687 within the University of South Florida under the direction of  
 688 the president of the university or the president's designee. The  
 689 president may assign the center within a college of the  
 690 university if the college has a strong emphasis on  
 691 cybersecurity, technology, or computer sciences and engineering  
 692 as determined and approved by the university's board of  
 693 trustees.

694 (2) The mission and goals of the center are to:

695 (a) Position Florida as the national leader in  
 696 cybersecurity and its related workforce primarily through

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697 ~~advancing and funding education and~~ research and development  
 698 ~~initiatives in cybersecurity and related fields, with a~~  
 699 ~~secondary emphasis on, and~~ community engagement and  
 700 ~~cybersecurity awareness.~~

701 (b) Assist in the creation of jobs in the state's  
 702 cybersecurity industry and enhance the existing cybersecurity  
 703 workforce through education, research, applied science, and  
 704 engagements and partnerships with the private and military  
 705 sectors.

706 (c) Act as a cooperative facilitator for state business and  
 707 higher education communities to share cybersecurity knowledge,  
 708 resources, and training.

709 (d) Seek out research and development agreements and other  
 710 partnerships with major military installations and affiliated  
 711 contractors to assist, when possible, in homeland cybersecurity  
 712 defense initiatives.

713 (e) Attract cybersecurity companies and jobs to the state  
 714 with an emphasis on defense, finance, health care,  
 715 transportation, and utility sectors.

716 (f) Conduct, fund, and facilitate research and applied  
 717 science that leads to the creation of new technologies and  
 718 software packages that have military and civilian applications  
 719 and which can be transferred for military and homeland defense  
 720 purposes or for sale or use in the private sector.

721 (3) Upon receiving a request for assistance from the  
 722 Department of Management Services, the Florida Digital Service,  
 723 or another state agency, the center is authorized, but may not  
 724 be compelled by the agency, to conduct, consult on, or otherwise  
 725 assist any state-funded initiatives related to:

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726 (a) Cybersecurity training, professional development, and  
 727 education for state and local government employees, including  
 728 school districts and the judicial branch.

729 (b) Increasing the cybersecurity effectiveness of the  
 730 state's and local governments' technology platforms and  
 731 infrastructure, including school districts and the judicial  
 732 branch.

733 Section 8. This act shall take effect July 1, 2024.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** February 1, 2024

---

I respectfully request that **Senate Bill # 1662**, relating to Cybersecurity, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Jay Collins", written over a horizontal line.

Senator Jay Collins  
Florida Senate, District 14

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

2/20/24

Meeting Date

SB 1662

Bill Number or Topic

Senate Agr Appropri

Committee

Amendment Barcode (if applicable)

Name LAUREN HARTMAN N

Phone 727-743-6228

Address 4202 E Fowler  
Street

Email Lhartmann@usf.edu

TAMPA  
City

FL  
State

33602  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

USF

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](https://www.flsenate.gov)*

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

S-001 (08/10/2021)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Chair*  
Appropriations Committee on Transportation, Tourism,  
and Economic Development, *Vice Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Banking and Insurance  
Fiscal Policy  
Judiciary  
Transportation

### SELECT COMMITTEE:

Select Committee on Resiliency

**SENATOR JAY TRUMBULL**  
2nd District

February 20, 2024

Dear Chair Brodeur,

I am respectfully requesting to be excused from today's, Tuesday, February 20<sup>th</sup>, Appropriations Committee on Agriculture, Environment, and General Government meeting.

If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in black ink, appearing to read "J. Trumbull", written over a light blue horizontal line.

Senator Jay Trumbull

A handwritten signature in black ink, appearing to read "Brodeur", written over a light blue horizontal line.

### REPLY TO:

- ☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- ☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore



# CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Committee on Agriculture, Environment, and General Government

Judge:

Started: 2/20/2024 10:31:17 AM

Ends: 2/20/2024 12:17:40 PM

Length: 01:46:24

10:31:23 AM Sen. Brodeur (Chair)  
10:32:25 AM S 1662  
10:32:31 AM Am. 712374  
10:32:38 AM Sen. Collins  
10:34:27 AM Sen. Burman  
10:34:54 AM Sen. Collins  
10:35:24 AM Sen. Burman  
10:35:37 AM Sen. Collins  
10:36:14 AM S 1662 (Cont.)  
10:36:21 AM Lauren Hartmann, University of South Florida (waives in support)  
10:36:27 AM Sen. Collins  
10:36:55 AM S 1624  
10:37:00 AM Am. 565948  
10:37:04 AM Sen. Collins  
10:38:24 AM Henry Kelley, Blue Wind Technology LLC  
10:40:44 AM Sen. Polsky  
10:41:05 AM H. Kelly  
10:42:37 AM Sen. Burman  
10:43:06 AM H. Kelly  
10:43:23 AM S 1624 (Cont.)  
10:43:37 AM Sen. Polsky  
10:44:05 AM Sen. Collins  
10:45:56 AM Sen. Brodeur  
10:46:05 AM Sen. Polsky  
10:46:18 AM Sen. Collins  
10:46:50 AM Sen. Polsky  
10:47:14 AM Sen. Collins  
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10:55:44 AM Sen. Collins  
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10:57:38 AM Sen. Osgood  
10:58:58 AM Sen. Collins  
10:59:51 AM Sen. Osgood  
11:01:05 AM Sen. Collins

11:02:22 AM Sen. Osgood  
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11:08:14 AM Sen. Collins  
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11:11:27 AM Sen. Collins  
11:11:57 AM Sen. Burman  
11:12:09 AM Sen. Polsky  
11:12:31 AM Sen. Collins  
11:13:05 AM Sen. Polsky  
11:13:52 AM Sen. Collins  
11:14:46 AM Susan McLeod (waives against)  
11:14:51 AM Garrett Wallace, The Nature Conservancy (waives against)  
11:14:55 AM Edward Oaksford (waives against)  
11:15:13 AM Brian Lee, Rethink Energy Action Fund  
11:16:08 AM Shelia Morris, Rethink Energy (waives against)  
11:16:11 AM Wallace Ward, Rethink Energy Fund (waives against)  
11:16:26 AM Kim Ross, Rethink Energy Fund  
11:18:45 AM Chris Stranburg, Americans for Prosperity (waives in support)  
11:18:50 AM Lachanthia Hall, Rethink Energy Fund (waives against)  
11:19:03 AM Tejah Sanders  
11:20:07 AM Samuel Dohle  
11:21:59 AM Senonu Simpson  
11:23:14 AM Samantha Kaddis, genCLEO Action Fund  
11:25:32 AM David Cullen, Sierra Club  
11:27:26 AM Sen. Polsky  
11:31:47 AM Sen. Osgood  
11:35:46 AM Sen. Burman  
11:39:04 AM Sen. Collins  
11:44:56 AM Sen. Osgood  
11:45:37 AM S 1360  
11:45:41 AM Am. 494620  
11:45:44 AM Sen. Gruters  
11:46:59 AM S 1360 (Cont.)  
11:47:07 AM David Shepp, Mote Marina Laboratory (waive in support)  
11:47:42 AM S 1006  
11:47:51 AM Sen. Perry  
11:48:35 AM Am. 585548  
11:48:40 AM Sen. Perry  
11:48:48 AM Am. 278822  
11:49:17 AM Am. (Cont.)  
11:49:24 AM John Guard, Florida Attorney General (waives in support)  
11:49:37 AM S 1006 (Cont.)  
11:49:53 AM Michael Miller

**11:51:28 AM** John Guard, The Florida Attorney General  
**11:52:54 AM** Ana Melendez, President, Florida Association of Wholesale Distributors (waives in support)  
**11:53:04 AM** Amir Warren, Florida Association of Counties (waives in support)  
**11:53:05 AM** Edgar Castro, McLane (waives in support)  
**11:53:09 AM** Jacqueline Carco (waives against)  
**11:53:14 AM** Wendy McGlothlin (waives against)  
**11:53:17 AM** Jason Boulware (waives against)  
**11:53:21 AM** Nikki Marenghi (waives against)  
**11:53:30 AM** Erin Phillips (waives against)  
**11:53:33 AM** Amanda Risteen (waives against)  
**11:53:38 AM** David Shepp (waives in support)  
**11:53:45 AM** Jonathan Risteen  
**11:55:20 AM** Houston Blackwell  
**11:56:28 AM** Ernesto Fragoso  
**11:59:37 AM** Joseph Carco  
**12:00:38 PM** Dan Marlin  
**12:02:46 PM** Angela Weatherholt  
**12:03:52 PM** Baha Kasem  
**12:04:56 PM** Genie Crump  
**12:08:21 PM** Nick Orlando  
**12:10:02 PM** Sen. Osgood  
**12:14:49 PM** Sen. Perry  
**12:16:46 PM** Sen. Grall  
**12:16:58 PM** Sen. Brodeur  
**12:17:27 PM** Meeting Adjourned