

Committee on Governmental Oversight and Accountability

CS/CS/SB 50 — Public Meetings

by Rules Committee; Governmental Oversight and Accountability Committee; and Senators Negrón and Evers

Neither the Florida Constitution nor the Sunshine Law specifies that members of the public have the right to speak at public meetings. This bill creates a new section of law that requires members of the public to be given a reasonable opportunity to be heard on a proposition considered by the board or commission of a state agency or local government. Such opportunity does not have to occur at the same meeting at which the board or commission takes official action if certain requirements are met. The bill excludes specified meetings and acts from the opportunity to be heard requirement.

The bill authorizes a board or commission to adopt certain reasonable rules or policies governing the opportunity to be heard. If a board or commission adopts such rules or policies and thereafter complies with them, it is deemed to be acting in compliance with the section.

The bill authorizes a circuit court to issue injunctions for the purpose of enforcing the section upon the filing of an application for such injunction by any citizen of Florida. If such an action is filed and the court determines that the board or commission violated the section, the bill requires the court to assess reasonable attorney fees against the board or commission. The bill also authorizes the court to assess reasonable attorney fees against the individual filing the action if the court finds that the action was filed in bad faith or was frivolous. The bill excludes specified public officers from such attorney fee provisions. If a board or commission appeals a court order finding that it violated the section and the order is affirmed, the bill requires the court to assess reasonable appellate attorney fees against the board or commission.

The bill provides that any action taken by a board or commission that is found to be in violation of the section is not void as a result of such violation.

Finally, the bill includes a legislative finding of important state interest.

If approved by the Governor, these provisions take effect October 1, 2013.

Vote: Senate 40-0; House 113-2

Committee on Governmental Oversight and Accountability

SB 230 — Flag Etiquette

by Senator Ring

The bill requires the Governor to adopt a protocol on flag display that provides guidelines for the proper display of the state flag and for the lowering of the state flag to half-staff on appropriate occasions, such as on holidays and upon the death of high-ranking state officials, uniformed law enforcement and fire service personnel, and prominent citizens.

The bill also provides that the Governor may adopt, repeal, or modify any rule or custom pertaining to the display of the state flag, as the Governor deems appropriate.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 40-0; House 118-0

Committee on Governmental Oversight and Accountability

CS/CS/CS/SB 534 — Publicly-funded Defined Benefit Retirement Plans

by Appropriations Committee; Community Affairs Committee; Governmental Oversight and Accountability Committee; and Senators Brandes and Bradley

This bill provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan.

The bill requires each public pension plan, except the Florida Retirement System, to submit the following information to the Department of Management Services (DMS):

- Annual financial statements in compliance with Government Accounting and Standard Board's "Statement No. 67, Financial Reporting for Pension Plans" and "Statement No. 68, Accounting and Financial Reporting for Pensions";
- Annual financial statements which use an assumed rate of return on investments and an assumed discount rate that are equal to 200 basis points less than the plan's assumed rate of return;
- Information indicating the number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits as determined in the plan's latest valuation; and
- Information indicating the recommended contributions to the plan based on the plan's latest actuarial valuation and the contributions necessary to fund the plan based on the financial statements using alternative actuarial assumptions, stated as an annual dollar value and a percentage of valuation payroll.

The new information must be included in the DMS-produced fact sheet for the respective local government defined benefit pension plan.

The bill provides that any plan that fails to submit the required information to the DMS may be deemed to be in noncompliance with the law and may jeopardize its revenue-sharing funds.

The bill also specifies the types of financial information that must be included on plan websites.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 22-18; House 71-45

Committee on Governmental Oversight and Accountability

CS/HB 975 — Archaeological Sites and Specimens

by Transportation and Economic Development Appropriations Subcommittee and Rep. Metz (CS/CS/SB 1188 by Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Hays)

Current law prohibits unpermitted archaeological activity or the removal or alteration of any archaeological site or specimen located upon state land or within the boundaries of a designated state archaeological landmark or landmark zone.

This bill expands the lands upon which such unpermitted activities are prohibited to include lands owned by a water authority. The bill defines “water authority” to mean an independent special district created by special act whose purpose is to control and conserve freshwater resources. The term does not include water management districts.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 38-0; House 116-0

Committee on Governmental Oversight and Accountability

CS/CS/CS/HB 1145 — State-Owned or State-Leased Space

by State Affairs Committee; Government Operations Appropriations Subcommittee; Government Operations Subcommittee; and Rep. LaRosa (CS/CS/SB 1074 by Appropriations Committee; Environmental Preservation and Conservation Committee; and Senator Hays)

The bill addresses various inventory, sales, lease, and reporting requirements applicable to state-owned and state-leased property. The bill:

- Revises reporting requirements applicable to the annual inventory of state-owned facilities.
- Requires the Division of State Lands in the Department of Environmental Protection to consider a comparable sales analysis or a broker's opinion of value, as opposed to an appraisal, when determining the sale price of lands determined to be surplus, if such property has an estimated value of \$500,000 or less.
- Provides and revises various reporting, notice, and bidding requirements applicable to surplus property.
- Requires a state agency, state university, or Florida College System institution, when seeking to use a building or parcel determined to be surplus, to submit a plan for the proposed use.
- Authorizes the Department of Management Services (DMS) to direct a state agency (except Cabinet member agencies) to occupy or relocate to space in any state-owned office building within existing appropriations.
- Requires state agencies to report on their vacant or underutilized space.
- Requires the DMS to include the strategic leasing plan in the annual master leasing report, and directs the DMS to submit the report by October 1 of each year.
- Requires the annual master leasing report to contain recommendations for using capital improvement funds to implement the consolidation of state agencies into state-owned office buildings.
- Removes the authorization for an agency (except for Cabinet member agencies) to negotiate a replacement lease with the lessor if that agency determines that it is in its best interest to remain in the space it currently occupies, and gives the authority to the DMS to make the determination.
- Authorizes the DMS to approve emergency acquisition of space without competitive bids under certain conditions.
- Revises energy performance analysis requirements for buildings occupied by state agencies.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 38-0; House 115-0

Committee on Governmental Oversight and Accountability

CS/CS/HB 1309 — Procurement of Commodities and Contractual Services

by Appropriations Committee; Government Operations Subcommittee; and Rep. Albritton
(CS/CS/SB 1150 by Appropriations Committee; Governmental Oversight and Accountability
Committee; and Senators Benacquisto and Brandes)

The bill makes the following revisions to provisions governing state agency procurement and contracting, including, but not limited to:

- Requiring public agency contracts for services to include provisions that the public has access to public records, and requiring the public agency to enforce compliance with public records requests;
- Requiring specified accountability provisions to be included in grant agreements;
- Requiring agencies to appoint grant managers; such grant manager must be a certified contract manager if the grant agreement is in excess of \$100,000 annually;
- Providing for the Chief Financial Officer's (CFO) audit of executed grant agreements and contracts;
- Providing that both the Department of Management Services (DMS) and the CFO are jointly responsible for contract management training;
- Requiring invitations to bid to be awarded to the lowest responsive bidder;
- Permitting the DMS to lead joint agreements with governmental entities; and
- Removing the requirement that an agency head certify emergency procurement documents.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 40-0; House 116-0

Committee on Governmental Oversight and Accountability

SB 1802 — State Employee Health Insurance

by Governmental Oversight and Accountability Committee

This bill expands the group of employees eligible to participate in the State Employee Health Insurance Program (program). Under current law, no person paid from other-personal-services funds is eligible to participate regardless of the numbers of hours the employee works. Under the provisions of this bill, any state employee working an average of at least 30 or more hours per week will be eligible for health insurance coverage and premium subsidies. In addition, the proration of the state premium contribution will apply only to permanent employees working less than 30 hours per week on average. The bill requires employers participating in the program to submit certain information relating to employees paid from other-personal-services funds to ensure compliance with the federal law. These changes are effective December 1, 2013, so that insurance coverage will be available beginning January 1, 2014.

The bill authorizes the Department of Management Services to adopt emergency rules to modify the eligibility of persons paid with other-personal-services funds to comply with the federal Patient Protection and Affordable Care Act in order to mitigate the state's exposure to potential liability under the penalty provisions of that law. This provision is effective July 1, 2014, but the emergency rules must expire by June 30, 2014.

The bill continues the current level of state contributions into health savings accounts for employees participating in the high deductible health insurance plans under the State Employee Health Insurance Program. The current authority for the state to contribute to the health savings accounts expires on June 30, 2013. Under this bill, the state can continue to contribute at the current levels (\$500 for individual coverage and \$1,000 for family coverage) for FY 2013-2014. Beginning in FY 2014-2015, the amount of the contributions by the state will be established in the annual general appropriations act. This provision takes effect December 1, 2013.

If approved by the Governor, these provisions take effect July 1, 2013, except as otherwise provided in the bill.

Vote: Senate 38-0; House 117-0

Committee on Governmental Oversight and Accountability

SB 1810 — Florida Retirement System

by Governmental Oversight and Accountability Committee

The bill sets the employer-paid contribution rates for the Florida Retirement System (FRS) and the Retiree Health Insurance Subsidy (HIS) program, effective July 1, 2013.

The employer-paid contribution for the HIS program is increased from 1.11 percent of the employer's payroll to 1.20 percent of the employer's payroll. These funds will be deposited into the Retiree Health Insurance Subsidy Trust Fund to pay benefits to participating retirees.

The employer-paid contribution rates to pay the normal costs and amortization of the unfunded actuarial liability of the FRS are increased. These rates are based on the rates recommended in the "Blended Rate Study" associated with the 2012 Actuarial Valuation of the FRS. These funds will be deposited into the FRS Trust Fund to fund retirement benefits to members participating in the FRS.

The bill contains legislative findings that a proper and legitimate state purpose is served when public retirement systems, including health insurance subsidies, are administered and funded in a reasonable manner.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 40-0; House 117-0

Committee on Governmental Oversight and Accountability

HB 5401 — Transparency in State Contracting

by Government Operations Appropriations Subcommittee and Rep. Ingram (SB 1764 by Governmental Oversight and Accountability Committee)

The Transparency Florida Act (act) requires specified government fiscal and contract information to be made publicly available via website or management system. Among other provisions, it requires:

- The Executive Office of the Governor to establish a website making certain information relating to the state budget open to the public; and
- The Chief Financial Officer to provide public access to a state contract management system providing specified information relating to government contracts.

This bill amends the act relating to government fiscal information websites as follows:

- Requires the creation of a single website through which all other websites required by the act may be accessed;
- Creates style and formatting requirements for all websites required by the act;
- Requires the creation of a website relating to state employee and officer data;
- Requires the creation of a website relating to state fiscal planning data; and
- Adds search criteria and informational requirements to the existing state budget website.

The bill amends the act relating to the state contract management system as follows:

- Renames the state contract management system the state contract tracking system;
- Expands the posting requirements to include the contract itself, certain related procurement documents, and additional related information;
- Creates an exemption from posting requirements for those records that could reveal attorney work product or strategy;
- Authorizes the Chief Financial Officer to regulate or prohibit the posting of certain records, including any that could jeopardize the health, safety, or welfare of the public;
- Requires redaction of confidential or exempt information in a record prior to its posting and creates related provisions; and
- Authorizes the Department of Legal Affairs and the Department of Agriculture and Consumer Services to post the required information on their own websites in lieu of in the state contract tracking system operated by the Chief Financial Officer.

The bill also creates a User Experience Task Force tasked with developing a design for consolidating existing state-managed websites that provide public access to state operational and fiscal information into a single website.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 40-0; House 117-0

Committee on Governmental Oversight and Accountability

CS/HB 7135 — Public Records/Money Services Businesses

by State Affairs Committee; Insurance and Banking Subcommittee; and Rep. Nelson (CS/SB 1868 by Governmental Oversight and Accountability Committee and Senator Bean)

This bill is a public records exemption that is linked to CS/CS/HB 217. In pertinent part, CS/CS/HB 217 requires specified information relating to a check cashing transaction exceeding \$1,000 to be submitted to a database operated by the Office of Financial Regulation (OFR). This bill creates a public records exemption for payment instrument transaction information held in the database by the OFR. Specifically, any such information that identifies a licensee, payor, payee, or conductor is confidential and exempt from public records disclosure requirements.

This bill authorizes a licensee to access information that it submits to the OFR for inclusion in the database. It also authorizes the OFR to enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in certain circumstances, and requires those agencies to maintain the confidentiality of the information, except as otherwise required by court order.

This bill provides for repeal of the public records exemption on October 2, 2018, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 38-1; House 113-0

Committee on Governmental Oversight and Accountability

HB 7145 — OGSR/Employment Discrimination Complaints

by Government Operations Subcommittee and Rep. Combee (SB 1800 by Governmental Oversight and Accountability Committee)

The Open Government Sunset Review Act requires the Legislature to review each public records or public meetings exemption five years after its initial enactment or subsequent expansion. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

This bill is the result of an Open Government Sunset Review of a current public records exemption for employment discrimination complaints and related records. Specifically, all complaints and other records in the custody of an agency that relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with certain hiring and employment practices are exempt from public records disclosure requirements. This part of the exemption expires when one of specified conditions occurs.

The exemption also provides that when the alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from public records disclosure requirements.

This bill reenacts and makes clarifying drafting changes to the public records exemption for employment discrimination complaints and related records.

If approved by the Governor, these provisions take effect October 1, 2013.

Vote: Senate 37-0; House 116-0