

Tab 1	SB 202 by Jones ; Similar to H 00011 Municipal Water and Sewer Utility Rates					
Tab 2	SB 346 by Rouson ; Identical to H 06009 State Preemption of the Regulation of Hoisting Equipment					
Tab 3	SB 578 by Leek ; Identical to H 00161 Wine Containers					
Tab 4	SB 606 by Leek ; Similar to H 00535 Public Lodging and Food Service Establishments					
Tab 5	SB 570 by Gruters ; Similar to H 00453 Swimming Pool and Spa Contractors					
Tab 6	SB 928 by Calatayud ; Similar to H 01277 Nonapproved Disposable Nicotine Dispensing Devices					
326832	A	S	RCS	RI, Calatayud	Delete L.134 - 197:	03/12 12:13 PM
Tab 7	SB 652 by Bradley ; Identical to H 00729 Veterinary Professional Associates					
164782	A	S	RCS	RI, Bradley	Delete L.57 - 59:	03/12 12:18 PM
Tab 8	SB 354 by Gaetz ; Public Service Commission					
444212	D	S		RI, Gaetz	Delete everything after	03/10 05:48 PM
559828	SD	S	WD	RI, Gaetz	Delete everything after	03/12 12:19 PM
948904	SD	S	RCS	RI, Gaetz	Delete everything after	03/12 12:19 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES

Senator Bradley, Chair
Senator Pizzo, Vice Chair

MEETING DATE: Wednesday, March 12, 2025

TIME: 8:30—10:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Pizzo, Vice Chair; Senators Bernard, Boyd, Burgess, Calatayud, Fine, Gruters, and Ingoglia

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 202 Jones (Similar H 11, Compare H 1523, S 1704)	Municipal Water and Sewer Utility Rates; Requiring a municipality to charge customers receiving its utility services in another municipality the same rates, fees, and charges as it charges consumers within its municipal boundaries under certain circumstances, etc. RI 03/12/2025 Favorable CA RC	Favorable Yeas 7 Nays 1
2	SB 346 Rouson (Identical H 6009)	State Preemption of the Regulation of Hoisting Equipment; Deleting provisions preempting to the state the regulation of certain hoisting equipment, etc. RI 03/12/2025 Favorable CA RC	Favorable Yeas 8 Nays 0
3	SB 578 Leek (Identical H 161, Compare H 6015)	Wine Containers; Providing that wine may be sold in recyclable containers of a specified volume, etc. RI 03/12/2025 Favorable CM RC	Favorable Yeas 8 Nays 0
4	SB 606 Leek (Similar H 535)	Public Lodging and Food Service Establishments; Revising the instances under which the operator of any public lodging establishment may remove a guest; providing requirements for the notice an operator of a public lodging establishment or public food service establishment may give to a guest under specified circumstances; requiring a law enforcement officer to remove a guest who remains on the premises of any public lodging establishment after an operator makes a specified request, etc. RI 03/12/2025 Favorable CJ RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Wednesday, March 12, 2025, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 570 Gruters (Similar H 453)	Swimming Pool and Spa Contractors; Revising definitions for purposes of part I of ch. 489, F.S., etc. RI 03/12/2025 Favorable CA RC	Favorable Yeas 8 Nays 0
6	SB 928 Calatayud (Similar H 1277, S 1406)	Nonapproved Disposable Nicotine Dispensing Devices; Citing this act as the "Florida Age Gate Act"; defining the term "nonapproved disposable device"; revising which permitholders that the premises covered by the permit are subject to inspection and search by the Division of Alcoholic Beverages and Tobacco; revising the provision that, upon being granted a permit, such permitholder also consents to inspections by the Department of Law Enforcement for specified violations; prohibiting a dealer who sells nonapproved disposable devices from advertising, promoting, or displaying for sale such devices in certain locations, etc. RI 03/12/2025 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
7	SB 652 Bradley (Identical H 729)	Veterinary Professional Associates; Citing this act as the "Veterinary Workforce Innovation Act"; authorizing certain individuals to use the title "veterinary professional associate"; authorizing veterinary professional associates to perform certain duties only while under the responsible supervision of a licensed veterinarian; prohibiting such associates from prescribing certain drugs or controlled substances or performing certain surgical procedures, etc. RI 03/12/2025 Fav/CS AG RC	Fav/CS Yeas 5 Nays 2
8	SB 354 Gaetz	Public Service Commission; Revising the membership of the Public Service Commission; requiring the commission to establish a certain schedule; revising the requirements for the annual report provided by the commission to the Governor and the Legislature, etc. RI 03/12/2025 Fav/CS AEG FP	Fav/CS Yeas 5 Nays 2
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 202

INTRODUCER: Senator Jones

SUBJECT: Municipal Water and Sewer Utility Rates

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 202 creates an exception to the maximum rates that may be charged to municipal water and sewer utility customers who are outside of the corresponding municipality's boundaries. The bill provides that if a municipal utility provides water or sewer services to another municipality and serves that other municipality using a facility or water or sewer plant located within that other municipality, then the utility must charge its customers within that other municipality the same rates, fees, and charges as it does for those customers within its own municipal boundaries.

The bill has an effective date of July 1, 2025.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹ 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 and reliable manner and at fair prices.² In order to do so, the PSC exercises authority over 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.³ PSC authority over municipal utilities is more limited, however.

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Feb. 13, 2025).

³ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Feb. 13, 2025).

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2023, the PSC had jurisdiction over 146 investor-owned water and/or waste-water utilities in 38 of Florida's 67 counties.⁴

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation," and others.⁵ The PSC also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

Municipal Water and Sewer Utilities in Florida

A municipality⁶ may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.⁷

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

Municipal Water and Sewer Utility Rate Setting

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

⁴ Florida Public Service Commission, *2024 Facts and Figures of the Florida Utility Industry*, <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202024.pdf> (last visited Mar. 5, 2025).

⁵ Section 367.022, F.S.

⁶ Defined by s. 180.01, F.S., "as any city, town, or village duly incorporated under the laws of the state."

⁷ Section 180.02, F.S., *see also* s. 180.06, F.S.

Municipal Water and Sewer Utility Rates for Customers Outside of Corporate Limits

Section 180.191, F.S., provides limitations on the rates that can be charged to customers outside their municipal boundaries. The first option is that such a municipality may charge the same rates outside as inside its municipal boundaries, but may add a surcharge of not more than 25 percent to those outside the boundaries.⁸ The fixing of rates, fees, or charges for customers outside of the municipal boundaries, in this manner, does not require a public hearing.

Alternatively, a municipality may charge rates that are just and equitable and based upon the same factors used in fixing the rates for the customers within the boundaries of the municipality. In addition, the municipality may add a 25 percent surcharge. When a municipality uses this methodology, the total of all rates, fees, and charges for the services charged to customers outside the municipal boundaries may not be more than 50 percent in excess of the total amount the municipality charges consumers within its municipal boundaries, for corresponding service.⁹ Under this scenario, the rates, fees, and charges may not be set until a public hearing is held and the users, owners, tenants, occupants of property served or to be served, and all other interested parties have an opportunity to be heard on the rates, fees, and charges. Any change in the rates, fees, and charges must also have a public hearing unless the change is applied pro rata to all classes of service, both inside and outside of the municipality.¹⁰

The provisions of s. 180.191, F.S., may be enforced by civil action. Whenever any municipality violates, or if reasonable grounds exist to believe that a municipality is about to violate, s. 180.191, F.S., an aggrieved party may seek preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order.¹¹ A prevailing party under such an action may seek treble damages and, in addition, a reasonable attorney's fee as part of the cost.¹²

City of Miami Gardens v. City of North Miami Beach

The Norwood Water Treatment Plant (Norwood Plant), operated by the City of North Miami Beach (NMB), treats and distributes water for North Miami Beach's municipal water and wastewater utility which provides service to customers in NMB and the City of Miami Gardens. Though owned by NMB, the plant is physically located outside of the geographic boundaries of that municipality in what is now, as of May 13, 2003,¹³ within the geographic boundaries of Miami Gardens.¹⁴

On January 7, 2003, NMB adopted an ordinance, pursuant to s. 180.191, F.S., increasing the surcharge on its water and wastewater customers residing outside of its municipal boundaries. On May 22, 2017, NMB entered into an agreement for a private entity to maintain, repair and manage the Norwood Plant; however, NMB retained ownership of the plant.¹⁵

⁸ Section 180.191(1)(a), F.S.

⁹ Section 180.191(1)(b), F.S.

¹⁰ *Id.*

¹¹ Section 180.191(2), F.S.

¹² Section 180.191(4), F.S.

¹³ Miami Gardens was incorporated on May 13, 2003.

¹⁴ *City of Miami Gardens v. City of N. Miami Beach*, 346 So. 3d 648, 650–51 (Fla. 3d DCA 2022). The City of North Miami Beach operated the Norwood Plant before the City of Miami Gardens was incorporated.

¹⁵ *Id.*

In December of 2018, Miami Gardens brought a class action lawsuit, which sought to represent not only itself, but also its residents who purchase water from the Norwood Plant. In part, Miami Gardens sought a declaratory judgment seeking the answers to three questions:

- If NMB assigned to a private contractor all operational responsibility for water utilities it owns that are located outside its geographical bounds, is NMB still “operating” those water utilities?
- If NMB is no longer “operating” water utilities it owns that are located outside its geographical bounds, may NMB lawfully charge a 25 percent surcharge on water provided to consumers within the City of Miami Gardens?
- Does s. 180.191, F.S., provide for the imposition of a 25 percent surcharge per billing cycle by NMB upon the City of Miami Gardens and the members of the class for water drawn from the aquifer located within the boundaries of the City of Miami Gardens which is processed in and never leaves the boundaries of the municipality?¹⁶

After the parties were given a chance to resolve the dispute for six months, the trial court eventually dismissed the complaint on four bases:

- NMB had terminated the contract with the private entity to operate the Norwood Plant, and thus the complaint was moot;
- The complaint was not supported by the plain language of s. 180.191(1), F.S;
- Statute of limitations, as the complaint had been filed 15 years after Miami Gardens was incorporated and 16 years after the surcharge had been put in place (citing to the four-year statute of limitations provided in s. 95.11(3), F.S; and
- Sovereign immunity.¹⁷

Miami Gardens appealed this dismissal to the Florida Third District Court of Appeal. The Third District Court reversed the dismissal and remanded the case back to the trial court, stating that:

- Sovereign immunity did not bar the claims of Miami Gardens. The court found that sovereign immunity did not apply in this matter since s. 180.191(4), F.S., clearly provides a financial damages remedy for actions pursuant to s. 180.191, F.S. In addition, the court found that sovereign immunity did not apply to refunds of previously paid illegal fees;
- Miami Gardens’ allegation that an NMB-owned water treatment plant, contracted to be operated by a private party, was not entitled to assess a 25 percent surcharge on non-NMB residents, was sufficient to state a claim under s. 180.191, F.S.; and
- The matter was not moot, even though, since October 30, 2019, NMB had removed the surcharges for the services supplied to the City of Miami Gardens itself (but not for other residential and business customers) and, as of August 6, 2020, NMB had terminated its contract with the private entity operating the plant. The court found that Miami Gardens and its class still had a case and controversy as to whether it, and its residents, were due a refund and that the cessation of the surcharge was not permanent.¹⁸

¹⁶ *Id.*

¹⁷ *Id.* at 653.

¹⁸ *Id.* at 653-58.

On January 16, 2025, the trial court issued a final order approving a settlement that pays \$9 million to Miami Gardens and its class from NMB.¹⁹

III. Effect of Proposed Changes:

Section 1 of the bill creates an exception to the maximum rates that may be charged to municipal water and sewer utility customers that are outside of the municipality's boundaries under s. 180.191, F.S. The bill provides that if a municipal utility provides water and sewer services to a second municipality, and serves that second municipality using a facility or water or sewer plant located within that second municipality, that municipality must charge the customers within that second municipality the same rates, fees, and charges as the customers within its own municipal boundaries.

The bill provides the following definitions:

- “Facility” means a water treatment facility, wastewater treatment facility, intake station, pumping station, well, and other physical components of a water or wastewater system. The term “facility” in the bill does not include facilities that transport water from the point of entry to a wastewater treatment facility, or from a water source or treatment facility to the customer.
- “Wastewater treatment facility” means a facility that accepts and treats domestic or industrial wastewater.
- “Water treatment facility” means a facility within a water system which can alter the physical, chemical, or bacteriological quality of water.

Section 2 of the bill provides an effective date of the bill of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the

¹⁹ *City of Miami Gardens v. City of North Miami Beach*, No. 2018-042450-CA-01 (Fla. 11th Cir. Ct. Jan. 16, 2025)(final order and judgment approving settlement agreement).

mandates requirements do not apply to laws having an insignificant impact,²⁰ which is \$2.37 million or less for Fiscal Year 2024-2025.²¹

The Revenue Estimating Conference has not reviewed SB 202. Staff estimates an indeterminate impact to municipal utility revenues.

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:

Municipal water and sewer utility customers that are located in a different municipality than the municipality that operates the utility may see a water and sewer rate reduction under the provisions of the bill if that customer's municipality contains facilities or water or sewer plants for the utility.

C. Government Sector Impact:

Municipal governments that operate a municipal water and sewer utility, with facilities or water or sewer plants located in a second municipality, may see a reduction in utility revenue under the provisions of the bill.

²⁰ FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 5, 2025).

²¹ Based on the Demographic Estimating Conference's estimated population adopted on February 6, 2025. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/index.cfm> (last visited Mar. 5, 2025).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 180.191 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Jones

34-00510-25

2025202

1 A bill to be entitled

2 An act relating to municipal water and sewer utility

3 rates; amending s. 180.191, F.S.; requiring a

4 municipality to charge customers receiving its utility

5 services in another municipality the same rates, fees,

6 and charges as it charges consumers within its

7 municipal boundaries under certain circumstances;

8 defining terms; making technical changes; providing an

9 effective date.

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

11 Section 1. Present subsections (2), (3), and (4) of section

12 180.191, Florida Statutes, are redesignated as subsections (3),

13 (4), and (5), respectively, a new subsection (2) is added to

14 that section, and subsection (1) of that section is amended, to

15 read:

16 180.191 Limitation on rates charged consumer outside city

17 limits.—

18 (1) Any municipality within this ~~the~~ state operating a

19 water or sewer utility outside of the boundaries of such

20 municipality shall charge consumers outside the boundaries

21 rates, fees, and charges determined in one of the following

22 manners:

23 (a) It may charge the same rates, fees, and charges as

24 consumers inside the municipal boundaries. However, in addition

25 ~~therefore~~, the municipality may add a surcharge of not more than

26 25 percent of such rates, fees, and charges to consumers outside

27 the boundaries, except as provided in subsection (2). Fixing of

Page 1 of 3

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

34-00510-25

2025202

30 such rates, fees, and charges in this manner does shall not

31 require a public hearing except as may be provided for service

32 to consumers inside the municipality.

33 (b) It may charge rates, fees, and charges that are just

34 and equitable and that ~~which~~ are based on the same factors used

35 in fixing the rates, fees, and charges for consumers inside the

36 municipal boundaries, except as provided in subsection (2). In

37 addition ~~therefore~~, the municipality may add a surcharge not to

38 exceed 25 percent of such rates, fees, and charges for ~~said~~

39 services to consumers outside the boundaries. However, the total

40 of all such rates, fees, and charges for the services to

41 consumers outside the boundaries may shall not be more than 50

42 percent in excess of the total amount the municipality charges

43 consumers served within the municipality for corresponding

44 service. ~~He~~ Such rates, fees, and charges may not shall be fixed

45 until after a public hearing at which all of the users of the

46 water or sewer systems; owners, tenants, or occupants of

47 property served or to be served thereby; and all others

48 interested must shall have an opportunity to be heard concerning

49 the proposed rates, fees, and charges. Any change or revision of

50 such rates, fees, or charges may be made in the same manner as

51 such rates, fees, or charges were originally established, but if

52 such change or revision is to be made substantially pro rata as

53 to all classes of service, both inside and outside the

54 municipality, no hearing or notice is ~~shall be~~ required.

55 (2) A municipality within this state which operates a water

56 or sewer utility providing service to customers in another

57 recipient municipality, which also has a facility in that

58 recipient municipality, shall charge consumers in the recipient

Page 2 of 3

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

34-00510-25

2025202

59 municipality the same rates, fees, and charges as it does the
60 consumers inside its own municipal boundaries. As used in this
61 subsection, the term:

62 (a) "Facility" means a water treatment facility, a
63 wastewater treatment facility, an intake station, a pumping
64 station, a well, and other physical components of a water or
65 wastewater system. The term does not include:

66 1. Pipes, tanks, pumps, or other facilities that transport
67 water from a water source or treatment facility to the consumer;
68 or

69 2. Pipes, conduits, and associated appurtenances that
70 transport wastewater from the point of entry to a wastewater
71 treatment facility.

72 (b) "Wastewater treatment facility" means a facility that
73 accepts and treats domestic wastewater or industrial wastewater.

74 (c) "Water treatment facility" means a facility within a
75 water system which can alter the physical, chemical, or
76 bacteriological quality of water.

77 Section 2. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 13, 2025

I respectfully request that **Senate Bill #202**, relating to Municipal Water and Sewer Utility Rates, be placed on the:

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

A handwritten signature in black ink, appearing to read "Shev Jones", is written over a horizontal line.

Senator Shevrin D. "Shev" Jones
Florida Senate, District 34

APPEARANCE RECORD

Meeting Date

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

Bill Number or Topic

Committee

Amendment: Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☒ For☐ Against☐ Information

OR

Waive Speaking:

☐

In Support

☐

Against

☐ 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:

PLEASE CHECK ONE OF THE FOLLOWING:

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 7. [2020-2022 Joint Rules.pdf](http://2020-2022.jointrules.pdf) (flsenate.gov)

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

S-001 (08/10/2021)

202

Felicia Robinson

305-502-5953

3240 NW 214th Street

Felicia Robinson

FL

Miami Gardens FL 33056

FLH085890

APPEARANCE RECORD

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

202

Bill Number or Topic

Meeting Date

Amendment Barcode (if applicable)

Committee

Name **Jess M. McCarty, Executive Assistant County Attorney** Phone **305-979-7110**

Address **111 N.W. 1st Street Suite 2800** Email **jmm2@miamidade.gov**

Miami **FL** **33128**
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:

Miami-Dade County

☐ 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)

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

S-001 (08/10/2021)

APPEARANCE RECORD

Deliver both copies of this form to
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3-12-25

Meeting Date

Regulated Industries

Committee

Bill Number or Topic

202

Amendment Barcode (if applicable)

Name Maria Diaz

Phone

788-202-9343

Address 17011 NE 19 Ave

Street

North Miami Beach FL

City

State

33162

Zip

Email

Maria.Diaz@citynmb.com

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)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Meeting Date

3/12/25

Bill Number or Topic

SB 202

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

Regulated Industries
Committee

Amendment Barcode (if applicable)

850 272 0551

Name

Chante' Jones

Phone

Address

215 N Monroe Ste 603

Email

cejjones@aarp.org

Street

Tallahassee FL 32301

State

Zip

City

Speaking: ☐ For ☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP Florida

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

PLEASE CHECK ONE OF THE FOLLOWING:

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 202

Bill Number or Topic

Meeting Date

03/12/2025

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

regulated industries
Committee

Amendment Barcode (if applicable)

Name Jileah Wilder

Phone 850-412-1115

Address 215 South Monroe Street

Email JWilder@beckerlawyers.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:

Miami Gardens

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 202

03/12/2025

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Yolanda Cash Jackson Phone 850-412-1115

Address 246 South Monroe St Email yjackson@beckerlawyers.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:

Miami Gardens

☐ 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)

APPEARANCE RECORD

03-12-25

Meeting Date

Reg. Industries

Committee

Sally Heyman

(ret. State Representative)

Deliver both copies of this form to
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Bill Number or Topic

SB 202

Amendment Barcode (if applicable)

786-299-7645

Name

Phone

Address

Email

1050 NE 181 Street

Street

No. Miami Beach FL 33162

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)

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

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.)

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

BILL: SB 346

INTRODUCER: Senator Rouson

SUBJECT: State Preemption of the Regulation of Hoisting Equipment

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 346 deletes the provision in current law that preempts regulation of certain hoisting equipment that is not preempted by federal law to the state.

The bill has an effective date of July 1, 2025.

II. Present Situation:

Regulation of Hoisting Equipment

The federal government, through the Occupational Safety and Health Administration (OSHA), generally regulates hoisting equipment.¹

Florida currently does not regulate the operation of mobile or tower cranes on construction sites or license crane operators, nor does it provide for hurricane or high-wind event standards or plans relating to on-site crane use.

In 2012, CS/HB 521 created s. 489.113(11), F.S., which prohibited any local act, law, ordinance, or regulation pertaining to the regulation of hoisting equipment and hoisting equipment operators in Florida. It preempted the regulation of that equipment, not already preempted by the federal government to the state.

Occupational Safety and Health Act and Regulation of Hoisting Equipment

The Occupational Safety and Health Act of 1970 (the OSH Act) created the Occupational Safety and Health Administration (OSHA), a federal agency that promulgates standards related to

¹ 29 CFR s. 1926.552.

workplace health and safety.² The Supreme Court has held that Congress intended to establish “uniform, federal occupational and health standards” in the OSH Act to avoid “duplicative, and possibly counterproductive regulation.”³ The Court has further held that “the OSH Act precludes any state regulation of an occupational or health issue, with respect to which a federal standard has been established, unless a state plan has been submitted.”⁴ This applies regardless of whether the state law requirement serves a dual purpose and has another non-occupational purpose.⁵

The OSH Act allows a state that desires to assume responsibility for development and enforcement of occupational safety and health standards relating to any occupational safety or health issue, where a federal standard has been promulgated, to do so by submitting a state plan for the development of such standards and their enforcement.⁶

However, unless a state plan has been submitted and approved, the OSH Act prohibits state and local governments from promulgating regulation related to workplace health or safety if an applicable OSHA standard is already in place.⁷ Conversely, if a relevant OSHA standard is not in place, the OSH Act does not federally preempt state or local regulation regarding workplace health or safety.⁸ As a result, regulation of workplace health and safety that is not addressed by existing OSHA standards generally may be adopted by state and local governments.

Currently, the state does not regulate the operations of mobile or tower cranes on construction sites or license crane operators, nor does it provide for hurricane or high-wind event standards or plans relating to on-site crane use. However, OSHA’s occupational health and safety standards apply to both construction worksites and employees engaged in construction work.⁹

OSHA standards include general requirements for construction work involving cranes, derricks, material hoists, personnel hoists, and elevators.¹⁰ OSHA regulations require compliance with the manufacturer’s specifications and limitations applicable to the operation of all cranes, derricks, hoists, and elevators. In cases where the manufacturer’s specifications are not available, the limitations assigned to the equipment are to be based on the determinations of a qualified engineer competent in the field.¹¹

OSHA regulations also contain requirements for the inspection and certification of crane and hoisting equipment and standards for hand signals to crane and derrick operators.¹² Further, by incorporating the mandatory rules of the applicable American Society of Mechanical Engineers

² 29 U.S.C. § 651.

³ *Gade v. National Solid Waste Management Association*, 505 U.S. 88, 102 (1992).

⁴ *Id.*

⁵ 505 U.S. 88 (1992).

⁶ 29 U.S.C. s. 667(b).

⁷ *See Gade v. National Solid Waste Management Association*, 505 U.S. 88, 98-99 (1992).

⁸ 29 U.S.C. s. 667(a).

⁹ 29 C.F.R. s. 1910.12(a).

¹⁰ 29 C.F.R. s. 1926.550 & s. 1926.552.

¹¹ *Id.*

¹² *See Associated Builders v. Miami-Dade Co.*, No. 08-21274-CIV-UNGARO (S.D. Fla. Jan. 14, 2009), *aff’d*, 594 F. 3d 1321 (11th Cir. 2010).

(ASME) standards, OSHA standards include inspection of cranes and standards for crane operator qualifications and certifications.

Miami-Dade County Ordinance Relating to the Safety of Hoisting Equipment

In March 2008, Miami-Dade County passed and adopted an ordinance that set binding regulations for the construction, installation, operation, and use of tower cranes, personnel, and material hoists.¹³ The ordinance was subsequently challenged as being preempted by the OSH Act and OSHA standards that regulated occupational safety and health standards.¹⁴ Miami-Dade County defended the provisions as valid saying it had targeted public safety rather than occupational safety.¹⁵

The United States District Court permanently enjoined the County from implementing certain provisions of the ordinance relating to wind load standards finding that the standards directly affected occupational safety and therefore were preempted by the federal standards, even if the ordinance served a dual purpose and addressed public safety issues as well.¹⁶ The District Court also found that other parts of the Miami-Dade ordinance relating to public safety and hurricane preparedness were not preempted because the scope of OSHA's standards as they relate to cranes and hoists did not include regulation regarding hurricane preparedness or public safety.¹⁷ The decision of the District Court was later affirmed by the 11th Circuit Court of Appeals finding that the Miami-Dade ordinance was preempted by OSHA with regard to wind load standards for tower cranes and hoists.¹⁸

Post Associated Builders v. Miami-Dade Co.

In January 2025 Miami-Dade County passed a resolution urging the Florida Legislature to repeal the preemption in current law and allow local governments to regulate and enforce crane safety in matters that are not preempted to the federal government, citing specifically **hurricane preparedness**.¹⁹

III. Effect of Proposed Changes:

Section 1 of the bill deletes the section of law that preempts regulations of certain hoisting equipment that is not preempted by federal law, to the state.

Section 2 of the bill provides an effective date of July 1, 2025.

¹³ Miami-Dade County, FL, Ordinance No. 08-34.

¹⁴ See *Associated Builders v. Miami-Dade Co.*, No. 08-21274-CIV-UNGARO (S.D. Fla. Jan. 14, 2009), *aff'd*, 594 F. 3d 1321 (11th Cir. 2010).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Associated Builders v. Miami-Dade Co.*, 594 F. 3d 1321 (11th Cir. 2010).

¹⁹ Miami-Dade County, FL, Resolution No. R-67-25.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 489.113.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Rouson

16-00831-25

2025346

1 A bill to be entitled

2 An act relating to state preemption of the regulation
3 of hoisting equipment; amending s. 489.113, F.S.;
4 deleting provisions preempting to the state the
5 regulation of certain hoisting equipment; providing an
6 effective date.
7

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

9
10 Section 1. Subsection (11) of section 489.113, Florida
11 Statutes, is amended to read:

12 489.113 Qualifications for practice; restrictions.—

13 ~~(11) Any local act, law, ordinance, or regulation,~~
14 ~~including, but not limited to, a local building code or building~~
15 ~~permit requirement, of a county, municipality, or other~~
16 ~~political subdivision that pertains to hoisting equipment~~
17 ~~including power-operated cranes, derricks, hoists, elevators,~~
18 ~~and conveyors used in construction; demolition; or excavation~~
19 ~~work, that is not already preempted by the Occupational Safety~~
20 ~~and Health Administration under 29 C.F.R. parts 1910 and 1926;~~
21 ~~including, but not limited to, local workplace regulation~~
22 ~~regarding hurricane preparedness or public safety, is prohibited~~
23 ~~and is preempted to the state. This subsection does not apply to~~
24 ~~the regulation of elevators under chapter 399 or to airspace~~
25 ~~height restrictions in chapter 323.~~

26 Section 2. This act shall take effect July 1, 2025.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Agriculture
Appropriations Committee on Criminal and
Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Ethics and Elections
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR DARRYL ERVIN ROUSON

16th District

March 3, 2025

Senator Jennifer Bradley
Chair, Committee on Regulated Industries
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley,

I write today respectfully requesting SB 346, State Preemption of the Regulation of Hoisting Equipment, be added to the agenda of a forthcoming meeting of the Committee on Regulated Industries for consideration. I look forward to the opportunity to present SB 346 to the committee. I am available for any questions you may have about this legislation.

Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

3/12/25

Meeting Date

Reg Industries

Committee

Deliver both copies of this form to
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Bill Number or Topic

346

Amendment Barcode (if applicable)

830-922-4300

Phone

Name

Courtney Mooney

Address

100 S Monroe

Street

Email

Cmooney@fl-counties.com

City

State

Zip

Speaking: ☐ For ☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Association
of Counties

☐ 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)

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3/12/25

Meeting Date

Regulated Industries

Committee

Chad Kunde

Name

Address 136 S Branough St

Street

Tallahassee FL 32301

City

State

Zip

Phone

(850) 766-7896

Email

ckunde@flchamber.com

Bill Number or Topic

346

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ In Support ☒ Against**OR**Waive Speaking: ☐ Information ☐ Information☐ I am appearing without compensation or sponsorship.☒ I am a registered lobbyist, representing:

Florida Chamber of Commerce

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**PLEASE CHECK ONE OF THE FOLLOWING:**

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/12/2025

Meeting Date

Registered Industries
Committee

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SB 346

Bill Number or Topic

Name Carol Bowen

Phone (954) 465-4811

Address PO Box 880448

Email cbowen@senate.fl.gov

Street

Boca Raton

State

FL

Zip

33488

Speaking: ☐ For ☒ Against

☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

☐ 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
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sponsored by:

Associated Builders and Contractors of Florida

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

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.)

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

BILL: SB 578

INTRODUCER: Senator Leek

SUBJECT: Wine Containers

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CM	
3.			RC	

I. Summary:

SB 578 allows the sale of wine in recyclable glass containers holding 5.16 gallons. Current law only allows for reusable containers holding 5.16 gallons. Under current law, wine may also be sold in glass containers holding 4.5 liters, 9 liters, 12 liters, or 15 liters of wine.

The bill takes effect July 1, 2025.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces¹ the Beverage Law,² which regulates the manufacture, distribution, and sale of wine, beer, and liquor.³ The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

Wine

The term “wine” means:⁴

all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added

¹ Section 561.02, F.S.

² Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

³ See s. 561.14, F.S.

⁴ Section 564.01(1), F.S.

to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.

“Fortified wine” means all wines containing more than 17.259 percent of alcohol by volume.⁵

Wine Container Size Limits

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon (3.785 liters) of wine unless the wine is sold in a reusable container of 5.16 gallons (19.5 liters) or a glass container holding 4.5 liters, 9 liters, 12 liters, or 15 liters of wine.

Qualified distributors and manufacturers may sell wine to other qualified distributors or manufacturers in any size container. Except as provided in s. 564.09, F.S., wine sold or offered for sale by a licensed vendor to be consumed off the premises shall be in the unopened original container.⁶

Any person who violates the prohibition in s. 564.05, F.S., commits a misdemeanor of the second degree.⁷

Federal law specifies fill standards for wine containers.⁸ The wine container must be filled to contain the quantity of wine authorized in the federal fill standards so as not to mislead the consumer.⁹ The authorized standards of fill range from 50 milliliters to three liters. However, if the fill of the wine container is four liters or larger, the container must be labeled in even liters, e.g., four liters, five liters, etc.¹⁰ There are also several exceptions to the standard fill requirements, including exceptions for certain imported wines in original containers, wines bottled before specified dates, and wine packed in containers of 18 liters or more.¹¹

III. Effect of Proposed Changes:

The bill revises s. 564.05, F.S., to allow the sale of wine in recyclable glass containers holding 5.16 gallons. Current law only allows for reusable containers holding 5.16 gallons.

The bill takes effect July 1, 2025.

⁵ Section 564.01(2), F.S.

⁶ Section 564.09, F.S., allows restaurant patrons to leave a restaurant with an unsealed bottle of wine for consumption off the premises if the patron has purchased a meal and consumed a portion of the bottle of wine on the restaurant premises with certain requirements.

⁷ Section 775.082(4), F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

⁸ 27 C.F.R. s. 4.70 *et seq.*

⁹ 27 C.F.R. s. 4.71.

¹⁰ 27 C.F.R. s. 4.72.

¹¹ 27 C.F.R. s. 4.70. The standard wine barrel is 225 liters or 59 gallons. See Wine Industry Advisor, Living Large: Supersizing Barrels for a Subtler Impact, at: <https://wineindustryadvisor.com/2020/08/11/living-large-supersizing-barrels-for-a-subtler-impact> (last visited Feb. 25, 2025).

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 564.05 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Leek

7-00684-25

2025578

A bill to be entitled

An act relating to wine containers; amending s.
564.05, F.S.; providing that wine may be sold in
recyclable containers of a specified volume; providing
an effective date.

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

Section 1. Section 564.05, Florida Statutes, is amended to
read:

564.05 Limitation of size of individual wine containers;
penalty.—It is unlawful for a person to sell within this state
wine in an individual container holding more than 1 gallon of
such wine, unless such wine is in a recyclable or reusable
container holding 5.16 gallons or a glass container holding 4.5
liters, 6 liters, 9 liters, 12 liters, or 15 liters. However,
qualified distributors and manufacturers may sell wine to other
qualified distributors or manufacturers in any size container.
Except as provided in s. 564.09, wine sold or offered for sale
by a licensed vendor to be consumed off the premises must ~~shall~~
be in the unopened original container. A person convicted of a
violation of this section commits a misdemeanor of the second
degree, punishable as provided in s. 775.082 or s. 775.083.
Section 2. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 21, 2025

I respectfully request that **Senate Bill #578**, relating to Wine Containers be placed on the:

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", is written over a horizontal line.

Sen. Tom Leek
Florida Senator, District 7

APPEARANCE RECORD

578

Meeting Date

3/12/25

Bill Number or Topic

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

Committee

Regulated Industries

Amendment Barcode (if applicable)

863-220-0138

Name

Derick Tabertshofer

Phone

863-220-0138

Address

107 E College Ave.

Email

dtabertshofer@alpha.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐ For☐ Against☐ Information

OR

Waive Speaking:

☒

In Support

☐

Against

☐ 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:

PLEASE CHECK ONE OF THE FOLLOWING:

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 606

INTRODUCER: Senator Leek

SUBJECT: Public Lodging and Food Service Establishments

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CJ	
3.			RC	

I. Summary:

SB 606 revises the following terms related to public lodging establishments.

The term “transient public lodging establishment” is revised to mean any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 consecutive days or which is advertised or held out to the public as a place regularly rented to guests for periods of less than 30 consecutive days.

The term “nontransient public lodging establishment” is revised to mean any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 consecutive days or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 consecutive days.

Current law does not specify that the rental periods to qualify as a transient or nontransient public lodging establishment are based on consecutive days. The bill also removes references to one calendar month in these definitions.

The terms “transient establishment” and “nontransient establishment” are revised to mean any public lodging establishment that is rented or leased to guests by an operator for transient or nontransient occupancy, respectively. The bill removes the condition that establishment status as transient or nontransient is based on the establishment operator’s intent regarding whether the guest’s stay will be temporary.

The terms “transient occupancy” and “nontransient occupancy” are revised to provide that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient or nontransient, respectively, unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole

residence. The bill removes the rebuttable presumption providing that occupancy is a “transient occupancy” or “nontransient occupancy” based on the establishment operator’s intent regarding whether the accommodation will be the guest’s sole residence.

The bill amends the procedure for removal of guests from a public lodging or food establishment to provide that a notice that a guest must depart is effective upon delivery of the notice. It provides that a law enforcement officer may arrest a guest who remains after notice to leave has been provided to the guest.

The bill takes effect July 1, 2025.

II. Present Situation:

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

Definitions - Public Lodging Establishments

The term “public lodging establishments” includes transient and non-transient public lodging establishments.¹ The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A public lodging establishment is classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, or timeshare project if the establishment satisfies specified criteria.²

A “vacation rental” is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

Emphasis added.

Section 509.013(2), F.S., defines the term “operator” to mean the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

¹ Section 509.013(4)(a), F.S.

² Section 509.242(1), F.S.

Transient Public Lodging Establishment

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. (emphasis added)

“Transient occupancy” means:

...occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.³

A “transient” is a guest in transient occupancy.⁴

Non-Transient Public Lodging Establishment

A “non-transient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

...any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. (emphasis added)

Exemptions

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

- Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
- Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
- Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that

³ Section 509.013(12), F.S.

⁴ Section 509.013(13), F.S.

is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

- Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008 - 381.00895, F.S.;
- Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
- Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;
- Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
- Any rooming house, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, non-transient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

Public Food Service Establishments

A "public food service establishment" is defined as:

...any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.⁵

There are several exclusions from the definition of public food service establishment, including:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;

⁵ Section 509.013(5)(a), F.S.

- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and
- Any research and development test kitchen limited to use by employees and not open to the general public.⁶

Refusal of Admission and Ejection of Undesirable Guests

Section 509.141(1), F.S., permits an operator to remove, or cause to be removed, a person for specified causes, including any guest of a public lodging establishment or public food service establishment while on the premises of the establishment who:

- Illegally possesses or deals in controlled substances, as defined in ch. 893, F.S.,
- Is intoxicated, profane, lewd, or brawling;
- Indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment;
- Fails to check out by the time agreed upon in writing by the guest and public lodging establishment at check-in unless an extension of time is agreed to by the public lodging establishment and guest prior to check out;
- Fails to make payment for food, beverages, or services; or
- In the opinion of the operator, is a person the continued entertainment of whom would be detrimental to the establishment.

Section 509.141(3), F.S., provides that any guest who remains or attempts to remain in any such establishment after being requested to leave is guilty of a misdemeanor of the second degree.⁷

Section 509.141(4), F.S., provides that any guest who remains “illegally on the premises of any public lodging establishment or public food service establishment, the operator of such establishment may call upon any law enforcement officer of this state for assistance.” Upon request of the operator of the establishment, it is the duty of the law enforcement officer to place the guest under arrest and take the guest into custody.

Section 509.142, F.S., permits an operator to refuse accommodation or service to any person whose conduct on the premises of the establishment:

- Displays intoxication, profanity, lewdness, or brawling;
- Indulges in language or conduct such as to disturb the peace or comfort of other guests;
- Engages in illegal or disorderly conduct;
- Illegally possesses or deals in controlled substances as defined in ch. 893, F.S.; or
- Engages in conduct constituting a nuisance.

Additionally, s. 509.143, F.S., permits an operator to take a person into custody and detain that person in a reasonable manner and for a reasonable time if the operator has probable cause to believe that the person was engaging in disorderly conduct in violation of s. 877.03, F.S.,⁸ on the

⁶ Section 509.013(5)(b), F.S.

⁷ 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.

⁸ Section 877.03, F.S., provides that a person is guilty of a misdemeanor of the second degree if that person commits “such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of

premises of the licensed establishment and that such conduct was creating a threat to the life or safety of the person or others. The operator is required to call a law enforcement officer to the scene immediately after detaining the person.

III. Effect of Proposed Changes:

Definitions

The bill amends s. 509.013, F.S., to revise the following definitions:

- “Transient public lodging establishment,” is revised to specify that the 30-day rental period must be for periods of less than 30 consecutive days. It removes the one-calendar-month qualification and clarifies that an establishment qualifies if advertised or offered for rentals of less than 30 consecutive days.
- “Nontransient public lodging establishment” is revised to mean rentals of at least 30 consecutive days and removing the reference to one-calendar-month. It also allows an establishment to qualify if advertised for rentals for periods of at least 30 consecutive days.
- “Transient establishment” is revised to mean any public lodging establishment that is rented or leased to guests by an operator for transient occupancy, and removing the condition that temporary occupancy is based on the operator’s intent.
- “Transient occupancy” is revised to mirror the changes to the term “transient public lodging establishment” by providing that the term means occupancy that is temporary. It also provides that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole residence. The bill removes the rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.
- “Nontransient establishment” is revised to mean any public lodging establishment that is rented or leased to guests by an operator for nontransient occupancy. The bill removes the requirement that the operator intends the unit to be the guest’s sole residence.
- “Nontransient occupancy” is revised to mirror the changes to the term “nontransient public lodging establishment” by providing that the term means occupancy that is not temporary. The bill also provides that a guest’s occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, F.S., is transient unless a written rental or leasing agreement expressly states that the unit may be the guest’s sole residence. The bill removes the rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

For the purpose of incorporating the amendment to s. 509.013, F.S., the bill reenacts the following provisions:

- Section 196.1978(3)(k), F.S., relating to affordable housing property exemption;
- Section 196.199(1)(a), F.S., relating to government property exemption;
- Section 212.031(1)(a), F.S., relating to tax on rental or license fee for use of real property;
- Section 404.056(5), relating to environmental radiation standards and testing, and notification on real estate documents;

persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct.”

- Section 413.08(1)(c), F.S., relating to defining the term “public accommodation” in the context of rights and responsibilities of an individual with a disability, and penalties;
- Section 480.043(14)(b), (c), and (e), F.S., relating to massage establishments, requisites, licensure inspection, and human trafficking awareness training and policies; and
- Section 559.955(5)(b), F.S., relating to home-based businesses.

Refusal of Admission and Ejection of Undesirable Guests

The bill amends s. 509.141(1), F.S., to provide that the check out time by which a guest’s failure to make payment at the agreed-upon rent rate allows the operator to remove a guest is based on check out time specified by the public lodging establishment.

The bill amends s. 509.141(2), F.S., to revise the notice requirement that an operator must give a guest who is directed to immediately depart from a public lodging or food service establishment. The bill provides that the notice is effective upon the operator’s delivery of the notice, whether in person, via a telephonic or electronic communications medium using the contact information provided by the guest, or, with respect to a public lodging establishment, upon delivery to the guest’s lodging unit.

The bill amends s. 509.141(3) to provide that if a person remains in the establishment after the operator has requested the person to leave under subsection (2), then the person is guilty of a second degree misdemeanor.⁹

Section 509.141(4) and (5) is amended to provide that it is the duty of a law enforcement officer to remove a guest upon request of the operator and after notice under subsection (2) rather than requiring the officer to arrest the guest. The officer still may arrest the guest if necessary.

Section 509.141(5), F.S., is revised by the bill to remove the requirement that the violation of s. 509.141(3), F.S., must be in the presence of the officer.

For the purpose of incorporating the amendment to s. 509.013, F.S., the bill reenacts s. 721.13(14), F.S., relating to the management of timeshare projects.

Effective Date

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ *Supra* n. 7.

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 department has not submitted a fiscal analysis for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.013 and 509.141.

This bill reenacts the following sections of the Florida Statutes: 196.1978, 196.199, 212.031, 404.056, 413.08, 480.043, 559.955, and 721.13.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Leek

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A bill to be entitled

An act relating to public lodging and food service establishments; amending s. 509.013, F.S.; revising definitions; amending s. 509.141, F.S.; revising the instances under which the operator of any public lodging establishment may remove a guest; providing requirements for the notice an operator of a public lodging establishment or public food service establishment may give to a guest under specified circumstances; making technical changes; requiring a law enforcement officer to remove a guest who remains on the premises of any public lodging establishment after an operator makes a specified request; authorizing a law enforcement officer to arrest and take into custody any guest under certain circumstances; reenacting ss. 196.1978(3)(k), 196.199(1)(a), 212.031(1)(a), 404.056(5), 413.08(1)(c), 480.043(14)(b), (c), and (e), and 559.955(5)(b), F.S., relating to affordable housing property exemption; government property exemption; taxes and fees for use of real property; environmental radiation standards and testing, and notification on real estate documents; rights and responsibilities of an individual with a disability, and penalties; massage establishments, requisites, licensure inspection, and human trafficking awareness training and policies; and home-based businesses, local government, and restrictions, respectively, to incorporate the amendment made to s. 509.013, F.S., in

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references thereto; reenacting s. 721.13(14), F.S., relating to management, to incorporate the amendment made to s. 509.141, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) and subsections (11), (12), (14), and (15) of section 509.013, Florida Statutes, are amended to read:

509.013 Definitions.—As used in this chapter, the term:

(4)(a) "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 consecutive days ~~or 1 calendar month, whichever is lesser~~ or which is advertised or held out to the public as a place regularly rented to guests for periods of less than 30 consecutive days.

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 consecutive days ~~or 1 calendar month, whichever is lesser~~, or which is advertised or held out to the public as a place regularly rented to guests for periods of at

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least 30 consecutive days ~~or 1 calendar month.~~

License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(11) "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator for transient ~~whose intention is that such guests' occupancy will be temporary.~~

(12) "Transient occupancy" means occupancy that is ~~when it is the intention of the parties that the occupancy will be~~ temporary. A guest's occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project as defined in s. 509.242 is transient unless a written rental or leasing agreement expressly states that the unit may be the guest's ~~there is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.~~

(14) "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator for nontransient occupancy ~~whose intention is that the dwelling unit occupied will be the sole residence of the guest.~~

(15) "Nontransient occupancy" means occupancy that is not ~~when it is the intention of the parties that the occupancy will not be~~ temporary. A guest's occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project as defined in s. 509.242 is transient unless a written rental or leasing agreement expressly states the unit

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may be the guest's ~~there is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.~~

Section 2. Section 509.141, Florida Statutes, is amended to read:

509.141 Refusal of admission and ejection of undesirable guests; notice; procedure; penalties for refusal to leave.—

(1) The operator of any public lodging establishment or public food service establishment may remove or cause to be removed from such establishment, in the manner hereinafter provided, any guest of the establishment who, while on the premises of the establishment, illegally possesses or deals in controlled substances as defined in chapter 893 or is intoxicated, profane, lewd, or brawling; who indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment; who, in the case of a public lodging establishment, fails to make payment of rent at the agreed-upon rental rate by the ~~agreed-upon~~ checkout time specified by the public lodging establishment; who, in the case of a public lodging establishment, fails to check out by the time specified ~~agreed upon in writing~~ by the ~~guest and~~ public lodging establishment at check-in unless an extension of time is agreed to by the public lodging establishment and guest prior to checkout; who, in the case of a public food service establishment, fails to make payment for food, beverages, or services; or who, in the opinion of the operator, is a person the continued entertainment of whom would be detrimental to such establishment. The admission to, or the removal from, such

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117 establishment shall not be based upon race, creed, color, sex,
118 physical disability, or national origin.

119 (2) The operator of any public lodging establishment or
120 public food service establishment shall notify such guest that
121 the establishment no longer desires to entertain the guest and
122 shall request that such guest immediately depart from the
123 establishment. Such notice may be given orally or in writing.
124 The notice is effective upon the operator's delivery of the
125 notice, whether in person, via a telephonic or electronic
126 communications medium using the contact information provided by
127 the guest, or, with respect to a public lodging establishment,
128 upon delivery to the guest's lodging unit. If the notice is in
129 writing, it shall be as follows:

130
131 "You are hereby notified that this establishment no longer
132 desires to entertain you as its guest, and you are requested to
133 leave at once. To remain after receipt of this notice is a
134 misdemeanor under the laws of this state."

135
136 If such guest has paid in advance, the establishment shall, at
137 the time such notice is given, tender to such guest the unused
138 portion of the advance payment; however, the establishment may
139 withhold payment for each full day that the guest has been
140 entertained at the establishment for any portion of the 24-hour
141 period of such day.

142 (3) Any guest who remains or attempts to remain in any such
143 establishment after the operator's request to depart pursuant to
144 subsection (2) ~~being requested to leave~~ is guilty of a
145 misdemeanor of the second degree, punishable as provided in s.

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146 775.082 or s. 775.083.

147 (4) If any guest remains person is illegally on the
148 premises of any public lodging establishment or public food
149 service establishment after the operator's request to depart
150 pursuant to subsection (2), the operator of such establishment
151 may call upon any law enforcement officer of this state for
152 assistance. It is the duty of such law enforcement officer, upon
153 the request of such operator, to remove place under arrest and
154 ~~take into custody for violation of this section~~ any guest who
155 remains on the premises of such an establishment after the
156 operator's request to depart pursuant to subsection (2).

157 (5) A law enforcement officer may place under arrest and
158 take into custody any guest who violates subsection (3) ~~in the~~
159 ~~presence of the officer~~. If a warrant has been issued by the
160 proper judicial officer for the arrest of any violator of
161 subsection (3), the officer shall serve the warrant, arrest the
162 person, and take the person into custody. Upon arrest, with or
163 without warrant, the guest will be deemed to have given up any
164 right to occupancy or to have abandoned such right of occupancy
165 of the premises, and the operator of the establishment may then
166 make such premises available to other guests. However, the
167 operator of the establishment shall employ all reasonable and
168 proper means to care for any personal property which may be left
169 on the premises by such guest and shall refund any unused
170 portion of moneys paid by such guest for the occupancy of such
171 premises.

172 Section 3. For the purpose of incorporating the amendment
173 made by this act to section 509.013, Florida Statutes, in a
174 reference thereto, paragraph (k) of subsection (3) of section

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196.1978, Florida Statutes, is reenacted to read:

196.1978 Affordable housing property exemption.—

(3)

(k) Property receiving an exemption pursuant to s. 196.1979 or units used as a transient public lodging establishment as defined in s. 509.013 are not eligible for this exemption.

Section 4. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 196.199, Florida Statutes, is reenacted to read:

196.199 Government property exemption.—

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a)1. All property of the United States is exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

2. Notwithstanding any other provision of law, for purposes of the exemption from ad valorem taxation provided in subparagraph 1., property of the United States includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States if the leasehold interest and improvements are acquired or constructed and used pursuant to the federal Military Housing Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As used in this subparagraph, the term "improvements" includes actual housing units and any facilities that are directly

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related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities. Any leasehold interest and improvements described in this subparagraph, regardless of whether title is held by the United States, shall be construed as being owned by the United States, the applicable branch of the United States Armed Forces, or the applicable agency or quasi-governmental agency of the United States and are exempt from ad valorem taxation without the necessity of an application for exemption being filed or approved by the property appraiser. This subparagraph does not apply to a transient public lodging establishment as defined in s. 509.013 and does not affect any existing agreement to provide municipal services by a municipality or county.

Section 5. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is reenacted to read:

212.031 Tax on rental or license fee for use of real property.—

(1) (a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a

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condominium when subject to a lease between the developer or
owner thereof and the condominium association in its own right
or as agent for the owners of individual condominium units or
the owners of individual condominium units. However, only the
lease payments on such property shall be exempt from the tax
imposed by this chapter, and any other use made by the owner or
the condominium association shall be fully taxable under this
chapter.

5. A public or private street or right-of-way and poles,
conduits, fixtures, and similar improvements located on such
streets or rights-of-way, occupied or used by a utility or
provider of communications services, as defined by s. 202.11,
for utility or communications or television purposes. For
purposes of this subparagraph, the term "utility" means any
person providing utility services as defined in s. 203.012. This
exception also applies to property, wherever located, on which
the following are placed: towers, antennas, cables, accessory
structures, or equipment, not including switching equipment,
used in the provision of mobile communications services as
defined in s. 202.11. For purposes of this chapter, towers used
in the provision of mobile communications services, as defined
in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation
purposes.

7. Property used at an airport exclusively for the purpose
of aircraft landing or aircraft taxiing or property used by an
airline for the purpose of loading or unloading passengers or
property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s.

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315.02(2), exclusively for the purpose of oceangoing vessels or
tugs docking, or such vessels mooring on property used by a port
authority for the purpose of loading or unloading passengers or
cargo onto or from such a vessel, or property used at a port
authority for fueling such vessels, or to the extent that the
amount paid for the use of any property at the port is based on
the charge for the amount of tonnage actually imported or
exported through the port by a tenant.

b. The amount charged for the use of any property at the
port in excess of the amount charged for tonnage actually
imported or exported shall remain subject to tax except as
provided in sub-subparagraph a.

9. Property used as an integral part of the performance of
qualified production services. As used in this subparagraph, the
term "qualified production services" means any activity or
service performed directly in connection with the production of
a qualified motion picture, as defined in s. 212.06(1)(b), and
includes:

a. Photography, sound and recording, casting, location
managing and scouting, shooting, creation of special and optical
effects, animation, adaptation (language, media, electronic, or
otherwise), technological modifications, computer graphics, set
and stage support (such as electricians, lighting designers and
operators, greensmen, prop managers and assistants, and grips),
wardrobe (design, preparation, and management), hair and makeup
(design, production, and application), performing (such as
acting, dancing, and playing), designing and executing stunts,
coaching, consulting, writing, scoring, composing,
choreographing, script supervising, directing, producing,

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291 transmitting dailies, dubbing, mixing, editing, cutting,
 292 looping, printing, processing, duplicating, storing, and
 293 distributing;
 294 b. The design, planning, engineering, construction,
 295 alteration, repair, and maintenance of real or personal property
 296 including stages, sets, props, models, paintings, and facilities
 297 principally required for the performance of those services
 298 listed in sub-subparagraph a.; and
 299 c. Property management services directly related to
 300 property used in connection with the services described in sub-
 301 subparagraphs a. and b.
 302
 303 This exemption will inure to the taxpayer upon presentation of
 304 the certificate of exemption issued to the taxpayer under the
 305 provisions of s. 288.1258.
 306 10. Leased, subleased, licensed, or rented to a person
 307 providing food and drink concessionaire services within the
 308 premises of a convention hall, exhibition hall, auditorium,
 309 stadium, theater, arena, civic center, performing arts center,
 310 publicly owned recreational facility, or any business operated
 311 under a permit issued pursuant to chapter 550. A person
 312 providing retail concessionaire services involving the sale of
 313 food and drink or other tangible personal property within the
 314 premises of an airport shall be subject to tax on the rental of
 315 real property used for that purpose, but shall not be subject to
 316 the tax on any license to use the property. For purposes of this
 317 subparagraph, the term "sale" shall not include the leasing of
 318 tangible personal property.
 319 11. Property occupied pursuant to an instrument calling for

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320 payments which the department has declared, in a Technical
 321 Assistance Advisement issued on or before March 15, 1993, to be
 322 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
 323 Administrative Code; provided that this subparagraph shall only
 324 apply to property occupied by the same person before and after
 325 the execution of the subject instrument and only to those
 326 payments made pursuant to such instrument, exclusive of renewals
 327 and extensions thereof occurring after March 15, 1993.
 328 12. Property used or occupied predominantly for space
 329 flight business purposes. As used in this subparagraph, "space
 330 flight business" means the manufacturing, processing, or
 331 assembly of a space facility, space propulsion system, space
 332 vehicle, satellite, or station of any kind possessing the
 333 capacity for space flight, as defined by s. 212.02(23), or
 334 components thereof, and also means the following activities
 335 supporting space flight: vehicle launch activities, flight
 336 operations, ground control or ground support, and all
 337 administrative activities directly related thereto. Property
 338 shall be deemed to be used or occupied predominantly for space
 339 flight business purposes if more than 50 percent of the
 340 property, or improvements thereon, is used for one or more space
 341 flight business purposes. Possession by a landlord, lessor, or
 342 licensor of a signed written statement from the tenant, lessee,
 343 or licensee claiming the exemption shall relieve the landlord,
 344 lessor, or licensor from the responsibility of collecting the
 345 tax, and the department shall look solely to the tenant, lessee,
 346 or licensee for recovery of such tax if it determines that the
 347 exemption was not applicable.
 348 13. Rented, leased, subleased, or licensed to a person

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349 providing telecommunications, data systems management, or
350 Internet services at a publicly or privately owned convention
351 hall, civic center, or meeting space at a public lodging
352 establishment as defined in s. 509.013. This subparagraph
353 applies only to that portion of the rental, lease, or license
354 payment that is based upon a percentage of sales, revenue
355 sharing, or royalty payments and not based upon a fixed price.
356 This subparagraph is intended to be clarifying and remedial in
357 nature and shall apply retroactively. This subparagraph does not
358 provide a basis for an assessment of any tax not paid, or create
359 a right to a refund of any tax paid, pursuant to this section
360 before July 1, 2010.

361 Section 6. For the purpose of incorporating the amendment
362 made by this act to section 509.013, Florida Statutes, in a
363 reference thereto, subsection (5) of section 404.056, Florida
364 Statutes, is reenacted to read:

365 404.056 Environmental radiation standards and projects;
366 certification of persons performing measurement or mitigation
367 services; mandatory testing; notification on real estate
368 documents; rules.—

369 (5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification
370 shall be provided on at least one document, form, or application
371 executed at the time of, or prior to, contract for sale and
372 purchase of any building or execution of a rental agreement for
373 any building. Such notification shall contain the following
374 language:

375
376 "RADON GAS: Radon is a naturally occurring radioactive gas
377 that, when it has accumulated in a building in sufficient

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378 quantities, may present health risks to persons who are exposed
379 to it over time. Levels of radon that exceed federal and state
380 guidelines have been found in buildings in Florida. Additional
381 information regarding radon and radon testing may be obtained
382 from your county health department."

383
384 The requirements of this subsection do not apply to any
385 residential transient occupancy, as described in s. 509.013(12),
386 provided that such occupancy is 45 days or less in duration.

387 Section 7. For the purpose of incorporating the amendment
388 made by this act to section 509.013, Florida Statutes, in a
389 reference thereto, paragraph (c) of subsection (1) of section
390 413.08, Florida Statutes, is reenacted to read:

391 413.08 Rights and responsibilities of an individual with a
392 disability; use of a service animal; prohibited discrimination
393 in public employment, public accommodations, and housing
394 accommodations; penalties.—

395 (1) As used in this section and s. 413.081, the term:

396 (c) "Public accommodation" means a common carrier,
397 airplane, motor vehicle, railroad train, motor bus, streetcar,
398 boat, or other public conveyance or mode of transportation;
399 hotel; a timeshare that is a transient public lodging
400 establishment as defined in s. 509.013; lodging place; place of
401 public accommodation, amusement, or resort; and other places to
402 which the general public is invited, subject only to the
403 conditions and limitations established by law and applicable
404 alike to all persons. The term does not include air carriers
405 covered by the Air Carrier Access Act of 1986, 49 U.S.C. s.
406 41705, and by regulations adopted by the United States

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Department of Transportation to implement such act.

Section 8. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in references thereto, paragraphs (b), (c), and (e) of subsection (14) of section 480.043, Florida Statutes, are reenacted to read:

480.043 Massage establishments; requisites; licensure; inspection; human trafficking awareness training and policies.—

(14) In order to provide the department and law enforcement agencies the means to more effectively identify persons engaging in human trafficking at massage establishments, the following apply:

(b) If there is an outside window or windows into the massage establishment's reception area, the outside window or windows must allow for at least 35 percent light penetration and no more than 50 percent of the outside window or windows may be obstructed with signage, blinds, curtains, or other obstructions, allowing the public to see the establishment's reception area. A sign must be posted on the front window of the establishment that includes the name and license number of the massage establishment and the telephone number that has been provided to the department as part of licensure of the establishment. This paragraph does not apply to:

1. A massage establishment within a public lodging establishment as defined in s. 509.013(4).

2. A massage establishment located within a county or municipality that has an ordinance that prescribes requirements related to business window light penetration or signage limitations if compliance with this paragraph would result in

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noncompliance with such ordinance.

(c) All employees within the massage establishment must be fully clothed, and such clothing must be fully opaque and made of nontransparent material that does not expose the employee's genitalia. This requirement does not apply to an employee, excluding a massage therapist, of a public lodging establishment, as defined in s. 509.013(4), that is licensed as a clothing-optional establishment and chartered with the American Association for Nude Recreation.

(e) A massage establishment must conspicuously display a 2 inch by 2 inch photo for each employee, which, for massage therapists, must be attached to the massage therapist's license. Such display must also include the employee's full legal name and employment position. All information required under this paragraph must be displayed before the employee may provide any service or treatment to a client or patient. A massage establishment within a public lodging establishment as defined in s. 509.013(4) may satisfy this requirement by displaying the photos and required information in an employee break room or other room that is used by employees, but is not used by clients or patients.

Section 9. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (b) of subsection (5) of section 559.955, Florida Statutes, is reenacted to read:

559.955 Home-based businesses; local government restrictions.—

(5) The application of this section does not supersede:

(b) Local laws, ordinances, or regulations related to

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transient public lodging establishments, as defined in s.
509.013(4)(a)1., that are not otherwise preempted under chapter
509.

Section 10. For the purpose of incorporating the amendment
made by this act to section 509.141, Florida Statutes, in a
reference thereto, subsection (14) of section 721.13, Florida
Statutes, is reenacted to read:

721.13 Management.—

(14) With regard to any timeshare project as defined in s.
509.242(1)(g), the managing entity or manager has all of the
rights and remedies of an operator of any public lodging
establishment or public food service establishment as set forth
in ss. 509.141-509.143, and 509.162 and is entitled to have a
law enforcement officer take any action, including arrest or
removal from the timeshare property, against any purchaser,
including a deeded owner, or guest or invitee of such purchaser
or owner who engages in conduct described in s. 509.141, s.
509.142, s. 509.143, or s. 509.162 or conduct in violation of
the timeshare instrument.

Section 11. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 21, 2025

I respectfully request that **Senate Bill #606**, relating to Public Lodging and Food Service Establishments be placed on the:

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", is written over a horizontal line.

Sen. Tom Leek
Florida Senator, District 7

3/12/25

APPEARANCE RECORD

SB 606

Meeting Date

Regulated Industries

Bill Number or Topic

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

Committee

Ethan Perry

Amendment Barcode (if applicable)

(850) 224-1400

Phone

Name

200 S Monroe St.

ethanp@floridarealtors.org

Email

Address

Street

Tallahassee

32301

FL

City

State

Zip

Reset Form

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Florida Realtors

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:**PLEASE CHECK ONE OF THE FOLLOWING:**

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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12 March 25

Meeting Date

Deq. Ind.

Committee

Name Alli Liby-Schoonover

Name

Address 119 S Monroe St

Address

Street

City FL 32301

City

State

Zip

Speaking: ☐ For ☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

SB 6006

Bill Number or Topic

850-205-9000

Amendment Barcode (if applicable)

ALS@whelfirm.com

Email

Phone

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Asian American Hotel Owners Association

☐ 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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3/12/2015
Meeting Date

Regulated Industries
Committee

Bill Number or Topic

606

Committee

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone

(407) 528-5006

Address 230 S. Adams Street

Email

Spadgett@FLA.org

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:

Florida Restaurant & Lodging Assoc.

☐ 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/2022/joint-rules)

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

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.)

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

BILL: SB 570

INTRODUCER: Senator Gruters

SUBJECT: Swimming Pool and Spa Contractors

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 570 revises the scope of allowable work for commercial, residential, and servicing swimming pool contractors in the following ways:

Commercial Pool/Spa Contractor:

The bill amends the definition to include renovation, remodel and deconstruction of swimming pools, hot tubs, and spas and also includes splash pads, other interactive features, decorative water features, public bathing places and swimming pool and spa appurtenances. (Swimming pools and other structures)

It provides that the scope of work includes the scope for swimming pool/spa servicing contractors. It substantially amends the scope of work to include power wiring, lighting, and the construction of equipment rooms. It also includes excavation and earthmoving required for the installation of swimming pools and other structures. The installation of rebar and supportive materials, fiberglass, liners, and the application of finishes is also included in the scope of work.

Additionally, the installation of piping the construction and installation of retaining walls, bricks and pavers and footings for the construction of swimming pools and other structures under the scope of work.

The bill provides that the scope of work does **not** include the installation or upgrade of dedicated electrical disconnect or electrical circuits, or any work inside a main electrical panel.

Furthermore, the use of swimming pool, spa, hot tub, or interactive water feature equipment for the purposes of water treatment or cleaning do not require licensure unless such use involves installation, modification, or replacement of such equipment. The bill clarifies that water treatment, filter media changes, or the cleaning of a swimming pool, spa, hot tub, or interactive

water feature, or its associated equipment, which does not affect the structural integrity of the swimming pool, spa, hot tub or interactive water feature, does not require a license.

Residential Pool/Spa Contractor:

The bill amends the definition of a residential pool/spa contractor to mean a contractor whose scope of work is the same as a commercial pool/spa contractor under paragraph (j), except a residential pool/spa contractor may not construct any new commercial swimming pool, spa, hot tub, or public bathing place.

Swimming Pool/Spa Servicing Contractor:

The bill amends the definition of a swimming pool/spa servicing contractor to include all aspects of the repair, renovation, remodeling, or servicing of a swimming pool, hot tub, spa, splash pad, or other interactive water feature, decorative water feature, public bathing place, or swimming pool or spa appurtenance.

It provides that the scope of work includes the installation, repair, and replacement of all swimming pool, spa, hot tub, or interactive water feature equipment, (swimming pools) including, but not limited to pumps, filter, feeders, controllers, and heaters, whether electric, gas, or solar. It substantially amends the scope of work to include connection activities for power wiring on the load side electrical circuit lighting for swimming pool equipment.

It includes the repair, replacement, and sanitizing of lighting equipment, including partial dismantling of equipment. It also includes the repair of equipment rooms and the repair and replacement of perimeter and filter piping.

The scope includes draining the swimming pools for renovation or repair, the removal and reapplication of finishes and the installation, repair, or replacement of all tile and coping.

The bill provides that a swimming pool/spa servicing contractor's scope of work does **not** include the installation or upgrade of dedicated electrical disconnect or electrical circuits, or any work inside a main electrical panel.

Finally, the bill provides that the use of swimming pool, spa, hot tub, or interactive water feature equipment for the purposes of water treatment or cleaning do not require licensure unless such use involves installation, modification, or replacement of such equipment. The bill clarifies that water treatment, filter media changes, or the cleaning of a swimming pool, spa, hot tub, or interactive water feature, or its associated equipment, which does not affect the structural integrity of the swimming pool, spa, hot tub or interactive water feature, does not require a license.

The bill has an effective date of July 1, 2025.

II. Present Situation:

Contractors

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida. Part I of ch. 489, F.S., covers construction contracting regulated by the Construction Industry Licensing Board (CILB) and pt. II of ch. 489, F.S., covers electrical/alarm system contracting regulated by the Electrical Contractors' Licensing Board. Both boards are housed in the Department of Business and Professional Regulation (DBPR).

Construction contractors are either certified or registered by the CILB. The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and to conduct informal hearings relating to discipline.¹

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by the DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.²

"Registered contractors" are individuals who have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued. Registered contractors must register their license with the CILB after obtaining a local license.³

In order to perform construction contracting in the state, a person must be certified or registered as a contractor, be an employee⁴ of a certified or registered contractor, or fall under an exemption provided in current law.⁵ The construction industry, in general, received 2,464 unlicensed activity complaints in the year fiscal year 2022-2023.⁶

Currently, a "general contractor" is required to subcontract all swimming pool work except for structural swimming pool work.⁷

Swimming Pool/Spa Contractors

"Commercial pool/spa contractors" are individuals who are certified or registered to construct, repair, and service any public or private swimming pool, hot tub, or spa including:⁸

¹ Section 489.107, F.S.

² Section 489.105, F.S.

³ Sections 489.105, and 489.117, F.S.

⁴ "Employee" means a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers' compensation, all as prescribed by law. Section 489.103(2)(b), F.S.

⁵ Section 489.103(2), and 489.113, F.S.

⁶ DBPR, *Fiscal Year 2022-2023 Annual Report on Unlicensed Activity*, <https://www2.myfloridalicense.com/reg/documents/ULA%20Report%20FY22-23.pdf>, (last visited March 11, 2025).

⁷ Section 489.113(3)(c).

⁸ Section 489.105(3)(j), F.S.

- Installing, repairing, or replacing existing equipment;
- Cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes;
- Installing new pool/spa equipment, interior finishes, package pool heaters, and perimeter piping and filter piping;
- Constructing equipment rooms or housing for pool/spa equipment; and
- The scope of work of a swimming pool/spa servicing contractor.

“Residential pool/spa contractors” are individuals who are certified or registered to construct repair, and service any residential swimming pool, hot tub, or spa. The scope of work is identical to the scope of work for commercial pool/spa contractors; however, residential pool/spa contractors may only work on residential swimming pools, hot tubs, and spas.⁹

“Swimming pool/spa servicing contractors” are individuals who are certified or registered to repair and service any public or private swimming pool, hot tub, or spa including:¹⁰

- Repairing or replacing existing equipment;
- Cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes;
- Installing new pool/spa equipment and interior refinishing;
- Reinstalling or adding pool heaters;
- Repairing or replacing perimeter piping and filter piping;
- Repairing equipment rooms or housing for pool/spa equipment; and
- Substantially or completely draining a swimming pool, or hot tub or spa, for the purpose of repair or renovation.

The scope of work for all three types of swimming pool/spa contractors does not include direct connections to a sanitary sewer system or to potable water lines.¹¹

Water treatment or cleaning a pool or spa does not require a license unless the structural integrity of the pool or spa is affected, or equipment attached to the pool or spa must be substantially or completely disassembled or replaced in order to treat the water or clean the pool. Installing an aboveground pool also does not require a license.¹²

A contractor, including pool/spa contractors, must subcontract all electrical, mechanical, plumbing, roofing, sheet metal, and air-conditioning work, to a contractor certified or registered in the respective category, unless the pool/spa contractor also holds a state certificate or registration in the respective category.¹³

In order to obtain certification as a swimming pool/spa contractor, a person must:¹⁴

⁹ Section 489.105(3)(k), F.S.

¹⁰ Section 489.105(3)(l), F.S.

¹¹ Section 489.105, F.S.

¹² Sections 489.103(6), and 489.105, F.S.; DBPR, *Trust but Verify*, http://www.myfloridalicense.com/dbpr/reg/documents/trustbutverify_000.pdf?x40199 (last visited March 11, 2025).

¹³ Section 489.113(3), F.S.

¹⁴ Sections 489.111, & 489.113, F.S.

- Apply to the DBPR in writing;
- Be 18 years of age;
- Be of good moral character;
- Pass the examination for the certification sought; and
- Have one of the following:
 - A bachelor degree from a four year college in the appropriate field of engineering, architecture, or building construction, and one year of proven experience;
 - Four years of experience as a foreman or a skilled worker with at least one year as a foreman;
 - A combination of college and experience as a foreman or skilled worker that equals four years with at least one of the years as a foreman; or
 - One year of experience and 60 hours of instruction courses approved by the CILB; however, this only applies to swimming pool/spa servicing contractors.

Swimming Pool/Spa Specialty Contractors

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction that is a subset of a certified contractor’s scope of work, such as a drywall specialty license or a demolition specialty license. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.¹⁵

The CILB has created eight types of pool/spa specialty contractor certifications. Pool/spa specialty contractors, except residential swimming pool/spa servicing specialty contractors, must work under contract with and under the supervision of a licensed swimming pool/spa contractor. However, they are not required to be employees of a licensed pool/spa contractor.¹⁶

In order to obtain certification as a certified specialty pool/spa contractor a person must:¹⁷

- Submit a written application to the CILB;
- Be at least 18 years of age;
- Be of good moral character;
- Pass a written examination for the specialty pool/spa contractor category sought; and
- Demonstrate four years of experience in the specialty pool/spa contractor category sought, or one year of experience and 60 hours of instruction courses approved by the CILB; however, the one year of experience only applies to residential swimming pool/spa servicing contractors.

Additionally, a pool/spa contractor (commercial, residential, and servicing) is required to complete 14 hours of continuing education and pay a renewal fee of \$205 per year.¹⁸

¹⁵ Section 489.105(3)(q), F.S.

¹⁶ Fla. Admin. Code R. 61G4-15.032; Rule 61G4-15.040.

¹⁷ *Id.*

¹⁸ DBPR, *Getting Started in the Construction Industry*, CE Requirements, <https://www2.myfloridalicense.com/construction-industry/#ce> (last visited March 11, 2025).

III. Effect of Proposed Changes:

SB 570 revises the scope of allowable work for commercial, residential, and servicing swimming pool contractors in the following ways:

Commercial Pool/Spa Contractor:

- Expands the definition of a commercial pool/spa contractor to provide that a commercial pool/spa contractor's scope of work involves but is not limited to:
 - All phases of construction repair, renovation, remodel, deconstruction, and servicing of a swimming pool, hot tub, or spa, splash pad, or other interactive water feature, decorative water feature, public bathing place, or a swimming pool or spa appurtenance.
- Expands the scope of work to:
 - The connection, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical circuit disconnect means for swimming pool, spa, hot tub, or interactive water feature equipment.
 - The installation of equipotential bonding; swimming pool, spa, or hot tub lighting; light transformers; light conduit; and any cleaning or sanitizing equipment that requires at least partial disassembling.
 - The construction of uninhabitable equipment rooms or housing for swimming pool, spa, hot tub, or interactive water feature equipment for the protection of the equipment from outside elements or preventing unauthorized access.
 - The excavation and earthmoving required for the installation of swimming pools, spas, hot tubs, or interactive water features and the operation of construction pumps for dewatering purposes for swimming pool, spa, hot tub, or interactive water feature excavation sites and draining swimming pools, spas, hot tubs, or interactive water features.
 - The installation of rebar or similar support materials for swimming pool, spa, hot tub, or interactive water feature structures, and the shaping and shooting of gunite dry mix and wet mix, concrete, or similar product mix used in the construction of swimming pools, spas, hot tubs, or interactive water features.
 - The installation of fiberglass swimming pool, spa, or hot tub shells and vinyl swimming pool, spa, or hot tub liners.
 - The application and removal of all interior swimming pool, spa, hot tub, or interactive water feature finishes.
 - The construction, maintenance, or remodel of decorative or interactive water features, displays, or areas that use recirculated water, including fountains, waterfalls, and spray nozzles.
 - The installation of all swimming pool, spa, hot tub, or interactive water feature piping, including, but not limited to, drain piping, perimeter piping, and circulation or filter piping used in the construction of swimming pools, spas, hot tubs, or decorative or interactive water feature displays or areas.
 - The construction and installation of retaining walls, concrete flatwork, pavers and bricks, and footings for the construction of a swimming pool, spa, hot tub, or interactive water feature, whether newly constructed or additions to or remodels of existing swimming pools, spas, hot tubs, or interactive water features.

- Limits the scope of work by providing that the installation or upgrade of dedicated electrical disconnect or electrical circuits, or any work inside a main electrical panel, is not included within the scope of work.
- Clarifies that licensure is not required when using equipment for:
 - Treating or cleaning a swimming pool, spa, hot tub, or interactive water feature unless such use involves installation, modification, or replacement of the equipment.
 - Treating water, filter media changes, or the cleaning of a swimming pool, spa, hot tub, or interactive water feature, or its associated equipment, which does not affect the structural integrity of the swimming pool, spa, hot tub, or interactive water feature.

Residential Pool/Spa Contractor:

- Revises the definition of a residential pool/spa contractor to mean:
 - A contractor whose scope of work is the same as a commercial pool/spa contractor under paragraph (j), except a residential pool/spa contractor may not construct any new commercial swimming pool, spa, hot tub, or public bathing place.

Swimming Pool/Spa Servicing Contractor:

- Revises the definition of a swimming pool/spa servicing contractor to include:
 - All aspects of the repair, renovation, remodeling, or servicing of a swimming pool, hot tub, spa, splash pad, or other interactive water feature, decorative water feature, public bathing place, or swimming pool or spa appurtenance.
- Clarifies a swimming pool/spa servicing contractor's scope of work by including but not limiting to:
 - The installation, repair, or replacement of all swimming pool, spa, hot tub, or interactive water feature equipment, including, but not limited to, pool pumps; filters; feeders; controllers; and swimming pool, spa, or hot tub heaters, whether electric, gas, or solar.
 - The connection, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical circuit disconnect means for swimming pool, spa, hot tub, or interactive water feature equipment.
 - The repair or replacement of equipotential bonding; swimming pool, spa, or hot tub lighting; light transformers; light conduit; and any cleaning or sanitizing equipment that requires at least partial disassembling.
 - The repair of uninhabitable equipment rooms or housing for swimming pool, spa, hot tub, or interactive water feature equipment.
 - The repair or replacement of all perimeter piping and filter piping.
 - The substantial or complete draining of a swimming pool, spa, or hot tub for repair or renovation and the operation of construction pumps for dewatering purposes for drained swimming pools, spas, hot tubs, or interactive water features.
 - The removal and reapplication of all interior swimming pool, spa, hot tub, or interactive water feature finishes.
 - The installation, repair, or replacement of all tile and coping for a swimming pool, spa, hot tub, or interactive water feature.
- Clarifies a swimming pool/spa servicing contractor's scope of work does not include:
 - The installation or upgrade of dedicated electrical disconnect or electrical circuits, or any work inside a main electrical panel.

- Clarifies that licensure is not required when using equipment for:
 - Treating or cleaning a swimming pool, spa, hot tub, or interactive water feature unless such use involves installation, modification, or replacement of the equipment.
 - Treating water, filter media changes, or the cleaning of a swimming pool, spa, hot tub, or interactive water feature, or its associated equipment, which does not affect the structural integrity of the swimming pool, spa, hot tub, or interactive water feature.

SB 570 would not impact the current ability of general contractors to complete the structural work of a swimming pool.

Sections 2 – 9 of the bill are for incorporating purposes.

The bill goes into effect July 1, 2025.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.105 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 489.107, 489.117, 489.118, 489.131, 489.141, 514.0315 and 514.075.

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

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

None.

B. Amendments:

None.

By Senator Gruters

22-00574B-25

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A bill to be entitled

An act relating to swimming pool and spa contractors; amending s. 489.105, F.S.; revising definitions for purposes of part I of ch. 489, F.S.; reenacting ss. 489.107(4)(b), 489.113(2), 489.117(1)(a), (2)(a) and (b), and (4)(a), (d), and (e), 489.118(1), 489.131(10) and (11), 489.141(2), 514.0315(3), and 514.075, F.S., relating to the Construction Industry Licensing Board, qualifications for and restrictions on the practice of contracting, registration requirements for specialty contractors, certification of registered contractors, applicability, conditions and eligibility for recovery from the recovery fund, required safety features for public swimming pools and spas, and public pool service technician certification, respectively, to incorporate the amendment made to s. 489.105, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraphs (j), (k), and (l) of subsection (3) of section 489.105, Florida Statutes, are amended to read:

489.105 Definitions.—As used in this part:

(3) “Contractor” means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or

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structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection. For the purposes of regulation under this part, the term “demolish” applies only to demolition of steel tanks more than 50 feet in height; towers more than 50 feet in height; other structures more than 50 feet in height; and all buildings or residences. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(j) “Commercial pool/spa contractor” means a contractor whose scope of work includes ~~involves~~, but is not limited to, all phases of the construction, repair, renovation, remodel, deconstruction, and servicing of a any swimming pool, ~~or~~ hot tub, ~~or~~ spa, splash pad or other interactive water feature, decorative water feature, public bathing place, or swimming pool or spa appurtenance, whether public, private, or otherwise, regardless of use.

1. The scope of such work includes, but is not limited to, all of the following:

a. The scope of work of a swimming pool/spa servicing contractor.

b. The connection, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical circuit disconnect means for swimming pool, spa, hot tub, or interactive water feature equipment.

c. The installation of equipotential bonding; swimming pool, spa, or hot tub lighting; light transformers; light

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conduit; and any cleaning or sanitizing equipment that requires at least partial disassembling.

d. The construction of uninhabitable equipment rooms or housing for swimming pool, spa, hot tub, or interactive water feature equipment for the protection of the equipment from outside elements or preventing unauthorized access.

e. The excavation and earthmoving required for the installation of swimming pools, spas, hot tubs, or interactive water features and the operation of construction pumps for dewatering purposes for swimming pool, spa, hot tub, or interactive water feature excavation sites and draining swimming pools, spas, hot tubs, or interactive water features.

f. The installation of rebar or similar support materials for swimming pool, spa, hot tub, or interactive water feature structures, and the shaping and shooting of gunite dry mix and wet mix, concrete, or similar product mix used in the construction of swimming pools, spas, hot tubs, or interactive water features.

g. The installation of fiberglass swimming pool, spa, or hot tub shells and vinyl swimming pool, spa, or hot tub liners.

h. The application and removal of all interior swimming pool, spa, hot tub, or interactive water feature finishes.

i. The construction, maintenance, or remodel of decorative or interactive water features, displays, or areas that use recirculated water, including fountains, waterfalls, and spray nozzles.

j. The installation of all swimming pool, spa, hot tub, or interactive water feature piping, including, but not limited to, drain piping, perimeter piping, and circulation or filter piping

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used in the construction of swimming pools, spas, hot tubs, or decorative or interactive water feature displays or areas.

k. The construction and installation of retaining walls, concrete flatwork, pavers and bricks, and footings for the construction of a swimming pool, spa, hot tub, or interactive water feature, whether newly constructed or additions to or remodels of existing swimming pools, spas, hot tubs, or interactive water features The installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor.

2. The scope of ~~such~~ work does not include direct connections to a sanitary sewer system or to potable water lines, the installation or upgrade of dedicated electrical disconnect or electrical circuits, or any work inside a main electrical panel. The installation, construction, modification or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however

3. The use ~~usage~~ of swimming pool, spa, hot tub, or interactive water feature ~~such~~ equipment for the purposes of water treatment or cleaning does not require licensure unless such use the usage involves installation construction,

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117 modification, or replacement of such equipment. Water treatment
 118 that does not require such equipment; filter media changes; or
 119 the cleaning of a swimming pool, spa, hot tub, or interactive
 120 water feature, or its associated equipment, which does not
 121 affect the structural integrity of the swimming pool, spa, hot
 122 tub, or interactive water feature, does not require a license.
 123 In addition, a license is not required for the cleaning of the
 124 pool or spa in a way that does not affect the structural
 125 integrity of the pool or spa or its associated equipment.

126 (k) "Residential pool/spa contractor" means a contractor
 127 whose scope of work is the same as a commercial pool/spa
 128 contractor under paragraph (j), except a residential pool/spa
 129 contractor may not construct any new commercial swimming pool,
 130 spa, hot tub, or public bathing place means a contractor whose
 131 scope of work involves, but is not limited to, the construction,
 132 repair, and servicing of a residential swimming pool, or hot tub
 133 or spa, regardless of use. The scope of work includes the
 134 installation, repair, or replacement of existing equipment, any
 135 cleaning or equipment sanitizing that requires at least a
 136 partial disassembly, excluding filter changes, and the
 137 installation of new pool/spa equipment, interior finishes, the
 138 installation of package pool heaters, the installation of all
 139 perimeter piping and filter piping, and the construction of
 140 equipment rooms or housing for pool/spa equipment, and also
 141 includes the scope of work of a swimming pool/spa servicing
 142 contractor. The scope of such work does not include direct
 143 connections to a sanitary sewer system or to potable water
 144 lines. The installation, construction, modification, or
 145 replacement of equipment permanently attached to and associated

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146 with the pool or spa for the purpose of water treatment or
 147 cleaning of the pool or spa requires licensure; however, the
 148 usage of such equipment for the purposes of water treatment or
 149 cleaning does not require licensure unless the usage involves
 150 construction, modification, or replacement of such equipment.
 151 Water treatment that does not require such equipment does not
 152 require a license. In addition, a license is not required for
 153 the cleaning of the pool or spa in a way that does not affect
 154 the structural integrity of the pool or spa or its associated
 155 equipment.

156 (l) "Swimming pool/spa servicing contractor" means a
 157 contractor whose scope of work includes involves, but is not
 158 limited to, all aspects of the repair, renovation, remodeling,
 159 or servicing of a swimming pool, ~~or~~ hot tub, ~~or~~ spa, splash
 160 pad or other interactive water feature, decorative water
 161 feature, public bathing place, or swimming pool or spa
 162 appurtenance, whether public or private, or otherwise,
 163 regardless of use.

164 1. The scope of work includes, but is not limited to, all
 165 of the following:

166 a. The installation, repair, or replacement of all swimming
 167 pool, spa, hot tub, or interactive water feature equipment,
 168 including, but not limited to, pool pumps; filters; feeders;
 169 controllers; and swimming pool, spa, or hot tub heaters, whether
 170 electric, gas, or solar.

171 b. The connection, replacement, disconnection, or
 172 reconnection of power wiring on the load side of the dedicated
 173 existing electrical circuit disconnect means for swimming pool,
 174 spa, hot tub, or interactive water feature equipment.

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c. The repair or replacement of equipotential bonding; swimming pool, spa, or hot tub lighting; light transformers; light conduit; and any cleaning or sanitizing equipment that requires at least partial disassembling.

d. The repair of uninhabitable equipment rooms or housing for swimming pool, spa, hot tub, or interactive water feature equipment.

e. The repair or replacement of all perimeter piping and filter piping.

f. The substantial or complete draining of a swimming pool, spa, or hot tub for repair or renovation and the operation of construction pumps for dewatering purposes for drained swimming pools, spas, hot tubs, or interactive water features.

g. The removal and reapplication of all interior swimming pool, spa, hot tub, or interactive water feature finishes.

h. The installation, repair, or replacement of all tile and coping for a swimming pool, spa, hot tub, or interactive water feature the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation.

2. The scope of the such work does not include direct connections to a sanitary sewer system or to potable water lines, the installation or upgrade of dedicated electrical

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disconnect or electrical circuits, or any work inside a main electrical panel. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure, however,

3. The use of swimming pool, spa, hot tub, or interactive water feature such equipment for the purposes of water treatment or cleaning does not require licensure unless such use involves installation construction, modification, substantial or complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment; filter media changes; or the cleaning of a swimming pool, spa, hot tub, or interactive water feature, or its associated equipment, which does not affect the structural integrity of the swimming pool, spa, hot tub, or interactive water feature does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

Section 2. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 489.107, Florida Statutes, is reenacted to read:

489.107 Construction Industry Licensing Board.—

(4) The board shall be divided into two divisions, Division I and Division II.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical

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233 contractor, pool contractor, plumbing contractor, and
 234 underground utility and excavation contractor members of the
 235 board; one of the members appointed pursuant to paragraph
 236 (2)(j); and one of the members appointed pursuant to paragraph
 237 (2)(k). Division II has jurisdiction over the regulation of
 238 contractors defined in s. 489.105(3)(d)-(p).

239 Section 3. For the purpose of incorporating the amendment
 240 made by this act to section 489.105, Florida Statutes, in a
 241 reference thereto, subsection (2) of section 489.113, Florida
 242 Statutes, is reenacted to read:

243 489.113 Qualifications for practice; restrictions.—
 244 (2) A person must be certified or registered in order to
 245 engage in the business of contracting in this state. However,
 246 for purposes of complying with the provisions of this chapter, a
 247 subcontractor who is not certified or registered may perform
 248 construction work under the supervision of a person who is
 249 certified or registered, provided that the work is within the
 250 scope of the supervising contractor's license, the supervising
 251 contractor is responsible for the work, and the subcontractor
 252 being supervised is not engaged in construction work that would
 253 require a license as a contractor under any of the categories
 254 listed in s. 489.105(3)(d)-(o). This subsection does not affect
 255 the application of any local construction licensing ordinances.
 256 To enforce this subsection:

257 (a) The department shall issue a cease and desist order to
 258 prohibit any person from engaging in the business of contracting
 259 who does not hold the required certification or registration for
 260 the work being performed under this part. For the purpose of
 261 enforcing a cease and desist order, the department may file a

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262 proceeding in the name of the state seeking issuance of an
 263 injunction or a writ of mandamus against any person who violates
 264 any provision of such order.

265 (b) A county, municipality, or local licensing board
 266 created by special act may issue a cease and desist order to
 267 prohibit any person from engaging in the business of contracting
 268 who does not hold the required certification or registration for
 269 the work being performed under this part.

270 Section 4. For the purpose of incorporating the amendment
 271 made by this act to section 489.105, Florida Statutes, in
 272 references thereto, paragraph (a) of subsection (1), paragraphs
 273 (a) and (b) of subsection (2), and paragraphs (a), (d), and (e)
 274 of subsection (4) of section 489.117, Florida Statutes, are
 275 reenacted to read:

276 489.117 Registration; specialty contractors.—
 277 (1) (a) A person engaged in the business of a contractor as
 278 defined in s. 489.105(3)(a)-(o) must be registered before
 279 engaging in business as a contractor in this state, unless he or
 280 she is certified. Except as provided in paragraph (2)(b), to be
 281 initially registered, the applicant must submit the required fee
 282 and file evidence of successful compliance with the local
 283 examination and licensing requirements, if any, in the area for
 284 which registration is desired. An examination is not required
 285 for registration.

286 (2) (a) Except as provided in paragraph (b), the board may
 287 not issue a new registration after July 1, 1993, based on any
 288 certificate of competency or license for a category of
 289 contractor defined in s. 489.105(3)(a)-(o) which is issued by a
 290 municipal or county government that does not exercise

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disciplinatory control and oversight over such locally licensed
 contractors, including forwarding a recommended order in each
 action to the board as provided in s. 489.131(7). For purposes
 of this subsection and s. 489.131(10), the board shall determine
 the adequacy of such disciplinary control by reviewing the local
 government's ability to process and investigate complaints and
 to take disciplinary action against locally licensed
 contractors.

(b) The board shall issue a registration to an eligible
 applicant to engage in the business of a contractor in a
 specified local jurisdiction, provided each of the following
 conditions are satisfied:

1. The applicant held, in any local jurisdiction in this
 state during 2021, 2022, or 2023, a certificate of registration
 issued by the state or a local license issued by a local
 jurisdiction to perform work in a category of contractor defined
 in s. 489.105(3)(a)-(o).

2. The applicant submits all of the following to the board:

a. Evidence of the certificate of registration or local
 license held by the applicant as required by subparagraph 1.

b. Evidence that the specified local jurisdiction does not
 have a license type available for the category of work for which
 the applicant was issued a certificate of registration or local
 license during 2021, 2022, or 2023, such as a notification on
 the website of the local jurisdiction or an e-mail or letter
 from the office of the local building official or local building
 department stating that such license type is not available in
 that local jurisdiction.

c. Evidence that the applicant has submitted the required

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fee.

d. Evidence of compliance with the insurance and financial
 responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a
 registration under this paragraph.

(4)(a)1. A person whose job scope does not substantially
 correspond to either the job scope of one of the contractor
 categories defined in s. 489.105(3)(a)-(o), or the job scope of
 one of the certified specialty contractor categories established
 by board rule, is not required to register with the board. A
 local government, as defined in s. 163.211, may not require a
 person to obtain a license, issued by the local government or
 the state, for a job scope which does not substantially
 correspond to the job scope of one of the contractor categories
 defined in s. 489.105(3)(a)-(o) and (q) or authorized in s.
 489.1455(1), or the job scope of one of the certified specialty
 contractor categories established pursuant to s. 489.113(6). A
 local government may not require a state or local license to
 obtain a permit for such job scopes. For purposes of this
 section, job scopes for which a local government may not require
 a license include, but are not limited to, painting; flooring;
 cabinetry; interior remodeling when the scope of the project
 does not include a task for which a state license is required;
 driveway or tennis court installation; handyman services;
 decorative stone, tile, marble, granite, or terrazzo
 installation; plastering; pressure washing; stuccoing; caulking;
 and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of

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critical state concern under s. 380.05 may offer a license for
any job scope which requires a contractor license under this
part if the county imposed such a licensing requirement before
January 1, 2021.

3. A local government may continue to offer a license for
vaneer, including aluminum or vinyl gutters, siding, soffit, or
fascia; rooftop painting, coating, and cleaning above three
stories in height; or fence installation and erection if the
local government imposed such a licensing requirement before
January 1, 2021.

4. A local government may not require a license as a
prerequisite to submit a bid for public works projects if the
work to be performed does not require a license under general
law.

(d) Any person who is not required to obtain registration
or certification pursuant to s. 489.105(3) (d)-(o) may perform
contracting services for the construction, remodeling, repair,
or improvement of single-family residences, including a
townhouse as defined in the Florida Building Code, without
obtaining a local license if such person is under the
supervision of a certified or registered general, building, or
residential contractor. As used in this paragraph, supervision
shall not be deemed to require the existence of a direct
contract between the certified or registered general, building,
or residential contractor and the person performing specialty
contracting services.

(e) Any person who is not certified or registered may
perform the work of a specialty contractor whose scope of
practice is limited to the type of work specified under s.

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489.105(3) (j), (k), or (l) for the construction, remodeling,
repair, or improvement of commercial or residential swimming
pools, interactive water features as defined in the Florida
Building Code, hot tubs, and spas without obtaining a local
license or certification as a specialty contractor if he or she
is supervised by a contractor who is certified or registered
under s. 489.105(3) (j), (k), or (l); the work is within the
scope of the supervising contractor's license; the supervising
contractor is responsible for the work; and the work does not
require certification or registration under s. 489.105(3) (d)-
(i), (m)-(o), or s. 489.505. Such supervision does not require a
direct contract between the contractor certified or registered
under s. 489.105(3) (j), (k), or (l) and the person performing
the work, or for the person performing the work to be an
employee of the contractor certified or registered under s.
489.105(3) (j), (k), or (l). This paragraph does not limit the
exemptions provided in s. 489.103 and may not be construed to
expand the scope of a contractor certified or registered under
s. 489.105(3) (j), (k), or (l) to provide plumbing or electrical
services for which certification or registration is required by
this part or part II.

Section 5. For the purpose of incorporating the amendment
made by this act to section 489.105, Florida Statutes, in a
reference thereto, subsection (l) of section 489.118, Florida
Statutes, is reenacted to read:

489.118 Certification of registered contractors;
grandfathering provisions.—The board shall, upon receipt of a
completed application and appropriate fee, issue a certificate
in the appropriate category to any contractor registered under

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407 this part who makes application to the board and can show that
 408 he or she meets each of the following requirements:
 409 (1) Currently holds a valid registered local license in one
 410 of the contractor categories defined in s. 489.105(3) (a)-(p).
 411 Section 6. For the purpose of incorporating the amendment
 412 made by this act to section 489.105, Florida Statutes, in
 413 references thereto, subsections (10) and (11) of section
 414 489.131, Florida Statutes, are reenacted to read:
 415 489.131 Applicability.—
 416 (10) No municipal or county government may issue any
 417 certificate of competency or license for any contractor defined
 418 in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local
 419 government exercises disciplinary control and oversight over
 420 such locally licensed contractors, including forwarding a
 421 recommended order in each action to the board as provided in
 422 subsection (7). Each local board that licenses and disciplines
 423 contractors must have at least two consumer representatives on
 424 that board. If the board has seven or more members, at least
 425 three of those members must be consumer representatives. The
 426 consumer representative may be any resident of the local
 427 jurisdiction who is not, and has never been, a member or
 428 practitioner of a profession regulated by the board or a member
 429 of any closely related profession.
 430 (11) Any municipal or county government which enters or has
 431 in place a reciprocal agreement which accepts a certificate of
 432 competency or license issued by another municipal or county
 433 government in lieu of its own certificate of competency or
 434 license allowing contractors defined in s. 489.105(3) (a)-(o),
 435 shall file a certified copy of such agreement with the board not

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436 later than 60 days after July 1, 1993, or 30 days after the
 437 effective date of such agreement.
 438 Section 7. For the purpose of incorporating the amendment
 439 made by this act to section 489.105, Florida Statutes, in a
 440 reference thereto, subsection (2) of section 489.141, Florida
 441 Statutes, is reenacted to read:
 442 489.141 Conditions for recovery; eligibility.—
 443 (2) A claimant is not qualified to make a claim for
 444 recovery from the recovery fund if:
 445 (a) The claimant is the spouse of the judgment debtor or
 446 licensee or a personal representative of such spouse;
 447 (b) The claimant is a licensee who acted as the contractor
 448 in the transaction that is the subject of the claim;
 449 (c) The claim is based upon a construction contract in
 450 which the licensee was acting with respect to the property owned
 451 or controlled by the licensee;
 452 (d) The claim is based upon a construction contract in
 453 which the contractor did not hold a valid and current license at
 454 the time of the construction contract;
 455 (e) The claimant was associated in a business relationship
 456 with the licensee other than the contract at issue; or
 457 (f) The claimant had entered into a contract with a
 458 licensee to perform a scope of work described in s.
 459 489.105(3) (d)-(q) before July 1, 2016.
 460 Section 8. For the purpose of incorporating the amendment
 461 made by this act to section 489.105, Florida Statutes, in a
 462 reference thereto, subsection (3) of section 514.0315, Florida
 463 Statutes, is reenacted to read:
 464 514.0315 Required safety features for public swimming pools

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465 and spas.—

466 (3) The determination and selection of a feature under
467 subsection (2) for a public swimming pool or spa constructed
468 before January 1, 1993, is at the sole discretion of the owner
469 or operator of the public swimming pool or spa. A licensed
470 contractor described in s. 489.105(3)(j), (k), or (l) must
471 install the feature.

472 Section 9. For the purpose of incorporating the amendment
473 made by this act to section 489.105, Florida Statutes, in a
474 reference thereto, section 514.075, Florida Statutes, is
475 reenacted to read:

476 514.075 Public pool service technician; certification.—The
477 department may require that a public pool, as defined in s.
478 514.011, be serviced by a person certified as a pool service
479 technician. To be certified, an individual must demonstrate
480 knowledge of public pools which includes, but is not limited to:
481 pool cleaning; general pool maintenance; source of the water
482 supply; bacteriological, chemical, and physical quality of
483 water; and water purification, testing, treatment, and
484 disinfection procedures. The department may, by rule, establish
485 the requirement for the certification course and course
486 approval. The department shall deem certified any individual who
487 is certified by a course of national recognition or any person
488 licensed under s. 489.105(3)(j), (k), or (l). This requirement
489 does not apply to a person, or the direct employee of a person,
490 permitted as a public pool operator under s. 514.031.

491 Section 10. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 5, 2025

I respectfully request that **Senate Bill # 570**, relating to Swimming Pools and Spa Contractors, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive style with a large, stylized "J" and "G".

Senator Joe Gruters
Florida Senate, District 22

APPEARANCE RECORD

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

3/12/25

Meeting Date

Regulated Industries

Committee

Bill Number or Topic

SB576

Amendment Barcode (if applicable)

Name
Dino Muggio

Phone

352-278-0098

Address

5200 NW 43 St Ste 102-421

Email

dino@diagnostics.com

Street

Gainesville

State

FL

Zip

City

Speaking:



For



Against



Information

OR



Information

Waive Speaking:



In Support



Against

☒ 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:

PLEASE CHECK ONE OF THE FOLLOWING:

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 \(flsenate.gov\)](#)

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

APPEARANCE RECORD

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

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Street

City

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S-001 (08/10/2021)

3/12/25

Reg. Industries

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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.)

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

BILL: CS/SB 928

INTRODUCER: Regulated Industries Committee and Senator Calatayud

SUBJECT: Nonapproved Disposable Nicotine Dispensing Devices

DATE: March 12, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 928 provides that the act may be cited as the “Florida Age Gate Act.” The bill provides restrictions on the sale and advertising and displaying for sale nonapproved disposable nicotine devices, which the bill defines as “disposable or single-use nicotine dispensing devices that have not received a marketing granted order under 21 U.S.C. s. 387j.”

21 U.S.C. s. 387j requires tobacco products that were on the market as of August 8, 2016, to submit a premarket application (PMTA) to the U.S. Food and Drug Administration (FDA) by September 9, 2020, in order to be authorized to continue to legally market the product. Nicotine dispensing devices that contain nicotine not made or derived from tobacco, such as synthetic nicotine, must also receive a marketing order from the FDA. This market authorization does not apply to “pre-existing tobacco product,” i.e., “grandfathered tobacco products” that were commercially marketed in the United States as of February 15, 2007.

The bill prohibits retail nicotine products dealers (dealers) who sell nonapproved disposable devices from advertising, promoting, or displaying for sale nonapproved disposable devices in any location that is visible to persons outside of the dealer’s licensed premises. Nonapproved disposable devices also may not be advertised, promoted, or displayed for sale within the dealer’s licensed premises in a manner visible to any person under the age of 21, including, but not limited to, placement of the devices in an open display unit located in an area visible to any person under the age of 21. These advertising and display restrictions would not apply to nicotine dispensing devices that have received a marketing order under 21 U.S.C. s. 387j.

The bill provides that an applicant for a retail nicotine products dealer permit or a retail tobacco products dealer permit, by accepting the permit, agrees that the place or premises covered by the permit is subject to inspection and search of the premises without a search warrant by the Department of Law Enforcement in addition to the Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation or its authorized assistants, and by sheriffs, deputy sheriffs, police officers, currently authorized to determine compliance with this part.

Under the bill, the division must conduct regular inspections of the licensed premises of dealers who sell nonapproved disposable devices to ensure compliance with this part.

The bill authorizes the division to assess the following administrative penalties for each violation involving the unlawful advertising, promotion, or display for sale of nonapproved disposable devices:

- For a first violation, an administrative fine of at least \$500, but not more than \$1,000, and an order requiring that corrective action be taken within 15 days to preclude a recurrence;
- For a second violation within 12 weeks after the first violation, an administrative fine of \$1,000 and up to a 30-day suspension of the dealer's retail nicotine products dealer permit; or
- For a third or subsequent violation within 12 weeks after the first violation, an administrative fine of at least \$2,500, but not more than \$5,000, and at least a 30-day suspension or revocation of the dealer's nicotine products dealer permit.

Any second or subsequent violation outside the 12-week period after the first violation would be punishable as a first violation.

The bill also provides that, if a dealer, or a dealer's agent or employee, commits a third or subsequent violation within 12 weeks after the first violation, that person commits a misdemeanor of the second degree.

The bill requires that the division deposit all fines collected into the Professional Regulation Trust Fund of the DBPR. Under the bill, administrative fines must be used by the division to increase enforcement personnel, fund compliance inspections and investigations, and develop and implement public awareness campaigns to reduce nicotine use by persons under the age of 21.

The bill requires the division to adopt by rule guidelines for compliance audits and enforcement actions pertaining to the sale, advertising, promotion, and display for sale of nonapproved disposable devices. The bill requires that the annual report of the Department of Business and Professional Regulation must list the number of violations for any advertising, promotion, or display of prohibited nonapproved disposable devices.

The bill prohibits dealers that derive more than 20 percent of gross monthly sales from nicotine products to operate within 500 feet of a public or private elementary school, middle school, or secondary school (school), and:

- Requires all dealers to submit a certified survey to the division 30 days before applying for a permit.

- Requires dealers located within 500 feet of a school to maintain six months of sales records showing nicotine product sales and dispensing device sales percentages.
- Authorizes the division to inspect sales records of dealers located within 500 feet of a school.
- Requires dealers to apply to the division for a “conditional use” permit within 90 days if a school opens within 500 feet of the permit location.
- Requires dealers located within 500 feet of a school to relocate if a conditional or nonconforming use is denied by the division.
- Allows dealers located within 500 feet of a school, if allowed by the division, to relocate within 180 days or upon lease expiration, whichever is later.

The bill takes effect July 1, 2025.

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.

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.¹

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.² 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.³

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.⁴ There is no

¹ American Cancer Society, E-cigarettes and Vaping at: <https://www.cancer.org/cancer/risk-prevention/tobacco/e-cigarettes-vaping/what-do-we-know-about-e-cigarettes.html> (last visited Feb. 5, 2025).

² Section 569.003, F.S.

³ Section 569.003(1)(c), F.S.

⁴ Section 569.32, F.S.

fee for the permit. A person must be 21 years of age to qualify for a retail nicotine products dealer permit.⁵

Consent to Inspection and Search without Warrant

Applicants for a retail tobacco dealer permit, by accepting the permit when issued, agree that the place or premises covered by the permit 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 ch. 569, F.S. The implied consent also applies to inspections for compliance with regulation of the retail sale nicotine products under part II of ch. 569, F.S., including nicotine products sold by a vending machine to be located on the applicant's premises.⁶

An applicant for a retail nicotine products dealer permit, by accepting the permit when issued, also agrees that the place or premises covered by the permit 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 part II of ch. 569, F.S. Current law does not state that the purpose of the inspection may be to determine compliance with part I of ch. 569, F.S., relating to tobacco products.⁷

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.

Restrictions on Sales to Minors

The sale, delivery, bartering, furnishing, or giving of tobacco products and nicotine products to persons under the age of 21 is prohibited.⁸ A violation of this prohibition is a misdemeanor of the second degree.⁹ A second violation within one year of the first violation is a first degree misdemeanor.¹⁰ A third or subsequent violation of the prohibition against selling or giving a nicotine product to a person under 21 years of age is a felony of the third degree.¹¹

It is a complete defense to a person charged with a violation of s. 569.101, F.S., if the buyer or recipient falsely evidenced that he or she was 21 years of age or older, a prudent person would

⁵ Section 569.32(2)(a), F.S.

⁶ Section 569.004, F.S.

⁷ Section 569.33, F.S.

⁸ Sections 569.101 and 569.41, F.S., providing the prohibitions against the sale of tobacco products and nicotine products to persons under 21 years of age, respectively.

⁹ 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.

¹⁰ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

¹¹ 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.

believe the buyer or recipient to be 21 years of age or older, and the buyer or recipient presented false identification¹² upon which the person relied in good faith.¹³

Persons under the age of 21 years are prohibited from possessing, directly or indirectly, any tobacco products or nicotine products:¹⁴

- A first violation of this prohibition is a non-criminal violation with a penalty of 16 hours of community service or a \$25 fine, and attendance at a school-approved anti-tobacco program, if locally available.
- A second or subsequent violation within 12 weeks of the first violation is punishable with a \$25 fine.
- Any second or subsequent violation not within the 12-week time period after the first violation is punishable as a first violation.

The term “any person under the age of 21” does not include any person under age 21 who:¹⁵

- Is in the military reserve or on active duty in the Armed Forces of the United States;
- Is acting in his or her scope of lawful employment, including with an entity licensed under the provisions of ch. 210, F.S., relating to taxation of cigarettes and other tobacco products, or ch. 569, F.S., relating to tobacco products.

To prevent persons under 21 years of age from purchasing or receiving tobacco products and nicotine devices, the sale or delivery of such products is prohibited, except when those products are under the direct control or line of sight of the dealer or the dealer’s agent or employee. If a tobacco product is sold from a vending machine, the vending machine must have:¹⁶

- An operational lock-out device which is under the control of the dealer or the dealer’s agent or employee who directly regulates the sale of items through the machine by triggering the lock-out device to allow the dispensing of one tobacco product;
- A mechanism on the lock-out device to prevent the machine from functioning if the power source for the lock-out device fails or if the lock-out device is disabled; and
- A mechanism to ensure that only one tobacco product is dispensed at a time.

These requirements for the sale of tobacco products do not apply to an establishment that prohibits persons under 21 years of age on the premises.¹⁷

Retail tobacco products dealers and retail nicotine product dealers (retailers) must post a clear and conspicuous sign that the sale of tobacco products is prohibited to persons under the age of 21 and that proof of age is required for purchase. The division is required to make the signs

¹² *Supra* n. 8. Identification includes carefully checking “a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 years of age or older.” *See* s. 569.101(3)(c), F.S.

¹³ *Supra* n. 8.

¹⁴ Sections 569.11(1) and 569.42(1), F.S., providing the prohibitions against the possession of tobacco products and nicotine products by persons under 21 years of age, respectively.

¹⁵ Section 569.002(9) and 569.31(12), F.S., defining the term “any person under the age of 21” in the context of the regulation of tobacco products and nicotine products, respectively.

¹⁶ Sections 569.007 and 569.37, F.S., relating to restrictions on the sale or delivery of tobacco products and nicotine products, respectively.

¹⁷ *Id.*

available to retailers. Retailers must also have instructional material in the form of a calendar or similar format to assist in determining the age of the person attempting to purchase a tobacco product.¹⁸

Section 386.212, F.S., in the Florida Clean Indoor Air Act,¹⁹ prohibits any person under the age of 21 from smoking tobacco within 1,000 feet of a public or private elementary, middle, or secondary school between the hours of 6:00 a.m. and midnight.²⁰ A violation of this prohibition is punishable by a maximum noncriminal civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco “alternative to suspension” program.²¹

Administrative Penalties

A retail tobacco dealer permit-holder can be disciplined under the division’s penalty guidelines. For a violation of the prohibition in s. 569.06, F.S., against the sale of tobacco products to persons under 21 years of age, the guidelines provide:

- 1st occurrence -- \$500 fine.
- 2nd occurrence -- \$1,000 fine.
- 3rd occurrence -- \$2,000 fine and a 20-day suspension of the dealer permit.
- 4th occurrence -- revocation of the dealer permit.

These penalties are based on a single violation in which the permit-holder committed or knew about the violation; or a pattern of at least three violations on different dates within a 12-week period by employees, independent contractors, agents, or patrons on the licensed premises or in the scope of employment in which the permit-holder did not participate; or violations which were occurring in an open and notorious manner on the licensed premises.²²

Section 569.008, F.S., provides a process for a retail tobacco products dealer to mitigate penalties imposed against a dealer because of an employee’s illegal sale of a tobacco product to a person under 21 years of age.²³ The process encourages retail tobacco products dealers to comply with responsible practices. The division may mitigate penalties if:

- The dealer is qualified as a responsible dealer having established and implemented specified practices designed to ensure that the dealer’s employees comply with ch. 569, F.S., such as employee training;
- The dealer had no knowledge of that employee’s violation at the time of the violation and did not direct, approve, or participate in the violation; and
- If the sale was made through a vending machine, it was equipped with an operational lock-out device.²⁴

¹⁸ Sections 569.14 and 569.43, F.S., providing requirements for the posting of notices by retail tobacco products dealers and retail nicotine product dealers, respectively.

¹⁹ Part II of ch. 386, F.S.

²⁰ Section 386.212(1), F.S.

²¹ Section 386.212(3), F.S.

²² Fla. Admin. Code R. 61A-2.022(1) (2019).

²³ The Florida Responsible Vendor Act in ss. 561.701 - 561.706, F.S., provides a comparable process for mitigation of penalties against vendors of alcoholic beverages.

²⁴ Section 569.008(3), F.S.

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:²⁵

- 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
- 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.²⁶

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.²⁷

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 products containing nicotine from any source, including synthetic nicotine.²⁸

Federal law preempts states from providing additional or different requirements for tobacco products in regard 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.²⁹

²⁵ Section 569.19, F.S.

²⁶ Section 569.44, F.S.

²⁷ 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.

²⁸ “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*, www.fda.gov/tobacco-products/products-ingredients-components/regulation-and-enforcement-non-tobacco-nicotine-ntn-products (last visited Mar. 6, 2025).

²⁹ 21 U.S.C. § 387p.

Registration by Manufacturers

Under federal law, tobacco product manufacturers³⁰ are required initially and annually thereafter to register with the FDA the name,³¹ places of business, and all such establishments of that manufacturer in any state.³² These manufacturers are required to register any additional places which they own or operate and start to manufacture, prepare, compound, or process a tobacco product or tobacco products.³³

FDA Premarket Review Application Process for Tobacco Products

21 U.S.C. § 387j requires the manufacturer of a new tobacco product³⁴ to submit a marketing application to the FDA and receive authorization³⁵ before it can be distributed into interstate commerce. 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).³⁶

The FDA may issue a marketing granted order, temporarily suspend a marketing order, withdraw a marketing granted order, or issue a marketing denial order.³⁷ If exempt, the FDA would issue a “found exempt order.”³⁸

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, could voluntarily apply to the FDA by May 14, 2022,³⁹ to receive a determination that the product is a pre-existing tobacco product. A tobacco manufacturer may challenge the FDA’s determination.⁴⁰ Manufacturers must hold onto records that show their tobacco products are legally on the market.

³⁰ 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).

³¹ 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).

³² 21 USCA § 387e(b)(c).

³³ 21 USCA § 387e(d).

³⁴ “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).

³⁵ 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 (last visited Mar. 6, 2025).

³⁶ U.S. Food and Drug Administration, *Market and Distribute a Tobacco Product*, <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders> (last visited Mar. 6, 2025).

³⁷ 21 U.S.C. § 387j.

³⁸ See U.S. Food and Drug Administration, *Searchable Tobacco Products Database Additional Information, Database Terminology*, defining EXREQ – Found Exempt Order, <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/searchable-tobacco-products-database-additional-information#rfr> (last visited Mar. 6, 2025).

³⁹ 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 Mar. 6, 2025).

⁴⁰ 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 Mar. 6, 2025).

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, 2016.⁴¹

An applicant may submit a PMTA to demonstrate that a new tobacco product meets the requirements to receive a marketing granted order.⁴² The PMTA must contain information⁴³ for the FDA to ascertain whether there are any applicable grounds for a marketing denial order. To receive a marketing granted order:

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.⁴⁴

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.⁴⁵ 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, 2007.⁴⁶

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.⁴⁷

The FDA has made determinations on more than 26 million PMTA application, including 99.5 percent of the higher-market share e-cigarette products. It has issued marketing denial orders for more than 65,000 non-tobacco flavored e-cigarette product applications.⁴⁸

⁴¹ 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 Mar. 6, 2025).

⁴² 21 CFR 1114.5.

⁴³ 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).

⁴⁴ *Supra* n. 35.

⁴⁵ *See* 21 CFR 1107.16 and 21 CFR 1107.18.

⁴⁶ 21 CFR 1107.18.

⁴⁷ 21 CFR 1107.1.

⁴⁸ U.S. Food and Drug Administration, *A Year in Review: FDA's Progress on Tobacco Product Regulation in 2024*, <https://www.fda.gov/tobacco-products/ctp-newsroom/year-review-fdas-progress-tobacco-product-regulation-2024> (last visited Mar. 6, 2025); 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 (last visited Mar. 6, 2025).

In 2024, the FDA issued several marketing orders for non-tobacco flavored e-cigarette products.⁴⁹

The FDA provides a searchable database on its website for tobacco products, including e-cigarettes that may be legally marketed.⁵⁰ The FDA also maintains a printable, one-page flyer of authorized e-cigarettes indicating that only 17 e-cigarette products from three manufacturers have been authorized for sale.⁵¹

Legal Challenges to the FDA's PMTA Process

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 for flavored e-cigarettes.⁵² 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.”⁵³ The FDA subsequently appealed the Fifth Circuit decision to the United State Supreme Court, which heard oral arguments on December 2, 2024.⁵⁴

Regarding the PMTA process, the FDA's was also successfully challenged by a group of retailers based in Texas and Mississippi and a North Carolina-based company whose PMTA was denied by the FDA for a menthol-flavored e-cigarette product and the FDA appealed to the Fifth Circuit Court of Appeals, which is based in Louisiana. The Fifth Circuit rejected the FDA motion to move the case to the D.C. Circuit in Washington D.C.⁵⁵ The FDA subsequently appealed to the United States Supreme Court, which held oral arguments in January 2025 on the jurisdictional issue of “whether a manufacturer may file a petition for review in a circuit (other than the U.S. Court of Appeals for the District of Columbia Circuit) where it neither resides nor has its principal place of business, if the petition is joined by a seller of the manufacturer's products that is located within that circuit.”⁵⁶

⁴⁹ *Id.*

⁵⁰ U.S. Food and Drug Administration, *Searchable Tobacco Products Database*, <https://www.accessdata.fda.gov/scripts/searchtobacco/> (last visited Mar. 6, 2025).

⁵¹ U.S. Food and Drug Administration, *FDA Authorized E-Cigarette Products*, https://digitalmedia.hhs.gov/tobacco/print_materials/CTP-250?locale=en (last visited Mar. 6, 2025).

⁵² *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.

⁵³ *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).

⁵⁴ *Wages & White Lion Investments, L.L.C. v. Food & Drug Admin.*, 144 S.Ct. 2714 (2024), *cert. granted*.

⁵⁵ *Food and Drug Administration, v. R.J. Reynolds Vapor Co.*, 2024 WL 1945307 (5th Cir. 2024).

⁵⁶ *Food and Drug Administration, v. R.J. Reynolds Vapor Co.*, 145 S.Ct. 116 (2024), *cert. granted*; and *Petition for Writ of Certiorari in Food and Drug Administration, v. R.J. Reynolds Vapor Co.*, No. 23-1187, May 5, 2024, WL 1995213.

Federal Enforcement Efforts

In October 2024, FDA and U.S. Customs and Border Protection (CBP), seized \$76 million in unauthorized e-cigarettes, including popular, youth-appealing, foreign-owned brands. In April 2024, the U.S. Marshals Service seized unauthorized e-cigarettes valued at more than \$700,000 at a warehouse in California.

In addition, the FDA made compliance and enforcement actions against unauthorized tobacco products in 2024, especially those most appealing to youth, including issuing warning letters to more than 50 manufacturers and distributors and more than 430 retailers for selling unauthorized tobacco products. In 2024, the CBP also filed civil money penalty complaints for unauthorized products consisting of 44 complaints against manufacturers and more than 100 complaints against retailers.⁵⁷

Florida Directory of Nicotine Products that are Attractive to Children

Enacted during the 2024 Regular Session, s. 569.311, F.S.,⁵⁸ authorizes the Attorney General to adopt rules to create a directory of nicotine dispensing devices that the Attorney General has determined to be “attractive to minors,” thereby removing those products from the market. Under the section, the term “nicotine dispensing devices” includes e-cigarettes, vapes, and other similar products. Each individual stock keeping unit is considered a separate nicotine dispensing device. Open systems in which a consumer fills a vial or other containers with a nicotine solution are exempted from the provisions of s. 569.311, F.S.

To determine that a product is “attractive to minors,” the Attorney General must consider several factors, including:⁵⁹

- Surveys or other data sources indicating that a nicotine dispensing device is being used by minors at a higher rate than other nicotine dispensing devices.
- Complaints, reports, or other information related to the use of a nicotine dispensing device by minors from other minors, from parents, teachers, school employees, school boards, and law enforcement officers, retailers, and other industry officials as compared to other nicotine dispensing devices.
- The extent to which the product is designed and marketed to be attractive to minors (e.g., use of bright colors or cartoon characters, ease of use for minors, resemblance to a food product, and uniquely marketed to minors).
- Use of actual intellectual property that resemble consumer food products that are popular with minors.
- Any reports of physical harm to minors from using the nicotine dispensing device or evidence that the nicotine dispensing device presents unique risks to minors.
- Whether the manufacturer of the nicotine dispensing device submitted a timely filed premarket tobacco product application for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j.

⁵⁷ U.S. Food and Drug Administration, *A Year in Review: FDA’s Progress on Tobacco Product Regulation in 2024*, <https://www.fda.gov/tobacco-products/ctp-newsroom/year-review-fdas-progress-tobacco-product-regulation-2024> (last visited Mar. 6, 2025)

⁵⁸ Chapter 2024-127, Laws of Fla.

⁵⁹ Section 569.311(3), F.S.

- Decisions by the U.S. Food and Drug Administration (FDA) regarding the product, including the extent to which the FDA's decision was predicated, in whole or part, on the risks to minors outweighing other benefits of the nicotine dispensing device.

The Department of Legal Affairs must also develop and maintain a directory listing all of the nicotine product manufacturers that sell nicotine dispensing devices in Florida, which the Attorney General has deemed attractive to minors. The department must make the directory available January 1, 2025, for public inspection on its website.⁶⁰

The Attorney General's decision to include a product in the directory is subject to review under the Florida Administrative Procedure Act under ch. 120, F.S.⁶¹ After a product is included in the directory, retailers and wholesale dealers have 60 days from the date the directory is made public to sell or otherwise discard the products.⁶²

Section 569.312(1), F.S., provides that a nicotine product manufacturer, a retail nicotine products dealer, a wholesaler, or a distributor may not sell, ship, or otherwise distribute a nicotine dispensing device in this state for eventual retail sale to a consumer in this state that is listed on the directory. A person who knowingly sells, ships, or receives for retail sale a prohibited nicotine dispensing device commits a misdemeanor of the first degree.⁶³ A violation is also deemed to be a deceptive trade practice and may be enforced by the Attorney General. The DBPR may impose a civil penalty of up to \$1,000 per prohibited device sold.⁶⁴

Products that are listed in the directory are contraband and are subject to seizure under the Florida Contraband Forfeiture Act.⁶⁵ A court having jurisdiction must order contraband nicotine dispensing devices forfeited upon a showing that, by a preponderance of the evidence, the devices were sold, delivered, possessed, or distributed contrary to any provision of ch. 569, F.S., relating to tobacco and nicotine products. Once any administrative proceedings under ch. 120, F.S., related to such devices have been completed, the court must order seized nicotine dispensing devices to be destroyed, except as provided by applicable court orders. The department is required to keep specified records of all nicotine dispensing devices seized under the act.⁶⁶

As of March 6, 2025, the Attorney General's Nicotine Dispensing Devices Directory lists approximately 299 nicotine dispensing devices, which are identified by the product's stock keeping unit (SKU), as attractive to minors.⁶⁷

⁶⁰ Section 569.311(9), F.S.

⁶¹ Section 569.311(5), F.S.

⁶² Section 569.311(10), F.S.

⁶³ 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.

⁶⁴ Section 569.312, F.S.

⁶⁵ See ss. 932.701-932.7062, F.S.

⁶⁶ Section 569.345, F.S.

⁶⁷ See Florida Attorney General, *Nicotine Dispensing Devices*, <https://www.myfloridalegal.com/NDD> (last visited Mar. 6, 2025).

III. Effect of Proposed Changes:

Section 1 of the bill provides that the act may be cited as the “Florida Age Gate Act.”

Definition

The bill amends s. 569.31, F.S., to define the term “nonapproved disposable device” to mean a disposable or single-use nicotine dispensing device which has not received a marketing granted order under 21 U.S.C. s. 387j. The bill and current law do not define the types of devices that would qualify as a disposable nicotine dispensing device other than single-use devices. It is not clear if the terms “disposable” and “single-use” are meant to be synonymous terms.

Consent to Inspection and Search without a Warrant

The bill amends s. 569.33, F.S., relating to nicotine dispensing devices, to provide that an applicant for a retail nicotine products dealer permit or a retail tobacco products dealer permit issued under s. 569.003, F.S., by accepting the permit, agrees that the place or premises covered by the permit is subject to inspection and search without a search warrant by the Division of Alcoholic Beverages and Tobacco (division) or its authorized assistants, and by sheriffs, deputy sheriffs, or police officers, to determine compliance with this part. Currently, this provision only refers to an application for a retail nicotine products dealer permit, but there is a comparable provision for applicants for a retail tobacco dealer permit.

The bill also provides that an applicant for a retail nicotine products dealer permit also consents to inspection and search without a search warrant of the licensed premises by the Department of Law Enforcement to determine compliance with part II of ch. 569, F.S., relating to the unlawful sale of nonapproved disposable devices or the unlawful advertising, promotion, or display for sale of such devices.

Under the bill, the division must conduct regular inspections of the licensed premises of dealers who sell nonapproved disposable devices to ensure compliance with this part.

Criminal and Administrative Penalties

The bill amends s. 569.35, F.S., to authorize the division to assess administrative penalties for each violation involving the unlawful advertising, promotion, or display for sale of nonapproved disposable devices as provided in s. 569.37(3), F.S.

The bill authorizes the division to impose the following penalties:

- For a first violation, an administrative fine of at least \$500, but not more than \$1,000, and an order requiring that corrective action be taken within 15 days to preclude a recurrence;
- For a second violation within 12 weeks after the first violation, an administrative fine of \$1,000 and up to a 30-day suspension of the dealer’s retail nicotine products dealer permit; or
- For a third or subsequent violation within 12 weeks after the first violation, an administrative fine of at least \$2,500, but not more than \$5,000, and at least a 30-day suspension or revocation of the dealer’s nicotine products dealer permit.

Under the bill, any second or subsequent violation outside the 12-week period after the first violation is punishable as a first violation. The division must deposit all fines collected into the Professional Regulation Trust Fund of the DBPR.

The bill also provides that a third or subsequent violation within 12 weeks after the first violation by dealer, or a dealer's agent or employee, is a misdemeanor of the second degree, which is punishable by a term of imprisonment not to exceed 60 days and a fine not to exceed \$500.

Under the bill, administrative fines must be used by the division to:

- Increase enforcement personnel;
- Fund compliance inspections and investigations; and
- Develop and implement public awareness campaigns to reduce nicotine use by persons under the age of 21.

Advertisement, Promotion, or Display for Sale of Nonapproved Disposable Devices

The bill amends s. 569.37, F.S., to prohibit retail nicotine dispensing device dealers who sell nonapproved disposable devices from advertising, promoting, or displaying for sale nonapproved disposable devices in any location that is visible to persons outside of the dealer's licensed premises.

Nonapproved disposable devices also may not be advertised, promoted, or displayed for sale within the dealer's licensed premises in a manner visible to any person under the age of 21, including, but not limited to, placement of the devices in an open display unit located in an area visible to any person under the age of 21.

The definition for the term "nonapproved disposable device" under s. 567.31, F.S., as provided in the bill, does not include nicotine dispensing devices that have received a marketing order from the FDA.

There may be nicotine dispensing devices that are not required to receive a marketing order under 21 U.S.C. s. 387j, such as a pre-existing tobacco product, which is any tobacco product (including those products in test markets) that was commercially marketed in the United States on, or as of, February 15, 2007, or was a modification of a tobacco product that was commercially marketed in the U.S. before Feb. 15, 2007. A manufacturer of such a product may voluntarily apply to the FDA for a marketing order but is not required to apply. Such devices would be subject to the advertising and display restrictions proved in the bill.

The bill reenacts the following provisions to incorporate the amendment made by the bill to s. 569.35, F.S.

- Section 569.381, F.S., relating to responsible retail nicotine products dealers; and
- Section 569.43(3), F.S., relating to the posting of a stating that the sale of nicotine products or nicotine dispensing devices to persons under 21 years of age is unlawful.

Location Restrictions

The bill creates s. 569.37(6), F.S., to prohibit retail nicotine products dealers that derive more than 20 percent of their gross monthly sales from the sale of nicotine products from being located within 500 feet of real property that comprises a public or private elementary school, middle school, or secondary school (school). The distance must be measured on a straight line from the nearest property line of the retail shop to the nearest property line of the school.

Under the bill all retail nicotine products dealers, including dealers located more than 500 feet from a school, must submit a survey certified under ch. 472, F.S.,⁶⁸ to the Division of Alcoholic Beverages and Tobacco (division) at least 30 days before submitting an application for a retail nicotine products dealer permit. The survey must contain a legal description of the boundaries of the place or premises that is the subject of the permit and any existing school within 500 feet.

The bill provides that the “measurement scaled” by the DBPR governs any measurement disputes. The bill does not provide an application timeframe for dealers who hold an active permit on or before the July 1, 2025, the effective date of this bill. It is not clear what the term “measurement scaled” means or what duty this term may require the DBPR to perform.

Dealers that are located within 500 feet of a school are required by the bill to maintain records verifying the gross monthly retail sales from the sale of nicotine products during the previous 6 months and the percentage of such sales that represent the retail sales of nicotine dispensing devices.

The bill authorizes the division to have access to such records for the purpose of enforcement. Within 14 days after the division requests access to the dealer’s records, the dealer must provide a summary sales report verifying its sales for the period of time requested. Failure of the dealer to provide a sales report when requested by the division, or failure of the dealer to adequately demonstrate that the business establishment has sold less than the required percentage of nicotine products and nicotine dispensing devices, is a violation.

Although the bill requires a dealer to provide the division with a “summary sales report verifying its sales for the period of time requested,” the bill does not provide a time frame within which a dealer must allow the division to access the dealer’s sales records.

Within 90 days of a school opening within 500 feet of an existing place of business with a retail nicotine products dealer permit, the bill requires a dealer to apply for “conditional use or legally recognized nonconforming use in accordance with the local government’s applicable land development regulations” of the permit. Upon the division’s approval of a “conditional use or a legally recognized nonconforming use,” the dealer must relocate the business or premises within 180 days, or upon expiration of the dealer’s current lease agreement without any extension thereof, whichever occurs later, to a new location.

⁶⁸ Chapter 472, F.S., provides for the regulation of surveyors and mappers by the Board of Professional Surveyors and Mappers within the Department of Agriculture and Consumer Services. Section 472.025, F.S., provides for the sealing of drawings, plans, specifications, reports, or documents prepared or issued by a licensed surveyor or mapper who is registered with the board.

Within 90 days after July 1, 2025, a dealer that has a place of business or premises located within 500 feet of a school must apply to the division for conditional use or legally recognized nonconforming use in accordance with the local government's land development regulations. Upon approval of the division for conditional use or a legally recognized nonconforming use, the dealer must relocate the business or premises within 180 days, or upon expiration of the dealer's current lease agreement without any extension thereof, whichever occurs later, to a new location.

The bill requires dealers to apply to the division for a "conditional use or legally recognized nonconforming use in accordance with the local government's land development regulations" in circumstances in which the dealer's place of business is located within 500 feet of a school. It is not clear if the division is required to interpret a local government's land development regulations, or what relation such local regulations may have to the location prohibition in the bill. In addition, the bill does not provide standards by which the division may determine if a "conditional use or legally recognized nonconforming use" may be approved.

Rulemaking

The bill amends s. 569.39, F.S., to require the division to adopt by rule guidelines for compliance audits and enforcement actions pertaining to the sale, advertising, promotion, and display for sale of nonapproved disposable devices.

DBPR Annual Report

The bill amends s. 569.44, F.S., to require that the annual report of the Department of Business and Professional Regulation must list the number of violations for any advertising, promotion, or display of nonapproved disposable devices prohibited by s. 569.37(3), F.S.

Effective Date

The bill takes effect July 1, 2025.

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:

All nicotine products dealer permit holders will be required by the bill to have a mapper or surveyor licensed under ch. 472, F.S., perform a survey to ascertain if the dealer's premises is located within 500 feet of a private or public elementary school, middle school, or secondary school.

C. Government Sector Impact:

The DBPR has not provided a fiscal analysis for this bill. The bill provides that the "measurement scaled" by the DBPR governs any measurement disputes regarding the distance of a retail nicotine product dealer permit holders location to an elementary school, middle school, or secondary school. If this provision requires the division to measure the distance between locations, the division may incur costs if it is required to hire a surveyor or mapper to resolve distance disputes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 569.31, F.S., to define the term "nonapproved disposable device" to mean a disposable or single-use nicotine dispensing device which has not received a marketing granted order under 21 U.S.C. s. 387j. The bill and current law do not define the types of devices that would qualify as a disposable nicotine dispensing device other than single-use devices. It is not clear if the terms "disposable" and "single-use" are meant to be synonymous terms.

The bill provides that the "measurement scaled" by the DBPR governs any measurement disputes. The bill does not provide an application timeframe for dealers who hold an active permit on or before the July 1, 2025, the effective date of this bill. It is not clear what the term "measurement scaled" means or what duty this term may require the DBPR to perform.

The bill requires dealers to apply to the division for a "conditional use or legally recognized nonconforming use in accordance with the local government's land development regulations" in circumstances in which the dealer's place of business is located within 500 feet of a school. It is not clear if the division is required to interpret a local government's land development regulations, or what relation such regulations may have to the location prohibition in the bill. In

addition, the bill does not provide standards by which the division may determine if a “conditional use or legally recognized nonconforming use” may be approved.

This bill does not affect s. 569.311, F.S., which authorizes the Attorney General to create a directory of nicotine dispensing devices that the Attorney General has determined to be attractive to minors and prohibits the distribution sale of such products within Florida.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 569.31, 569.33, 569.35, 569.37, 569.39, and 569.44.

This bill reenacts the following sections of the Florida Statutes: 569.381 and 569.43.

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 Regulated Industries on March 12, 2025:

The committee substitute:

- Requires all fines collected by the Division of Alcoholic Beverages and Tobacco (division) to be deposited in the Professional Regulation Trust Fund of the Department of Business and Professional Regulation, and removes from the bill the requirement that one half of the fines be deposited in the Department of Law Enforcement (FDLE) Operating Trust Fund for use by the FDLE for the purposes specified in the bill for the use of such funds.
- Prohibits retail nicotine products dealers that derive more than 20 percent of their gross monthly sales from the sale of nicotine products from being located within 500 feet of real property that comprises a public or private elementary school, middle school, or secondary school, and provides requirements and exceptions related to that prohibition.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2025	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete lines 134 - 197
and insert:

(b) The division may impose the following penalties for each violation involving the unlawful advertising, promotion, or display for sale of nonapproved disposable devices as provided in s. 569.37(3):

1. For a first violation, an administrative fine of at least \$500, but not more than \$1,000, and an order requiring



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that corrective action be taken within 15 days to preclude a recurrence;

2. For a second violation within 12 weeks after the first violation, an administrative fine of \$1,000 and up to a 30-day suspension of the dealer's retail nicotine products dealer permit; or

3. For a third or subsequent violation within 12 weeks after the first violation, an administrative fine of at least \$2,500, but not more than \$5,000, and at least a 30-day suspension or revocation of the dealer's nicotine products dealer permit.

Any second or subsequent violation beyond the 12-week period after the first violation is punishable as provided for a first violation. The division shall deposit all fines collected under this paragraph into the Professional Regulation Trust Fund.

(c) In addition to any administrative penalties authorized under subparagraph (b)3., a dealer, or a dealer's agent or employee, who commits a third or subsequent violation within 12 weeks after the first violation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

(4) Administrative fines collected under paragraph (2)(b) shall be used by the division to do all of the following:



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40 (a) Increase enforcement personnel.

41 (b) Fund compliance inspections and investigations.

42 (c) Develop and implement public awareness campaigns to
43 reduce nicotine use by persons under the age of 21.

44 Section 5. Present subsections (3) and (4) of section
45 569.37, Florida Statutes, are redesignated as subsections (4)
46 and (5), respectively, a new subsection (3) and subsection (6)
47 are added to that section, and present subsection (3) of that
48 section is amended, to read:

49 569.37 Sale or delivery of nicotine products;
50 restrictions.—

51 (3) A dealer who sells nonapproved disposable devices may
52 not:

53 (a) Advertise, promote, or display for sale such
54 nonapproved disposable devices in any location that is visible
55 to persons outside of the dealer's licensed premises.

56 (b) Advertise, promote, or display for sale such
57 nonapproved disposable devices within the dealer's licensed
58 premises in a manner visible to any person under the age of 21,
59 including, but not limited to, placement of the devices in an
60 open display unit located in an area visible to any person under
61 the age of 21.

62 (4) ~~The provisions of Subsections (1), and (2), and (3) do~~
63 ~~shall~~ not apply to an establishment that prohibits persons under
64 21 years of age on the licensed premises.

65 (6)(a) A dealer that derives more than 20 percent of its
66 gross monthly retail sales from the sale of nicotine products
67 may not be located within 500 feet of the real property that
68 comprises a public or private elementary school, middle school,



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or secondary school. The required distance must be measured on a straight line from the nearest property line of the retail shop to the nearest property line of the school.

(b) Each dealer must submit to the division a survey certified under chapter 472, performed at least 30 days before the date of the submission of the application for a permit under s. 569.32, containing a legal description of the boundaries of the place or premises and any existing public or private elementary school, middle school, or secondary school located within 500 feet. The measurement scaled by the division governs any measurement disputes.

(c) A dealer located within 500 feet of real property that comprises a public or private elementary school, middle school, or secondary school must maintain records verifying the gross monthly retail sales from the sale of nicotine products during the previous 6 months, as well as the percentage of such sales that represents the retail sales of nicotine dispensing devices. The division may request and have access to such records for the purpose of enforcement. Within 14 days after such request, the dealer must provide a summary sales report verifying its sales for the period of time requested. Failure of the dealer to provide a sales report when requested by the division, or failure of the dealer to adequately demonstrate that the business establishment has sold less than the required percentage of nicotine products and nicotine dispensing devices, is a violation of this section.

(d) Within 90 days after the opening of a public or private elementary school, middle school, or secondary school located within 500 feet of an existing place of business or premises



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that sells nicotine products or nicotine dispensing devices, as determined under paragraph (a), the dealer must submit an application to the division for conditional use or legally recognized nonconforming use in accordance with the local government's applicable land development regulations. Upon approval of the division for conditional use or a legally recognized nonconforming use, the dealer must relocate the business or premises within 180 days, or upon expiration of the dealer's current lease agreement without any extension thereof, whichever occurs later, to a new location in compliance with this subsection.

(e) Within 90 days after July 1, 2025, a dealer that has a place of business or premises located within 500 feet of a public or private elementary school, middle school, or secondary school, as determined under paragraph (a), must submit an application to the division for conditional use or legally recognized nonconforming use in accordance with the local government's land development regulations. Upon approval of the division for conditional use or a legally recognized nonconforming use, the dealer must relocate the business or premises within 180 days, or upon expiration of the dealer's current lease agreement without any extension thereof, whichever occurs later, to a new location in compliance with this subsection.

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

And the title is amended as follows:

Delete lines 18 - 22
and insert:



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the division for specified purposes; amending s.
569.37, F.S.; prohibiting a dealer who sells
nonapproved disposable devices from advertising,
promoting, or displaying for sale such devices in
certain locations; revising applicability; providing
restrictions on locations for specified dealers of
nicotine products; requiring dealers to submit
specified information to the division; requiring
certain dealers to maintain specified records;
authorizing the division to request and have access to
such records; providing that failure of provide such
records is a violation of this section; requiring
dealers to provide specified information within a
certain time period following such a request;
requiring dealers to submit an application to the
division for conditional use or legally recognized
nonconforming use in specified circumstances;
requiring dealers to relocate following approval of
such applications within a specified timeframe;

By Senator Calatayud

38-01471-25

A bill to be entitled

2025928

1 An act relating to nonapproved disposable nicotine
2 dispensing devices; providing a short title; amending
3 s. 569.31, F.S.; defining the term "nonapproved
4 disposable device"; amending s. 569.33, F.S.; revising
5 which permit holders that the premises covered by the
6 permit are subject to inspection and search by the
7 Division of Alcoholic Beverages and Tobacco; revising
8 the provision that, upon being granted a permit, such
9 permit holder also consents to inspections by the
10 Department of Law Enforcement for specified
11 violations; requiring the division to inspect the
12 licensed premises of dealers who sell nonapproved
13 disposable devices; amending s. 569.35, F.S.; revising
14 penalties for violations involving the unlawful sale
15 of nonapproved disposable devices; requiring that
16 administrative fines for certain violations be used by
17 the division and the department for specified
18 purposes; amending s. 569.37, F.S.; prohibiting a
19 dealer who sells nonapproved disposable devices from
20 advertising, promoting, or displaying for sale such
21 devices in certain locations; revising applicability;
22 amending s. 569.39, F.S.; revising the division's
23 rulemaking authority; amending s. 569.44, F.S.;
24 revising the information that must be included in the
25 division's annual report to the Legislature and the
26 Governor; reenacting ss. 569.381(3) and (5) and
27 569.43(3), F.S., relating to responsible retail
28 nicotine products dealers, qualifications, mitigation
29

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CODING: Words ~~striket~~ are deletions; words underlined are additions.

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30 of disciplinary penalties, diligent management and
31 supervision, presumption; and posting of a sign
32 stating that the sale of nicotine products or nicotine
33 dispensing devices to persons under 21 years of age is
34 unlawful, enforcement, and penalties, respectively, to
35 incorporate the amendment made to s. 569.35, F.S., in
36 references thereto; providing an effective date.
37
38 Be It Enacted by the Legislature of the State of Florida:
39
40 Section 1. This act may be cited as the "Florida Age Gate
41 Act."
42 Section 2. Section 569.31, Florida Statutes, is reordered
43 and amended to read:
44 569.31 Definitions.—As used in this part, the term:
45 (2) ~~(4)~~ "Dealer" is synonymous with the term "retail
46 nicotine products dealer."
47 (3) ~~(2)~~ "Division" means the Division of Alcoholic Beverages
48 and Tobacco of the Department of Business and Professional
49 Regulation.
50 (4) ~~(3)~~ "FDA" means the United States Food and Drug
51 Administration.
52 (5) ~~(4)~~ "Nicotine dispensing device" means any product that
53 employs an electronic, chemical, or mechanical means to produce
54 vapor or aerosol from a nicotine product, including, but not
55 limited to, an electronic cigarette, electronic cigar,
56 electronic cigarillo, electronic pipe, or other similar device
57 or product, any replacement cartridge for such device, and any
58 other container of nicotine in a solution or other form intended

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59 to be used with or within an electronic cigarette, electronic
 60 cigar, electronic cigarillo, electronic pipe, or other similar
 61 device or product. For purposes of this definition, each
 62 individual stock keeping unit is considered a separate nicotine
 63 dispensing device.

64 (6)(45) "Nicotine product" means any product that contains
 65 nicotine, including liquid nicotine, which is intended for human
 66 consumption, whether inhaled, chewed, absorbed, dissolved, or
 67 ingested by any means. The term also includes any nicotine
 68 dispensing device. The term does not include a:

69 (a) Tobacco product, as defined in s. 569.002;

70 (b) Product regulated as a drug or device by the United
 71 States Food and Drug Administration under Chapter V of the
 72 Federal Food, Drug, and Cosmetic Act; or

73 (c) Product that contains incidental nicotine.

74 (7)(46) "Nicotine products manufacturer" means any person or
 75 entity that manufactures nicotine products.

76 (9)(47) "Permit" is synonymous with the term "retail
 77 nicotine products dealer permit."

78 (10)(48) "Retail nicotine products dealer" means the holder
 79 of a retail nicotine products dealer permit.

80 (11)(49) "Retail nicotine products dealer permit" means a
 81 permit issued by the division under s. 569.32.

82 (12)(40) "Self-service merchandising" means the open
 83 display of nicotine products, whether packaged or otherwise, for
 84 direct retail customer access and handling before purchase
 85 without the intervention or assistance of the dealer or the
 86 dealer's owner, employee, or agent. An open display of such
 87 products and devices includes the use of an open display unit.

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88 (13)(41) "Sell" or "sale" means, in addition to its common
 89 usage meaning, any sale, transfer, exchange, barter, gift, or
 90 offer for sale and distribution, in any manner or by any means.

91 (1)(42) "Any person under the age of 21" does not include
 92 any person under the age of 21 who:

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

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

96 (8) "Nonapproved disposable device" means a disposable or
 97 single-use nicotine dispensing device as defined in this section
 98 which has not received a marketing granted order under 21 U.S.C.
 99 s. 387j.

100 Section 3. Section 569.33, Florida Statutes, is amended to
 101 read:

102 569.33 Consent to inspection and search without warrant.—

103 (1) An applicant for a retail nicotine products dealer
 104 permit or a retail tobacco products dealer permit issued under

105 s. 569.003, by accepting the permit when issued, agrees that the
 106 place or premises covered by the permit is subject to inspection
 107 and search without a search warrant by the division or its
 108 authorized assistants, and by sheriffs, deputy sheriffs, or
 109 police officers, to determine compliance with this part. An
 110 applicant also consents to inspection and search without a
 111 search warrant of the licensed premises by the Department of Law
 112 Enforcement to determine compliance with this part relating to
 113 the unlawful sale of nonapproved disposable devices or the
 114 unlawful advertising, promotion, or display for sale of such
 115 devices.

116 (2) The division shall conduct regular inspections of the

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 117 licensed premises of dealers who sell nonapproved disposable
 118 devices to ensure compliance with this part.
 119 Section 4. Section 569.35, Florida Statutes, is amended to
 120 read:
 121 569.35 Retail nicotine product dealers; administrative and
 122 criminal penalties.—
 123 (1) The division may suspend or revoke the permit of a
 124 dealer, including the retail tobacco products dealer permit of a
 125 retail tobacco products dealer as defined in s. 569.002(4), upon
 126 sufficient cause appearing of the violation of any of the
 127 provisions of this part, by a dealer, or by a dealer's agent or
 128 employee.
 129 (2)(a) Except as provided in paragraph (b), the division
 130 may also assess and accept an administrative fine of up to
 131 \$1,000 against a dealer for each violation. The division shall
 132 deposit all fines collected under this paragraph into the
 133 General Revenue Fund as collected.
 134 (b) For each violation involving the unlawful sale of
 135 nonapproved disposable devices or the unlawful advertising,
 136 promotion, or display for sale of such devices, the division may
 137 impose the following penalties:
 138 1. For a first violation, an administrative fine of at
 139 least \$500, but not more than \$1,000, and an order requiring
 140 that corrective action be taken within 15 days to preclude a
 141 recurrence;
 142 2. For a second violation within 12 weeks after the first
 143 violation, an administrative fine of \$1,000 and up to a 30-day
 144 suspension of the dealer's retail nicotine products dealer
 145 permit; or

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 146 3. For a third or subsequent violation within 12 weeks
 147 after the first violation, an administrative fine of at least
 148 \$2,500, but not more than \$5,000, and at least a 30-day
 149 suspension or revocation of the dealer's nicotine products
 150 dealer permit.
 151
 152 Any second or subsequent violation outside the 12-week period
 153 after the first violation is punishable as provided for a first
 154 violation. The division shall deposit one-half of all fines
 155 collected under this paragraph into the Professional Regulation
 156 Trust Fund, and the remaining one-half of the fines collected
 157 shall be deposited into the Department of Law Enforcement
 158 Operating Trust Fund.
 159 (c) In addition to any administrative penalties authorized
 160 under subparagraph (b)3., a dealer, or a dealer's agent or
 161 employee, who commits a third or subsequent violation within 12
 162 weeks after the first violation commits a misdemeanor of the
 163 second degree, punishable as provided in s. 775.082 or s.
 164 775.083.
 165 (3) An order imposing an administrative fine becomes
 166 effective 15 days after the date of the order. The division may
 167 suspend the imposition of a penalty against a dealer,
 168 conditioned upon the dealer's compliance with terms the division
 169 considers appropriate.
 170 (4) Administrative fines collected under paragraph (2)(b)
 171 shall be used by the division and the Department of Law
 172 Enforcement to do all of the following:
 173 (a) Increase enforcement personnel.
 174 (b) Fund compliance inspections and investigations.

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 (c) Develop and implement public awareness campaigns to reduce nicotine use by persons under the age of 21.
 Section 5. Present subsections (3) and (4) of section 569.37, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:
 569.37 Sale or delivery of nicotine products;
 restrictions.—
 (3) A dealer who sells nonapproved disposable devices may not:
 (a) Advertise, promote, or display for sale such nonapproved disposable devices in any location that is visible to persons outside of the dealer's licensed premises.
 (b) Advertise, promote, or display for sale such nonapproved disposable devices within the dealer's licensed premises in a manner visible to any person under the age of 21, including, but not limited to, placement of the devices in an open display unit located in an area visible to any person under the age of 21.
 (4) ~~The provisions of~~ Subsections (1), ~~and~~ (2), and (3) do ~~shall~~ not apply to an establishment that prohibits persons under 21 years of age on the licensed premises.
 Section 6. Section 569.39, Florida Statutes, is amended to read:
 569.39 Rulemaking authority.—The division shall adopt rules to administer and enforce this part. The rules must include guidelines for compliance audits and enforcement actions pertaining to the sale, advertising, promotion, and display for

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 sale of nonapproved disposable devices.
 Section 7. Present subsections (3) and (4) of section 569.44, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:
 569.44 Annual report.—The division shall report annually with written findings to the Legislature and the Governor by December 31 on the progress of implementing the enforcement provisions of this part. This must include, but is not limited to:
 (3) The number of violations for any advertising, promotion, or display of nonapproved disposable devices prohibited by s. 569.37(3).
 Section 8. For the purpose of incorporating the amendment made by this act to section 569.35, Florida Statutes, in references thereto, subsections (3) and (5) of section 569.381, Florida Statutes, are reenacted to read:
 569.381 Responsible retail nicotine products dealers; qualifications; mitigation of disciplinary penalties; diligent management and supervision; presumption.—
 (3) In determining penalties under s. 569.35, the division may mitigate penalties imposed against a dealer because of an employee's illegal sale of a nicotine product to a person under 21 years of age if the following conditions are met:
 (a) The dealer is qualified as a responsible dealer under this section.
 (b) The dealer provided the training program required under subsection (2) to that employee before the illegal sale occurred.

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233 (c) The dealer had no knowledge of that employee's
234 violation at the time of the violation and did not direct,
235 approve, or participate in the violation.

236 (d) If the sale was made through a vending machine, the
237 machine was equipped with an operational lock-out device.

238 (5) Dealers shall exercise diligence in the management and
239 supervision of their premises and in the supervision and
240 training of their employees, agents, or servants. In proceedings
241 to impose penalties under s. 569.35, proof that employees,
242 agents, or servants of the dealer, while in the scope of their
243 employment, committed at least three violations of s. 569.41
244 during a 180-day period shall be prima facie evidence of a lack
245 of due diligence by the dealer in the management and supervision
246 of his or her premises and in the supervision and training of
247 employees, agents, officers, or servants.

248 Section 9. For the purpose of incorporating the amendment
249 made by this act to section 569.35, Florida Statutes, in a
250 reference thereto, subsection (3) of section 569.43, Florida
251 Statutes, is reenacted to read:

252 569.43 Posting of a sign stating that the sale of nicotine
253 products or nicotine dispensing devices to persons under 21
254 years of age is unlawful; enforcement; penalty.—

255 (3) Any dealer that sells nicotine products shall provide
256 at the checkout counter in a location clearly visible to the
257 dealer or the dealer's agent or employee instructional material
258 in a calendar format or similar format to assist in determining
259 whether a person is of legal age to purchase nicotine products.
260 This point of sale material must contain substantially the
261 following language:

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262 IF YOU WERE NOT BORN BEFORE THIS DATE
263 ... (insert date and applicable year)...
264 YOU CANNOT BUY TOBACCO PRODUCTS,
265 NICOTINE PRODUCTS, OR NICOTINE DISPENSING DEVICES.

266
267

268 Upon approval by the division, in lieu of a calendar a dealer
269 may use card readers, scanners, or other electronic or automated
270 systems that can verify whether a person is of legal age to
271 purchase nicotine products. Failure to comply with the
272 provisions contained in this subsection shall result in
273 imposition of administrative penalties as provided in s. 569.35.

274 Section 10. This act shall take effect July 1, 2025.

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The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 2, 2025

I respectfully request that **Senate Bill #928**, relating to Nicotine Dispensing Devices, be placed on the:

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

A handwritten signature in black ink that reads "Alexis Calatayud".

Senator Alexis Calatayud
Florida Senate, District 38

APPEARANCE RECORD

03-12-28

Meeting Date

REGULATED INDUSTRIES

Committee

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

SB 928

Bill Number or Topic

Name NICOL ORLANDO

Phone

813-784-3578

Amendment Barcode (if applicable)

Address 2812 EDENWOOD ST.

Email

NICOL@FLSENATE-FLORIDA.GOV

Street

CLEMATON

City

FL

State

33759

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.JointRules.pdf (flsenate.gov)

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APPEARANCE RECORDMarch 12, 2025

Meeting Date

SB 928

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Michael Boling

Name

Phone

941-531-28708252 Villa Grande Court

Email

MichaelBoling@FLS.MOLE.FL.GOV

Street

Tarasburg

City

FL

State

34243

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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APPEARANCE RECORD

3/12

Meeting Date

Regulated industries

Committee

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928

Bill Number or Topic

Amendment Barcode (if applicable)

Name Houston Beauchamp

Phone 813-508-0898

Address 2257 Sprengwood Circle

Street

Clearwater FL 33773

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)

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S-001 (08/10/2021)

APPEARANCE RECORD

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3/10/2025

Meeting Date

Reg Industry

Committee

Dan Marlin

Name

Phone

Amendment Barcode (if applicable)

904-572-9001

Address

200A South Orange Ave

Email

Dan@JohnnyCopper.org

Street

Green Cove Springs Fl 32043

State

Zip

Speaking: ☐ For ☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☒ 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:

PLEASE CHECK ONE OF THE FOLLOWING:

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)

APPEARANCE RECORD03/12/2024

Meeting Date

Regulated Industries

Committee

Name Kelly MalletteDeliver both copies of this form to
Senate professional staff conducting the meeting928

Bill Number or Topic

Amendment Barcode (if applicable)

Phone (850) 224-3427Email kelly@regulatedia.com

Address

104 W Jefferson Street

Street

Tallahassee, FL

City

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 SMOKE FREE ASSOCIATIONWhile 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)

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 652

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Veterinary Professional Associates

DATE: March 12, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	Imhof	RI	Fav/CS
2.			AG	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 652 creates the title “veterinary professional associate” and allows such individuals who have obtained this title, working under the supervision of a veterinarian, to practice veterinary medicine on a limited basis, as follows:

- Allows the title "veterinary professional associate" to be used only by an individual who has successfully completed an approved program.
- Unless otherwise prohibited by federal or state law, authorizes a veterinary professional associate to practice veterinary medicine while working under the supervision of a Florida licensed veterinarian.
- Prohibits a veterinary professional associate from:
 - Prescribing medicinal drugs or controlled substances.
 - Performing a surgical procedure, except for sterilizations or dental surgeries.
- Makes supervising veterinarians using a veterinary professional associate liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Practice of Veterinary Medicine

The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practices to protect public health and safety.¹

A “veterinarian” is a health care practitioner licensed by the board to engage in the practice of veterinary medicine in Florida² and they are subject to disciplinary action from the board for various violations of the practice act.³

The practice of “veterinary medicine” is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.⁴

Veterinary medicine includes, with respect to animals:⁵

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine); and
- Other branches or specialties of veterinary medicine.

The practice act does not apply to the following categories of persons:

- Veterinary aides, nurses, laboratory technicians, preceptors,⁶ or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision⁷ of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment of a specific case of the animals of a single owner.

¹ Section 474.201, F.S.

² Section 474.202(11), F.S.

³ Sections 474.213 & 474.214, F.S.

⁴ See section 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.

⁵ See section 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

⁶ A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. See also <https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary> (last visited March 11, 2025).

⁷ The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

- Faculty veterinarians when they have assigned teaching duties at accredited⁸ institutions;
- Certain graduated intern/resident veterinarians of accredited institutions;
- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons⁹ that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or methods of treatment or techniques to diagnose or treat human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.¹⁰

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by the DBPR.¹¹ Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.¹²

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:

- render a handwriting sample to an agent of the DBPR and, further, to have waived any objections to its use as evidence against her or him.
- waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the DBPR has reason to believe that a violation of this chapter has occurred and when the DBPR issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.¹³

For Fiscal Year 2022-2023, there were 13,285 actively licensed veterinarians in Florida. The DBPR received 484 complaints, which resulted in 16 disciplinary actions.¹⁴

⁸ Section 474.203(1)-(2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

⁹ See section 474.203(6), F.S., which states that the exemption applies to “[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof”

¹⁰ See section 474.203, F.S.

¹¹ Section 474.215(1), F.S.

¹² Section 474.216, F.S.

¹³ Section 474.2185, F.S.

¹⁴ Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2022-2023*, <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%202022-23.pdf> (last visited March 11, 2025).

Immediate Supervision

The practice act defines “immediate supervision” to mean that a “licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.”¹⁵

Veterinary tasks requiring immediate supervision include:¹⁶

- Administering anesthesia and tranquilization by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian.
- Administering certain vaccinations by a veterinary aide, nurse, technician, intern, or other employee of a licensed veterinarian which is not specifically prohibited.

The following tasks may be performed without the licensed veterinarian on the premises:¹⁷

- Administering medication and treatment, excluding vaccinations, as directed by the licensed veterinarian; and
- Obtaining samples and the performance of those diagnostic tests, including radiographs, as directed by the licensed veterinarian.

Veterinarian Shortage

According to a survey conducted by the American Pet Products Association (APPA), 70 percent of U.S. households, or about 90.5 million families, own a pet. This is an increase from 56 percent of U.S. households in 1988, and 67 percent in 2019.¹⁸ As a result, experts say there is a shortage of veterinarians in the U.S., which is expected to result in the need for approximately 15,000 veterinarians by the year 2030.¹⁹ A study from Banfield Pet Hospital reveals an estimated 75 million pets in the U.S. may not have access to the veterinary care they need by 2030, with an important factor being a critical shortage of veterinarians.²⁰

The University of Florida’s Dean of the College of Veterinary Medicine, Dana Zimmer, has indicated that there is a shortage of veterinarians in Florida, which in addition to pets has “1.7 million beef cattle and dairy cows, more horses than Kentucky and an alarming decline of manatee.” The state’s only veterinary medical college, the University of Florida, also reports that due to limited capacity, it must turn away 1,500 qualified candidates a year.²¹

¹⁵ Section 4764.202(5), F.S.

¹⁶ R. 61G18-17.005, F.A.C.

¹⁷ *Id.*

¹⁸ Insurance Information Institute, *Facts + Statistics: Pet Ownership and Insurance*, <https://www.iii.org/fact-statistic/facts-statistics-pet-ownership-and-insurance#:~:text=Seventy%20percent%20of%20U.S.%20households,and%2067%20percent%20in%202019>. (last visited March 11, 2025).

¹⁹ Spectrum News 13, *Mobile ‘ElleVet’ clinic helps relieve veterinarian shortage*, <https://www.mynews13.com/fl/orlando/news/2023/02/03/the-ellevet-project-#:~:text=%E2%80%9494%20Experts%20say%20there's%20a%20shortage,States%20may%20not%20get%20care>. (last visited March 11, 2025).

²⁰ Banfield Pet Hospital, *75 million pets may not have access to veterinary care by 2030, New Banfield® study finds*, <https://www.banfield.com/en/about-banfield/newsroom/press-releases/2020/75-million-pets-may-not-have-access-to-veterinary> (last visited March 11, 2025).

²¹ Dana Zimmer, *Florida needs more veterinarians* | Column, Tampa Bay Times (Jan. 3, 2022), <https://www.tampabay.com/opinion/2022/01/03/florida-needs-more-veterinarians-column/> (last visited March 11, 2025).

According to the American Veterinary Medical Association (AVMA):

Conditions have pushed the idea of a midlevel practitioner to the fore as veterinary practices have struggled to meet service demands. This issue has been compounded by continued inefficiencies in practices as pandemic disruptions persist and client expectations for availability and convenience. Inflation has also increased costs for labor and for products such as medical equipment and medications, creating additional concern around clients' ability to afford needed care. Additionally, retention of veterinary practice staff members and attrition from the profession are ongoing and increasing concerns.²²

The AVMA found that a midlevel practitioner may not be the best option to address these concerns, and that

Time and effort should be spent on resources, tools, and programs designed to retain veterinarians and credentialed veterinary technicians; further develop veterinary technician specialties; help veterinary practices operate at optimum efficiency; and effectively collaborate—within practice teams and across the profession—to meet clients' needs for high-quality veterinary services.²³

However, according to a study conducted by the National Library of Medicine:

The projected shortage of veterinarians has created a need to explore alternatives designed to meet society's future demands. A veterinary professional health care provider, similar to the human medical profession's physician assistant (PA), is one such alternative. It is suggested that perhaps veterinary professional associates, modeled after PAs, could be employed to handle routine veterinary care and thereby allow veterinarians additional time to focus on the more demanding and challenging aspects of veterinary medicine. Perhaps a team approach, similar to the physician/PA team, could help the field of veterinary medicine to better serve both clients and patients. As veterinary medicine directs its attention toward the new challenges on the horizon, creative solutions will be needed. Perhaps some variation of a veterinary professional associate is worthy of future discussion.²⁴

Human Physician Assistants

According to the Mayo Clinic, Physician Assistants (PA) are “licensed medical professionals who hold an advanced degree and are able to provide direct patient care. They work with patients of all ages in virtually all specialty and primary care areas, diagnosing and treating common illnesses and working with minor procedures. With an increasing shortage of health care providers, PAs are a critical part of today’s team-based approach to health care. They increase access to quality health care for many populations and communities. The specific duties of a PA

²² American Veterinary Medical Association, AVMA News, *Idea of midlevel practitioner rejected in favor of better support, engagement of credentialed veterinary technicians* (Jan. 10, 2023), <https://www.avma.org/news/idea-midlevel-practitioner-rejected-favor-better-support-engagement-credentialed-veterinary> (last visited March 11, 2025).

²³ *Id.*

²⁴ Lori Kogan, Sherry Stewart, *Veterinary professional associates: does the profession's foresight include a mid-tier professional similar to physician assistants?*, National Library of Medicine (2009), <https://pubmed.ncbi.nlm.nih.gov/19625672/> (last visited March 11, 2025).

are determined by their supervising physician and state law, but they provide many of the same services as a primary care physician. They practice in every state and in a wide variety of clinical settings and specialties.”²⁵

In Florida, PAs are licensed medical professionals that are authorized to perform services delegated by a supervising physician.²⁶ PAs are regulated by the Florida Council on Physician Assistants in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. During fiscal year 2023-2024, there were 11,890 actively licensed PAs in the state, and 1,339 initial PA licenses were issued by the Florida Department of Health.²⁷

Veterinary Professional Associates in Other Jurisdictions

States

In 2024, voters of the state of Colorado approved a ballot measure to create a new, state-regulated veterinary position (Veterinary Professional Associate) that was to address, in part, the shortage of care, especially in rural areas, for pets.²⁸ Colorado’s proposition empowered the state to create a regulatory scheme to license and regulate these Veterinary Professional Associates.

Similarly to what is being proposed in SB 652, Colorado would provide this Veterinary Professional Associate pathway for those who complete a master’s degree in veterinary clinical care, or an equivalent degree determined by the state board.²⁹

Universities

In 2022, The Lincoln Memorial University-College of Veterinary Medicine, created the first-of-its-kind Master of Veterinary Clinical Care degree. As of the beginning of 2025, this is the only program in the country that offers a Veterinary Clinical Care master’s degree.

Colorado State University is in the process of developing a similar program.³⁰

III. Effect of Proposed Changes:

SB 652 creates the title “veterinary professional associate” and allows individuals working under the supervision of a veterinarian to practice veterinary medicine on a limited basis.

Accordingly, the bill defines the following terms:

²⁵ Mayo Clinic College of Medicine and Science, *Physician Assistant*, <https://college.mayo.edu/academics/explore-health-care-careers/careers-a-z/physician-assistant/> (last visited March 11, 2025).

²⁶ Sections 458.347(2)(e) and 459.022(2)(e).

²⁷ Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2023-2024, <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/2024.10.28.FY23-24AR-FINAL.pdf> (last visited March 11, 2025).

²⁸ Colorado Department of Regulatory Agencies, *State Board of Veterinary Medicine: Proposition 129*, <https://dpo.colorado.gov/Veterinary/Proposition129>, (last visited March 11, 2025),

²⁹ *Id.*

³⁰ Colorado State University, *About the Master of Science in Veterinary Clinical Care*, <https://vetmedbiosci.colostate.edu/vpa/>, (last visited March 11, 2025).

- "Approved program" means a master's program in veterinary clinical care, or the equivalent, from a school of veterinary medicine in the United States or in its territories or possessions.
- "Veterinary professional associate" means a person who has earned a master's degree from an approved program and is authorized to perform veterinary medical services delegated by a supervising veterinarian.

The bill also provides that:

- The title "veterinary professional associate" may be used only by an individual who has successfully completed an approved program and passed a national competency examination.
- Unless otherwise prohibited by federal or state law, a veterinary professional associate may perform duties or actions in s. 474.202(9) and (13), F.S., (practice of veterinary medicine) in which he or she is competent and has the necessary training, current knowledge, and experience to perform the assigned duties. The associate may perform only the duties assigned to him or her while under the supervision, as defined in s. 474.202, F.S., of a licensed veterinarian, except when immediate supervision is required under the bill.
- A veterinary professional associate may not do either of the following:
 - Prescribe medicinal drugs or controlled substances (unless authorized by state or federal law).
 - Perform a surgical procedure, except for sterilizations or dental surgeries that do not enter a body cavity.
- Any surgery that is done must be performed under immediate supervision as defined in s. 474.202, F.S., of a licensed veterinarian.

Finally, SB 652 provides that a licensed veterinarian who assigns duties or actions to a veterinary professional associate is **liable** for any act or omission of the veterinary professional associate acting under the licensed veterinarian's supervision.

The bill provides an effective date of July 1, 2025.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides a new veterinary professional associate but does not provide a licensure structure.

VIII. Statutes Affected:

This bill creates section 474.2126 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 Regulated Industries on March 12, 2025:

The committee substitute clarifies the language to provide that the only surgical procedure a veterinary professional associate can perform is a veterinary sterilization.

B. Amendments:

None.



164782

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2025	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Bradley) recommended the following:

Senate Amendment

Delete lines 57 - 59
and insert:

(b) Perform surgical procedures that enter a body cavity,
except for veterinary sterilizations. Surgical procedures must
be performed under immediate

By Senator Bradley

6-00499A-25

2025652

A bill to be entitled

An act relating to veterinary professional associates; providing a short title; creating s. 474.2126, F.S.; providing legislative findings; defining terms; authorizing certain individuals to use the title "veterinary professional associate"; authorizing veterinary professional associates to perform certain duties only while under the responsible supervision of a licensed veterinarian; prohibiting such associates from prescribing certain drugs or controlled substances or performing certain surgical procedures; providing exceptions; providing that supervising veterinarians are liable for the acts or omissions of veterinary professional associates under their supervision; providing an effective date.

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

Section 1. This act may be cited as the "Veterinary Workforce Innovation Act."

Section 2. Section 474.2126, Florida Statutes, is created to read:

474.2126 Veterinary professional associate.—

(1) The Legislature finds that the practice of educated, trained, and experienced veterinary professional associates will increase consumers' access to high-quality veterinary medical services, at a reasonable cost to consumers, while also increasing the efficiency of the practice of veterinary medicine in this state.

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

6-00499A-25

2025652

(2) As used in this section, the term:

(a) "Approved program" means a master's program in veterinary clinical care, or the equivalent, from a school of veterinary medicine in the United States or in its territories or possessions.

(b) "Veterinary professional associate" means a person who has earned a master's degree from an approved program and is authorized to perform veterinary medical services delegated by a supervising veterinarian.

(3) The title "veterinary professional associate" may be used only by an individual who has successfully completed an approved program and passed a national competency examination.

(4) Unless otherwise prohibited by federal or state law, a veterinary professional associate may perform duties or actions, including duties or actions in s. 474.202(9) and (13), in which he or she possesses the competence, necessary training, current knowledge, and experience to perform the assigned duties. The veterinary professional associate may perform only the duties assigned to him or her while under the responsible supervision, as defined in s. 474.202, of a licensed veterinarian, except when immediate supervision is required as provided in paragraph (5)(b).

(5) A veterinary professional associate may not do either of the following:

(a) Unless otherwise authorized by state or federal law, prescribe medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in chapter 893.

(b) Perform a surgical procedure, except for veterinary sterilizations or surgical procedures that do not enter a body

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

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59 cavity. Surgical procedures must be performed under immediate
60 supervision, as defined in s. 474.202, of a licensed
61 veterinarian.
62 (6) A licensed veterinarian who assigns duties or actions
63 to a veterinary professional associate is liable for any act or
64 omission of the veterinary professional associate acting under
65 the licensed veterinarian's supervision.
66 Section 3. This act shall take effect July 1, 2025.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 354

INTRODUCER: Regulated Industries Committee and Senator Gaetz

SUBJECT: Public Service Commission

DATE: March 13, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 354 makes several revisions to Florida law regarding the Florida Public Service Commission (PSC). The bill:

- Expands the number of PSC commissioners from five to seven and establishes that one commissioner be a certified public accountant and one commissioner be a chartered financial analyst.
- Requires the Public Service Commission (PSC), when issuing orders, to provide adequate support for their conclusions.
- For PSC orders affecting substantial interests, when issuing an order accepting or denying a settlement agreement, the PSC must provide reasoned explanations for its decision, with citations to specific facts and factors it relied upon, and a discussion of major elements of the settlement.
- Requires the PSC is to keep the allowable rate of return on equity for public utilities as close as possible to the risk-free rate of return and that deviations from such be justified.
- Requires the PSC to establish a schedule for when public utilities may request changes to their rates.
- Requires the PSC to submit an annual report on public utility rates which includes benchmarking and analysis on economics, cost impacts, return on equity, and executive compensation.
- Amends the procedure and requirements for the PSC to approve public utility storm protection plans.

- Creates new requirements for nonprofit water and wastewater utilities to be exempt from PSC jurisdiction over rates and service.
 - Creates a process for the PSC to review complaints regarding whether a nonprofit water or wastewater utility meets these requirements.
 - Creates a process for a utility that does not meet these requirements to be brought under PSC jurisdiction for a minimum of 24 months.

The bill has an effective date of July 1, 2025.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹ 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 and reliable manner and at fair prices.² In order to do so, the PSC exercises authority over 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.³

Composition of the PSC

The PSC consists of five commissioners who serve staggered four-year terms.⁴ Commissioners are appointed by the Governor from a pool of at least three nominees—selected by the Florida Public Service Commission Nominating Council⁵—for each commissioner vacancy. These appointments are subject to confirmation by the Florida Senate during the next regular session after the vacancy occurs. If the Senate refuses to confirm or fails to consider the Governor's appointment, the council must initiate the nominating process within 30 days. Before the council nominates a candidate, it must determine that the person is competent and knowledgeable in one or more fields, including, but not limited to:

- Public affairs;
- Law;
- Economics;
- Accounting;
- Engineering;
- Finance;
- Natural resource conservation;

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Feb. 13, 2025).

³ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Feb. 13, 2025).

⁴ Section 350.01, F.S.

⁵ The Florida Public Service Commission Nominating Council is a 12-member body with the responsibility to select nominees for PSC commissioners. At least one member of the council must be 60 years of age or older. Six members, including three members of the Florida House of Representatives, one of whom must be a member of the minority party, appointed by, and serve at the pleasure of, the Speaker of the House of Representatives. Six members, including three members of the Florida Senate, one of whom must be a member of the minority party, shall be appointed by and serve at the pleasure of the President of the Senate. Section 350.031(1)(a), F.S.

- Energy; or
- Another field substantially related to the duties and functions of the PSC.⁶

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid⁷ and may order the addition or repair of infrastructure as necessary.⁸ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities⁹ (called “public utilities” under ch. 366, F.S.).¹⁰ 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, and bulk power supply operations and planning.¹¹ 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.¹² Florida also has 27 municipally-owned gas utilities and four special gas districts.¹³

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.¹⁴ These cooperatives operate in 57 of Florida’s 67 counties and have more than 2.7 million customers.¹⁵ 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

⁶ Section 350.031(5), F.S.

⁷ Section 366.04(5) and (6), F.S.

⁸ Section 366.05(1) and (8), F.S.

⁹ Section 366.05, F.S.

¹⁰ Section 366.02(8), F.S.

¹¹ Florida Public Service Commission, *About the PSC*, *supra* note 3.

¹² Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Mar. 8, 2025).

¹³ Florida Public Service Commission, *2024 Facts and Figures of the Florida Utility Industry*, pg. 1 & 13, Apr. 2024

(available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202024.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.”

¹⁴ Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Mar. 8, 2025).

¹⁵ Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Mar 8, 2025).

mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.¹⁶

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).¹⁷ 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. The Florida Division of Chesapeake Utilities, FPUC-Indiantown Division, and Sebring Gas System are only engaged in firm transportation service.¹⁸

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.¹⁹ If a utility believes it is earning below a reasonable level, it can petition the PSC for a change in rates.²⁰

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.²¹

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2023, the PSC had jurisdiction over 146 investor-owned water and/or waste-water utilities in 38 of Florida's 67 counties.²²

¹⁶ *Id.*

¹⁷ Florida Public Service Commission, *2024 Facts and Figures of the Florida Utility Industry*, *supra* note 14, at 5.

¹⁸ *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.

¹⁹ PSC, *2024 Annual Report*, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2024.pdf>) (last visited Mar. 8, 2025).

²⁰ *Id.*

²¹ *Id.*

²² Florida Public Service Commission, *2024 Facts and Figures of the Florida Utility Industry*, <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202024.pdf> (last visited Mar. 5, 2025).

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide “service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation,” and others.²³ The PSC also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

Municipal Water and Sewer Utilities in Florida

A municipality²⁴ may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.²⁵

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality’s corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

PSC Setting of Public Utility Rates and Other Charges

Section 366.041, F.S., establishes the considerations the PSC must apply in fixing just, reasonable, and compensatory rates:

the [PSC] is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the PSC’s authority to establish and implement procedures for the fixing of and changing public utility rates. Under this section, all applications made by public utilities for changes in rates must be in writing with the PSC under the PSC’s established

²³ Section 367.022, F.S.

²⁴ Defined by s. 180.01, F.S., “as any city, town, or village duly incorporated under the laws of the state.”

²⁵ Section 180.02, F.S., *see also* s. 180.06, F.S.

rules and regulations.²⁶ Section 366.06(2), F.S., requires the PSC to hold a public hearing whenever it finds, upon request made, or upon its own motion, one or more of the following:

- That the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law;
- That such rates are insufficient to yield reasonable compensation for the services rendered;
- That such rates yield excessive compensation for services rendered; or
- That such service is inadequate or cannot be obtained.

During such a hearing, the PSC must determine just and reasonable rates to be thereafter charged for such service, and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

The PSC establishes separate rates and charges for various components of a public utility's cost of providing service to its customers. These are established through various proceedings which include:

- Base rate proceedings (also known as rate cases);
- Cost recovery clauses;
- Infrastructure surcharges;
- Interim charges.²⁷

Rate Cases

Rate cases are generally the least frequent of the PSC's rate and charge proceedings for public utilities. These wide-ranging proceedings seek to address, for a public utility:

- A reasonable rate of return on investment;
- Operating and maintenance expenses; and
- Cost of administering the public utility.²⁸

According to the PSC, in setting a reasonable rate of return, it is guided by the principles established in *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923) and *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).²⁹ In *Bluefield*, the United States Supreme Court found that:

Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment....A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country

²⁶ Section 366.06(1), F.S.

²⁷ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, (Feb. 28, 2025).

²⁸ *Id.*

²⁹ *Id.*

on investments in other business undertakings which are attended by corresponding, risks and uncertainties.³⁰

Further, the court in *Bluefield* found that such return should be “reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.” Further, this “rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.”³¹ Thus, for a rate of return to be non-confiscatory, it must be adjusted as broader-market circumstances change.

The Supreme Court in *Hope* found that:

The fixing of ‘just and reasonable’ rates, involves a balancing of the investor and the consumer interests.... From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business.... By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.³²

In *Hope*, the Supreme Court also reiterates its previous decision in *Fed. Power Comm’n v. Nat. Gas Pipeline Co. of Am.*, 315 U.S. 575, 586 (1942) that the “[United States] Constitution does not bind rate-making bodies to the service of any single formula or combination of formulas.” Rather, it is “not theory but the impact of the rate order which counts.”³³ The court cites with approval that the Federal Power Commission, in its rate-making function, uses “pragmatic adjustments” in fixing rates.³⁴

In a base rate proceeding, the PSC establishes a public utility’s rate of return or cost of capital. It sets this based on:

- Return on equity (ROE);
- Long-term and short-term debt;
- Customer deposits; and
- Deferred taxes.³⁵

The PSC, in a rate proceeding, develops a substantial evidentiary record, which includes analysis of ROE using models generally used in the utility industry. The PSC also takes into account financial risk to the public utility when setting ROE. When the PSC approves an ROE

³⁰ *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 690-92 (1923).

³¹ *Id.* at 692.

³² *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944).

³³ *Id.* at 602.

³⁴ *Id.*

³⁵ Florida Public Service Commission, 2025 Agency Legislative Bill Analysis for SB 354, *supra* note 27.

for a public utility, it does so within a 100-basis point rate of return (i.e. plus or minus 1 percent).³⁶

The rate of return actually earned by the utility is dependent on both the utility's ability to manage costs and react to other factors that may impact its operations. These factors may include:

- Changes in revenues due to the impact of weather on sales;
- New, modified, or cancelled tariffed rates or charges;
- Costs of materials, supplies, and labor; and
- Interest rates affecting the cost of debt.³⁷

Salaries and benefits paid to employees of the public utility, including its executives, are part of the PSC's review in a rate case proceeding and the PSC examines these figures in the aggregate. In determining whether such expenses are reasonable and prudent, the PSC will consider industry norms and the need to attract and retain qualified executive and non-executive utility personnel.³⁸

After the conclusion of a rate case, the PSC will monitor the earnings of a public utility through regular surveillance reports. Currently, public electric utilities with 50,000 or more customers must submit such reports monthly; those with less than 50,000 customers must do so quarterly.³⁹ For public gas utilities, with 25,000 or more customers must submit such reports monthly; those with less than 25,000 customers must do so quarterly.⁴⁰ If these reports show a public utility is earning outside of its approved ROE range, the PSC will inquire with the utility and take corrective action if needed.⁴¹

Establishment of other Bases of Public Utility Customer Charges

Outside of rate cases, the PSC also has other processes for revising, or creating, utility rates and charges. These proceedings include cost recovery clause proceedings and interim charges.

Cost recovery clause proceedings allow public utilities to recover variable, volatile, or legislatively mandated costs.⁴² For public electric utilities, the PSC holds annual hearings to allow the utilities to recover expenditures on:

- Fuel and purchased power costs and capacity costs;
- Environmental compliance costs pursuant to s. 366.8255, F.S.;
- Storm protection plan costs pursuant to s. 366.96, F.S.;
- Nuclear costs pursuant to s. 366.93, F.S.;⁴³ and
- Energy conservation program costs pursuant to s. 366.80 through 366.83, F.S.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Fla. Admin Code R. 25-6.1352.

⁴⁰ Fla. Admin Code R. 25-7.1352.

⁴¹ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, *supra* note 27.

⁴² *Id.*

⁴³ The PSC has not conducted a nuclear cost recovery proceeding since 2018 as no public utility has petitioned for recovery under this clause since that year.

For public natural gas utilities, the PSC holds annual hearings to allow the utilities to recover expenditures on:

- Purchased natural gas costs;
- Energy conservation costs pursuant to s. 366.80 through 366.83, F.S.; and
- Natural gas infrastructure relocation costs pursuant to s. 366.99, F.S.⁴⁴

Outside of cost recovery clause proceedings, the PSC also provides a process for establishing interim charges to quickly recover estimated storm-recovery related expenses. These interim charges are time-limited and are subject to a final true-up proceeding once final costs can be determined for a particular storm or series of storms.⁴⁵

The PSC does not establish ROE or overall rates of returns in recovery clause and interim charge proceedings, as these focused rate proceedings are limited in scope. Rather, ROE and overall rates of return are set during rate cases, as those proceedings are substantially broader in scope.⁴⁶

Storm Protection Plans

Section 366.96 (ch. 2019-158, Laws of Fla.), F.S., requires public electric utilities to file with the PSC “a transmission and distribution storm protection plan (SPP) that covers the immediate 10-year planning period. Each 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.”⁴⁷ Public electric utilities file, for PSC-review and approval, an updated SPP every three years.⁴⁸ In its review of SPPs, section 366.96(4), F.S., requires the PSC to consider:

- The extent to which the SPP is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the SPP prioritizes areas of lower reliability performance;
- The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including, but not limited to, flood zones and rural areas;
- The estimated costs and benefits of the SPP to the utility and its customers of making the improvements proposed in the plan; and
- The estimated annual rate impact resulting from implementation of the SPP during the first three years addressed in the plan.

Section 366.96(7), F.S., also includes an annual cost-recovery clause mechanism that allows these utilities to recover transmission and distribution storm protection plan costs through a charge separate and apart from that utility’s base rates. This annual recovery is called the SPP cost recovery clause (SPPCRC) docket. Once a utility’s SPP has been approved, the utility may proceed with implementing the plan. Once the PSC determines that SPP costs were prudently incurred (and actions taken to implement the approved SPP cannot be taken as evidence of

⁴⁴ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, *supra* note 27.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 366.96(3), F.S.

⁴⁸ Section 366.96(6), F.S.

imprudence), SPP implementation costs are not subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

A public utility may recover SPP capital expenditures by recovering 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 calculated at the public utility's weighted average cost of capital using the last approved return on equity.⁴⁹

Florida Supreme Court Interpretation of s. 366.96, F.S.: Citizens of the State of Florida v. Andrew Giles Fay

In 2022, the PSC approved proposals from Florida's four public electric utilities for their SPPs for the 2022-2032 period.⁵⁰ Florida's Office of Public Counsel (OPC)⁵¹ challenged the PSC orders at the Florida Supreme Court.⁵² The OPC argued that the PSC erred in its interpretation of the statute and impaired the fairness of the proceedings below by granting the utilities' motions to strike portions of expert testimony regarding prudence review of SPP costs.⁵³ The Office of Public Counsel (OPC) asserted that the PSC erred in its decision by:

- Determining that the PSC was not required to conduct a prudence review of the public utilities' proposed program and project investments in SPPs; and
- Misinterpreting the PSC's SPP Rule and refusing to require FPL and FPUC to provide an estimate of the reduction in outage times and restoration costs that would result from their proposed SPPs, or a comparison of the estimated costs and benefits of their proposed SPPs, both of which were required by the PSC's SPP Rule.⁵⁴

In its opinion in the case, issued on November 14, 2024, the Florida Supreme Court found that the PSC had correctly reviewed and approved the utilities' SPP proposals after the PSC concluded that the proposed SPPs were in the public interest. Also, that the PSC did not abuse its discretion in striking the expert testimony at issue.⁵⁵ In making this finding, the Supreme Court found that approval of SPPs only requires that the PSC find that the project is in the public interest. The PSC does not need to find that the benefits of a proposed SPP outweigh its costs⁵⁶ and the PSC's review of a proposed SPP is not based on the prudence of the SPP.⁵⁷ However, an estimated cost/benefit analysis is still part of the four factors the PSC is to consider when approving an SPP.⁵⁸ A prudence review is only required when a utility seeks to recover for actual expenditures in implementing an SPP (as part of the SPPCRC docket).⁵⁹

⁴⁹ Section 366.96(9), F.S.

⁵⁰ *Citizens of State v. Fay*, 396 So. 3d 549, 553 (Fla. 2024).

⁵¹ The Public Counsel, appointed the Florida Senate and House of Representatives joint Committee on Public Counsel Oversight, represents the general public in proceedings before the PSC and before counties that regulate water and wastewater utilities. Sections 350.61 and 350.611, F.S.

⁵² Actions seeking judicial review of PSC decisions regarding rates or service of utilities providing electric or gas service are brought directly to the Florida Supreme Court under s. 366.10, F.S.

⁵³ *Citizens*, *supra* note 50, at 560.

⁵⁴ *Id* at 554.

⁵⁵ *Id* at 560-61.

⁵⁶ *Id* at 555.

⁵⁷ *Id* at 558.

⁵⁸ *Id* at 557-60.

⁵⁹ *Id* at 556-57.

This review of prudence with the SPPCRC is distinct from the PSC’s normal rate setting procedure. Rather, the Supreme Court found, in interpreting s. 366.96(7), F.S., that if, “any costs ultimately incurred [by the utility] exceed the relevant component of forecasted benefit [as proposed in the SPP and approved by the PSC], that deficiency will not constitute evidence of imprudence by the utility.”⁶⁰

Tariffs

A public utility’s tariffs are a series of documents, approved by the PSC, that provide the utility’s rates, terms, and conditions for service. These tariffs also include standardized forms for the utility’s service offerings and its standard contracts and agreements. Tariffs are generally revised, as necessary, after a PSC-approved change in a utility’s rates or charges and are generally part of any proceeding revising rates or charges. Utilities may also request a tariff change if circumstances warrant doing so. However, the PSC does not establish ROE or overall rates of return in reviewing stand alone requests to approve a new, modified, or canceled tariff.⁶¹

Decisions of the PSC: *Floridians Against Increased Rates, Inc. v. Clark*

Floridians Against Increased Rates, Inc. v. Clark, 371 So. 3d 905 (Fla. 2023), involved an appeal of a rate case proceeding for FPL. This rate case, which involved seven intervening parties, was originally resolved via settlement at the PSC in January 2022. The wide-ranging settlement resolved a number of issues including:

- Incremental increases in rates for certain solar projects;
- Equity-to-debt-ratio authorization;
- Establishing an allowed ROE;
- Base rate charges;
- Allowable investment in power generation facilities, transmission and distribution systems, and several pilot programs for electric vehicles (EV) and renewable energy;
- Authorization to expand FPL’s SolarTogether program;⁶²
- Depreciation timelines;
- Incremental rate changes for storm impacts;
- Savings from an expanded version of its asset optimization program; and
- Recovery of certain retired assets.⁶³

At the PSC hearing on the settlement, Floridians Against Increased Rates, Inc. (FAIR), who were not signatories to the settlement, opposed the settlement based assertions that it was not in the public interest and would result in unreasonably high rates. Signatories to the settlement made a wide-ranging argument to the PSC as to how the settlement was in the public interest.⁶⁴ The PSC concluded that the settlement “provides a reasonable resolution of all issues raised,

⁶⁰ *Id* at 556.

⁶¹ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, *supra* note 27.

⁶² FPL’s SolarTogether program allocates newly built solar capacity to different customer classes and allows customers to subscribe to a portion of this capacity in exchange for a credit funded by the general body of ratepayers.

⁶³ *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 906–08 (Fla. 2023)

⁶⁴ *Id* at 908-09.

establishes rates that are fair, just, and reasonable, and is in the public interest,” and approved the settlement. The court noted, in discussing the PSC’s order approving the settlement, that “the PSC’s reasoning about whether all this is in the public interest covers less than two pages of the over 70,000 in the record we have for review.” FAIR appealed the PSC’s decision to the Florida Supreme Court.

In its review of the case, the court noted that PSC’s decisions arrive to the court “with the presumption that they are reasonable and just,” and that it should not “upset the carefully constructed constitutional and statutory process applicable here by ourselves supplying a basis for the [PSC] action that the [PSC], with its expertise, did not offer.” To do so, would, in essence, propel “the court into the domain which [the Legislature] has set aside exclusively for the administrative agency.”⁶⁵

However, the court noted that it must still endeavor to determine whether the PSC has exercised its discretion within the range delegated to it by the Legislature.⁶⁶ In order to do so, the court must look to the reasons given by the PSC for its decision.⁶⁷ Thus, the PSC must give the court “something to work with: a decision that is reasoned and articulated enough to allow us to assess on what basis it has concluded that the settlement agreement is in the public interest and results in rates that are fair, just, and reasonable”⁶⁸

While the PSC is not required to resolve every issue independently, it must “discuss...the major elements of the settlement agreement and explain...why it [is] in the public interest.”⁶⁹ This includes “considering the competing arguments made by the parties below in light of the factors relevant to the [PSC’s] decision, and supplying, given these arguments and factors, an explanation of how the evidence presented led to its decision.” Essentially, it is not enough for the PSC’s decision to be simply reasoned, it must be reasonably explained.⁷⁰

In this case, the court found that the PSC failed to reasonably explain its decision. In remanding the case back to the PSC, the court noted that “after hearing from 60 witnesses and receiving 635 exhibits into evidence, the [PSC] produced an explanation of its public interest determination that spanned little more than a page,” and the order provided nothing more than “conclusory statements about the virtues of the settlement agreement, not the reasoned explanation required for our review.”⁷¹

Florida Energy Efficiency and Conservation Act

Sections 366.80 through 366.83, and s. 403.519, F.S., are collectively known as the Florida Energy Efficiency and Conservation Act (FEECA). The purpose of FEECA is to have the PSC require each public, municipally-owned, and cooperative electricity or natural gas utility (with

⁶⁵ *Id* at 911.

⁶⁶ *Id*.

⁶⁷ *Id*.

⁶⁸ *Id*.

⁶⁹ *Id* at 912. *Citing to Sierra Club v. Brown*, 243 So. 3d 903, 913 (Fla. 2018).

⁷⁰ *Id*.

⁷¹ *Id* at 913.

exemptions for smaller electricity and natural gas utilities)⁷² to develop plans and implement programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area (subject to PSC approval). The goals of this demand-side management (DSM) program are:

- To increase the efficiency of energy consumption and increase the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels;
- To reduce and control the growth rates of electric consumption;
- To reduce the growth rates of weather-sensitive peak demand; and
- To encourage the development of demand-side renewable energy resources.⁷³

Section 366.82(2), F.S., authorizes the PSC to allow efficiency investments across generation, transmission, and distribution as well as efficiencies within the user base as part of FEECA DSM programs. Sections 366.82(2) and (6), F.S., require the PSC to establish goals for each utility subject to FEECA and update these goals at least every five years. Public utilities subject to FEECA may seek PSC cost recovery approval for DSM programs approved under FEECA.

According to the PSC, energy conservation and DSM are accomplished through a “multi-pronged approach that includes energy efficiency requirements in building codes for new construction, federal appliance efficiency standards, utility programs, and consumer education.”⁷⁴ These DSM programs, which are paid for by all customers, “are aimed at increasing efficiency levels above building codes and appliance efficiency standards.”

Section 366.82(10), F.S., requires the PSC to demand periodic reports from each utility subject to FEECA. Using these reports, the PSC must file an annual report to the Legislature and Governor of the FEECA goals it has adopted and its progress towards those goals.

PSC Public Records Exemptions

Section 350.121, F.S., protects from public disclosure records, documents, papers, maps, books, tapes, photographs, files, sound recordings, or other business material, regardless of form or characteristics obtained by the PSC through an inquiry. Much material is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

In addition, ss. 366.093, 367.156, and 368.108, F.S., provide processes for public utilities, water and wastewater utilities, and gas transmission and distribution companies, respectively, to protect proprietary confidential business information from public disclosure, provided pursuant to discovery in a PSC docket or proceeding. Such proprietary confidential business information is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

⁷² FEECA does specifically exempt natural gas utilities with an annual sales volume of less than 100 million therms and electric utilities that, as of July 1, 1993, provide less than 2,000 gigawatt hours of electricity annually to end-use customers.

⁷³ Section 366.82(2), F.S.

⁷⁴ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, *supra* note 27.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 350.01(1), F.S., to expand the membership of the Florida Public Service Commission (PSC) from five to seven commissioners. It also adds a requirement that one commissioner be a certified public accountant and one commissioner be a chartered financial analyst.⁷⁵

Section 2 of the bill creates s. 350.129, F.S., to require that, when the PSC issues an order, it must do so with adequate support for its conclusions—this would include citing to specific facts and factors upon which those conclusions are based. While the bill maintains current law that the PSC may continue to make conclusions in the public interest, it must specify its rationale in doing so. In addition, when the PSC accepts or denies a settlement agreement (in its orders affecting substantial interests under s. 120.569, F.S.), it must provide a reasoned explanation, with citation to specific facts and factors upon which it relied, for doing so. The commission almost must provide in its order regarding such settlements, a discussion of the major elements of the settlement and a rationale for its conclusions.

Section 3 of the bill amends s. 366.06, F.S., to provide that PSC is to keep the allowable rate of return on equity for public utilities as close as possible to the risk-free rate of return. Upward deviations away from the risk-free rate must be specifically justified by the public utility seeking a tariff modification.

Section 4 of the bill amends s. 366.07, F.S., to requires the PSC to establish a schedule for when public utilities may request changes to their rates.

Section 5 of the bill creates s. 366.077, F.S., file an annual report on utility rates with the Governor and Legislature. The bill requires the report to contain all of the following:

- An investigation of the contemporary economic analysis related to rate changes in Florida.
- An analysis of potential cost impacts to utility customers of Florida if excess returns on equity have occurred, and potential cost savings, if any, to customers if the excess returns to equity have not occurred at a significant rate.
- An analysis of return on equity models presented by public utilities and used by the commission to determine approved returns on equity for public utilities in this state. This analysis must:
 - Compare models used by federal agencies and other state utility regulatory bodies with those used by the commission;
 - Determine whether the models used are generally financially logical; and
 - Determine whether the models used comport with generally accepted economic theory both inside and outside of the utility industry.
- An assessment of long-term impacts and economic repercussions of rising rates of regulated returns on equity to utilities and their customers in the future.
- A summary detailing the compensation of the executive officers of all public utilities servicing this state, or the executive officers of their affiliated companies or parent company, including, but not limited to, salaries, benefits, stock options, bonuses, stock

⁷⁵ The bill does not specify whether one commissioner holding both a CFA and CPA would satisfy this requirement.

buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue.

- This summary must include the profits and losses of each entity as reported in its financial statements and highlight any compensation exceeding the industry average.
- The commission must also include any rationale provided by a public utility justifying compensation exceeding the industry average and, for each public utility, an explanation as to how specific data gathered during the compiling of information informed the commission's decisions on the public utility's rate change requests.
- Benchmarking, comparing public utilities servicing Florida with public utilities servicing other states, including commentary on all findings.

Section 6 of the bill amends s. 366.96, F.S., regarding storm protection plans (SPP) and storm protection plan cost recovery (SPPCRC). The bill requires that, for any improvement included in an SPP, such improvement must have forecasted benefit exceeding its forecasted cost. The bill also adds a new requirement that the PSC, consider, in addition to the existing considerations listed in current law in s. 366.96(4), F.S., the following in reviewing and approving SPPs:

- Whether the cost of implementing the SPP is reasonable and prudent given the expected benefit, and
- The performance of previously approved SPP improvements in reducing outage times and storm restoration costs.

The bill also deletes an obsolete provision in s. 366.96, F.S., requiring the PSC to adopt rules by a certain date.

Section 10 of the bill requires the PSC to submit a rule for adoption implementing Section 6 of the bill as soon as practicable, but not later than October 31, 2025.

Section 7 amends s. 367.021, F.S., relating to definitions for the state's water and wastewater system law, by adding definitions for:

- "Governing board" to mean a board of directors, nonprofit board, board of trustees, corporate governing body as established in the in the bylaws or articles of incorporation of an organization, or similar body overseeing the operations of an organization; and
- "Qualifying nonprofit organization" to mean an organization that meets all of the following criteria:
 - It is a nonprofit corporation, association, or cooperative providing service solely to members who own and control it.
 - It conducts open and fair elections to its governing board at an annual meeting of its members. The term of any one governing board member may not exceed 36 months; however, a candidate may run for reelection without any limit on the number of terms they may serve.
 - At least 75 percent of the governing board of the organization is made up of the organization's members.
 - The organization provides a mechanism for members of the organization to directly nominate candidates directly for the governing board. At a minimum, any member or candidate who obtains the signatures of at least 1 percent of members of the organization on a petition for nomination for a particular board position or election must, as

- established by that organization's bylaws, be allowed to stand for election in the same manner as if that member had been nominated by the existing governing board, a committee on nominations established by the board, or other nomination mechanism or procedure as established by the organization's governing documents. Such candidate must meet all other requirements established by law or by the organization's governing documents to serve on the board.
- The organization is not subject to disqualification pursuant to s. 367.24 (described in Section 9 below).

Section 8 amends s. 367.022, F.S., repeals an exemption from the jurisdiction of the PSC—and the provisions of ch. 367, F.S., except as otherwise provided in the chapter—from nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives. The exemption is replaced by an exemption for qualifying nonprofit organizations as defined in s. 367.021, F.S., above.

Section 9 creates s. 367.24, F.S., to create a process for challenges as to whether an organization qualifies as a qualifying nonprofit organization under ch. 367. It provides that the PSC, may, upon its own motion or petition by any person, initiate a proceeding to determine whether an organization meets the definition of a qualifying nonprofit organization. Before a person may file such a petition, they must first notify the organization in question of their intention to file such a petition and give the organization 90 days to respond if they so choose.⁷⁶ After the expiration of those 90 days, if the person is dissatisfied with the response of the organization's governing body, such person may file a petition to initiate the commission proceeding provided for in this subsection. In filing such a petition, the person must, at minimum, include the notice, the organization's response (if provided), and make specific allegations regarding the manner in which the organization does not meet the definition of a qualifying nonprofit organization.

In making a determining whether an organization meets the definition of a qualifying nonprofit organization, the PSC must consider:

- The governing documents of the organization;
- The conduct of the organization;
- The conduct of the governing board of the organization; and
- Any other relevant information provided by a party to the proceeding.

If the PSC finds that an organization does not meet the definition of a qualifying nonprofit organization, it must provide the organization with the reasoning for its determination and 90 days to address the PSC's determination. If after the expiration of this 90-day period, the PSC maintains its determination, the organization will be no longer exempt from the PSC's jurisdiction and will be regulated as a utility under ch. 367 for a minimum of 24 months until the organization may re-apply for qualifying nonprofit organization status.

⁷⁶ The notification must be 1) in writing, 2) Be delivered by certified mail, return receipt requested, to the name and mailing address provided by the organization for customer service or other external inquiries or be served upon organization's registered agent, if the organization has one; and 3) make specific allegations regarding the manner in which the organization does not meet the definition of a qualifying nonprofit organization.

Upon an organization becoming a regulated utility in this manner, the PSC shall follow the procedures provided in current s. 367.171(2). Such new utility shall be treated by the PSC as if it were an established utility in a county newly entering into the commission's jurisdiction. The bill also requires the PSC to adopt rules to implement and administer this section by July 1, 2026.

Sections 11 through 13 amend ss. 288.0655, 377.814, and 624.105, F.S., to conform cross-references to amendments made by the bill.

Section 14 of the bill provides for an effective date of July 1, 2025.

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 4 of the bill requires the PSC to establish a schedule for when public utilities may request changes to their rates. If such a schedule required a utility to continue to “underearn” while it waits for its next opportunity to revise its rates, the PSC has stated that this could result in a claim for a regulatory taking.⁷⁷

In addition, the United States Supreme Court decision in *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 678 (1923) states that “rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.”⁷⁸ The *Bluefield* decision provides that this compensation must not only be sufficient; but it also suggests that the collection of this compensation be at the time service is rendered to the customer. Thus, requiring a utility to wait for a rate change “window” may violate the court’s decision in *Bluefield*.

⁷⁷ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, *supra* note 27.

⁷⁸ The Florida Supreme Court also cites to this finding in *United Tel. Co. of Fla. v. Mayo*, 345 So. 2d 648, 653 (Fla. 1977) and *Keystone Water Co., Inc. v. Bevis*, 313 So. 2d 724, 725 (Fla. 1975).

The United States Supreme Court decision in *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) found that utility revenue must be sufficient “not only for operating expenses but also for the capital costs of the business.” Further, the return on equity “should be commensurate with returns on investments in other enterprises having corresponding risks,” and “sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.”⁷⁹

Thus, based on the premises in *Bluefield* and *Hope*, a limitation on a utility to respond in a sufficiently timely manner to an “underearning” situation may negatively impact the financial integrity of that utility and be unconstitutionally confiscatory.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 354 would have an indeterminate impact on gas and electric utility rates, the raising or lowering of which may have a significant financial impact on gas and electric utility ratepayers and utilities in the state.

C. Government Sector Impact:

To implement Section 1 of the bill, expanding the number of PSC commissioners from five to seven members, the PSC has indicated that each new commissioner would require two further full-time equivalent positions (FTEs) as support staff. This would bring the total number of additional FTEs for this provision to six—inclusive of the two new commissioners. The PSC estimates a total annual recurring cost for these FTEs of \$762,353.

In addition, the PSC has indicated that renovations to their current building (the Gerald Gunter building) would be needed to accommodate these additional commissioners and staff. The PSC’s hearing room at the Betty Easley Conference Center would also require renovations to accommodate two new commissioners. The PSC estimates that the total non-recurring expense for these renovations would be between \$1-2 million.⁸⁰

VI. Technical Deficiencies:

None.

⁷⁹ This provision is also cited by the Florida Supreme Court in *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 907 (Fla. 2023), *United Tel. Co. of Florida v. Mann*, 403 So. 2d 962, 966 (Fla. 1981), and *Tamaron Homeowners Ass’n, Inc. v. Tamaron Utilities, Inc.*, 460 So. 2d 347, 353 (Fla. 1984).

⁸⁰ Florida Public Service Commission, 2025 Agency Legislative Bill Analysis for SB 354, *supra* note 27.

VII. Related Issues:

- Section 4 of the bill requires the PSC to establish a schedule for when public utilities may request changes to their rates. It is unclear whether this provision is for any rate change (i.e. rate cases, cost recovery clause proceedings, and interim rates) or if this provision is for rate cases only.
 - Currently, public utilities, depending on their size, will submit monthly or quarterly earnings surveillance reports. If these reports show a public utility is earning outside of its approved ROE range, the PSC will inquire with the utility and take corrective action if needed. This provision may limit the PSC's ability to do so.
 - This provision may also conflict with s. 366.06(2), F.S., which requires the PSC to hold a public hearing whenever it finds, upon request made, or upon its own motion:
 - That the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law;
 - That such rates are insufficient to yield reasonable compensation for the services rendered; or
 - That such rates yield excessive compensation for services rendered.
- Section 5 of the bill requires the PSC to provide the Governor and Legislature with a report that, in part, could require the public disclosure of compensation of the executive officers of all public utilities servicing this state, or the executive officers of their affiliated companies or parent company. According to the PSC, much of this information would likely be considered information necessitating confidential treatment by the PSC under Section 366.093, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 350.01, 366.06, 366.07, 366.96, 367.021, 367.022, 288.0655, 377.814, and 624.105.

This bill creates the following sections of the Florida Statutes: 350.129, 366.077, and 367.024,

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 Regulated Industries on March 12, 2025:

The committee substitute:

- Addresses technical issues in the bill and makes technical changes.
- Requires the Public Service Commission (PSC), when issuing orders, to contain adequate support for their conclusions.
- For PSC orders affecting substantial interests pursuant to s. 120.569, F.S., when issuing an order accepting or denying a settlement agreement, the PSC must provide reasoned explanations for its decision, with citations to specific facts and factors it relied upon, and a discussion of major elements of the settlement.

- Moves section 3 of the bill, regarding limitations on public utility return on equity, out of the state's demand-side energy management law and places it in existing s. 366.06, F.S. (regarding the procedure for fixing and changing public utility rates).
- Moves section 4 of the bill, regarding a report on public utility rates, out of the state's demand-side energy management law and places it in its own section. The substitute amendment also revises a component of the report.
- Amends the procedure and requirements for the PSC to approve public utility storm protection plans under s. 366.96, F.S.
- Creates new requirements for nonprofit water and wastewater utilities to be exempt from PSC jurisdiction over rates and service.
- Creates a process for the PSC to review complaints regarding whether a nonprofit water or wastewater utility meets these requirements.
- Creates a process for a utility that does not meet these requirements to be brought under PSC jurisdiction for a minimum of 24 months.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Regulated Industries (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 350.01, Florida
Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of
commissioners; vacancies; election and duties of chair; quorum;
proceedings; public records and public meetings exemptions.—

(1) The Florida Public Service Commission shall be composed



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~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s.
350.031. One member must be a certified public accountant, and
one member must be a chartered financial analyst.

Section 2. Section 350.129, Florida Statutes, is created to
read:

350.129 Orders of the Public Service Commission.—

(1) All orders issued by the commission must contain
adequate support for the commission's conclusions, including the
specific facts and factors on which the conclusions are based.
While the commission may make conclusions based upon the public
interest, as provided in chapters 350-368, the commission shall
specify in its orders a rationale for its conclusions.

(2) For commission orders that affect substantial interests
pursuant to s. 120.569, when issuing an order accepting or
denying a settlement agreement reached by any of the parties to
a proceeding, the commission shall provide a reasoned
explanation, citing the specific facts and factors on which it
relied. In addition, the commission shall provide in its order a
discussion of the major elements of the settlement and a
rationale for its conclusions.

Section 3. Present subsection (4) of section 366.06,
Florida Statutes, is redesignated as subsection (5), and a new
subsection (4) is added to that section, to read:

366.06 Rates; procedure for fixing and changing.—

(4) In order to best meet the needs of Florida households,
the commission shall work to keep the allowable return on equity
close to the risk-free rate of return and shall require that
upward deviations from the risk-free rate be specifically
justified by the utility seeking a tariff modification.



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Section 4. Section 366.07, Florida Statutes, is amended to read:

366.07 Rates; adjustment.—

(1) Whenever the commission, after public hearing either upon its own motion or upon complaint, shall find the rates, rentals, charges or classifications, or any of them, proposed, demanded, observed, charged or collected by any public utility for any service, or in connection therewith, or the rules, regulations, measurements, practices or contracts, or any of them, relating thereto, are unjust, unreasonable, insufficient, excessive, or unjustly discriminatory or preferential, or in anywise in violation of law, or any service is inadequate or cannot be obtained, the commission shall determine and by order fix the fair and reasonable rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

(2) The commission shall establish a schedule by which rate change requests may be submitted to the commission by each public utility company.

Section 5. Section 366.077, Florida Statutes, is created to read:

366.077 Report on rates.—The commission shall require each public utility to submit an annual report to the Governor and the Legislature by each March 1.

(1) The report must include all of the following:

(a) An investigation of contemporary economic analysis related to rate changes in this state.

(b) An analysis of potential cost impacts to utility



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customers in this state if excess returns on equity have occurred, and, if such excess returns have not occurred at a significant rate, any resulting cost savings to such customers.

(c) An analysis of alternative rate-of-return scenarios, including an investigation of the rationale as to why such scenarios were not explored in the past and of the advisability of exploring such scenarios in the future.

4. An assessment of long-term impacts, including the economic repercussions of rising rates of returns on equity, to utilities and their customers in the future.

5. A summary providing detailed information regarding the compensation of the executive officers of each public utility providing service to the residents of this state, or the executive officers of their affiliated companies or parent company. Such information must include but need not be limited to salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and must highlight any compensation that exceeds the industry average. The commission shall also include any rationale provided by a public utility justifying compensation exceeding the industry average and, for each public utility, an explanation as to how specific data gathered during the compiling of information informed the commission's decisions on the public utility's rate change requests.

(b) The report must provide benchmarking, comparing public utilities providing service to the residents of this state with public utilities providing service to the residents of other



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states, including commentary on all findings.

Section 6. Subsections (4) and (11) of section 366.96, Florida Statutes, are amended to read:

366.96 Storm protection plan cost recovery.—

(4) At a minimum, any improvement included in a transmission and distribution storm protection plan filed pursuant to this section must have a forecasted customer benefit exceeding its forecasted cost. In addition, in its review of each ~~transmission and distribution storm protection~~ plan filed pursuant to this section, the commission shall consider:

(a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance and whether the cost of implementing the plan is reasonable and prudent given the expected benefit.

(b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including, but not limited to, flood zones and rural areas.

(c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.

(d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

(e) The performance of previously approved plan improvements in reducing outage times and storm restoration costs.

(11) The commission shall adopt rules to implement and



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~~administer this section and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.~~

Section 7. Present subsections (7), (8), (9), and (10) through (13) of section 367.021, Florida Statutes, are redesignated as subsections (8), (9), (10), and (12) through (15), respectively, and new subsections (7) and (11) are added to that section, to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Governing board" means a board of directors, nonprofit board, board of trustees, or similar body overseeing the operations of an organization.

(11) "Qualifying nonprofit organization" means an organization that meets all of the following criteria:

(a) The organization is a nonprofit corporation, association, or cooperative providing service solely to members who own and control it.

(b) The organization conducts open and fair elections to its governing board at an annual meeting of its members. The term of any one governing board member may not exceed 36 months; however, a candidate may run for reelection without any limit on the number of terms he or she may serve.

(c) At least 75 percent of the organization's governing board is made up of the organization's members.

(d) The organization provides a mechanism for members of the organization to directly nominate candidates for the governing board. At a minimum, any member or candidate who obtains the signatures of at least 1 percent of the members of



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the organization on a petition for nomination for a particular board position or election must, as established by that organization's bylaws, be allowed to stand for election in the same manner as if that member had been nominated by the existing governing board, a committee on nominations established by the board, or other nomination mechanism or procedure as established by the organization's governing documents. Such candidate must meet all other requirements established by law or by the organization's governing documents to serve on the board.

(e) The organization is not subject to disqualification pursuant to s. 367.24.

Section 8. Subsection (7) of section 367.022, Florida Statutes, is amended to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(7) Qualifying nonprofit organizations ~~Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.~~

Section 9. Section 367.24, Florida Statutes, is created to read:

367.24 Disqualification from exempt status.—

(1) The commission may, upon its own motion or petition by any person, initiate a proceeding to determine whether an organization meets the definition of a qualifying nonprofit organization under s. 367.021.

(2) In making its determination as to whether an organization meets the definition of a qualifying nonprofit



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organization pursuant to a petition filed under subsection (1),
the commission shall consider all of the following:

(a) The governing documents of the organization.

(b) The conduct of the organization.

(c) The conduct of the governing board of the organization.

(3) If the commission determines that an organization does not meet the definition of a qualifying nonprofit organization, the commission must provide the organization reasoning for its determination and allow the organization 90 days to address the commission's determination.

(4) If, after the expiration of the 90-day period specified in subsection (3), the commission maintains its determination that the organization does not meet the definition of a qualifying nonprofit organization, the commission must issue an order stating that the organization is not exempt from the jurisdiction of the commission pursuant to s. 367.022 and must be regulated as a utility under this chapter.

(5) The commission shall follow the procedures established in s. 367.171(2) for an organization determined not to be exempt from the jurisdiction of the commission under subsection (4). The commission shall follow such procedures as if the organization were an established utility in a county newly entering into the commission's jurisdiction.

(6) After a period of 24 months, an organization that is determined not to be exempt from the jurisdiction of the commission under subsection (4) may petition the commission to regain qualifying nonprofit organization status. In reviewing this petition, the commission shall comply with the procedure established in subsections (2), (3), and (4). If the commission



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does not approve the petition, the organization must wait an additional 24 months before filing another petition with the commission for such status.

(7) Consistent with its jurisdiction over utility rates and service, the commission shall resolve issues relating to whether an organization is exempt from jurisdiction under this section and the manner in which a utility is brought under its jurisdiction pursuant to this section.

(8) The commission shall adopt rules to implement and administer this section and shall submit such proposed rules for adoption as soon as practicable after July 1, 2026.

Section 10. The Public Service Commission shall submit a proposed rule for adoption which implements the amendments made by this act to s. 366.96, Florida Statutes, as soon as practicable after the effective date of this act, but not later than October 31, 2025.

Section 11. Paragraph (b) of subsection (2) of section 288.0655, Florida Statutes, is amended to read:

288.0655 Rural Infrastructure Fund.—

(2)

(b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 75 percent of the total



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infrastructure project cost, or up to 100 percent of the total infrastructure project cost for a project located in a rural community as defined in s. 288.0656(2) which is also located in a fiscally constrained county as defined in s. 218.67(1) or a rural area of opportunity as defined in s. 288.0656(2). Eligible uses of funds may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth and reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities. Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure. Authorized infrastructure may include the following public or public-private partnership facilities: storm water systems; telecommunications facilities; roads or other remedies to transportation impediments; nature-based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly or privately owned self-powered nature-based tourism facilities, publicly owned telecommunications facilities, and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(14) ~~s. 367.021(12)~~, or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state when:

1. A contribution-in-aid of construction is required to



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serve public or public-private partnership facilities under the tariffs of any natural gas, electric, water, or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

Section 12. Paragraph (b) of subsection (5) of section 377.814, Florida Statutes, is amended to read:

377.814 Municipal Solid Waste-to-Energy Program.—

(5) FUNDING.—

(b) Funds awarded under the grant programs set forth in this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

Section 13. Section 624.105, Florida Statutes, is amended to read:

624.105 Waiver of customer liability.—Any regulated company as defined in s. 350.111, any electric utility as defined in s. 366.02(4), any utility as defined in s. 367.021(14) ~~s. 367.021(12)~~ or s. 367.022(2) and (7), and any provider of communications services as defined in s. 202.11(1) may charge for and include an optional waiver of liability provision in their customer contracts under which the entity agrees to waive all or a portion of the customer's liability for service from the entity for a defined period in the event of the customer's call to active military service, death, disability, involuntary unemployment, qualification for family leave, or similar qualifying event or condition. Such provisions may not be effective in the customer's contract with the entity unless



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affirmatively elected by the customer. No such provision shall constitute insurance so long as the provision is a contract between the entity and its customer.

Section 14. For the purpose of incorporating the amendment made by this act to section 366.82, Florida Statutes, in a reference thereto, section 553.975, Florida Statutes, is reenacted to read:

553.975 Report to the Governor and Legislature.—The Public Service Commission shall submit a biennial report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, concurrent with the report required by s. 366.82(10), beginning in 1990. Such report shall include an evaluation of the effectiveness of these standards on energy conservation in this state.

Section 15. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to the Public Service Commission; amending s. 350.01, F.S.; revising the membership of the Public Service Commission; creating s. 350.129, F.S.; requiring that orders issued by the commission contain adequate support for any conclusions made by the commission; requiring the commission to provide an explanation and a discussion of major elements of the settlement when issuing an order accepting or denying



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certain settlement agreements; amending s. 366.06, F.S.; requiring the commission to keep the allowable return on equity close to the risk-free rate of return and require that upward deviations away from the risk-free rate be specifically justified by the utility seeking a tariff modification; amending s. 366.07, F.S.; requiring the commission to establish a schedule by which rate change requests may be submitted to the commission by each public utility company; creating s. 366.077, F.S.; requiring the commission to require public utilities to provide a report to the Governor and the Legislature by a specified date each year; providing requirements for such report; amending s. 366.96, F.S.; requiring that improvements included in certain transmission and distribution storm protection plans have forecasted customer benefits exceeding their forecasted cost; revising the factors that the Public Service Commission must consider in reviewing such plans; deleting obsolete language; amending s. 367.021, F.S.; defining terms; amending s. 367.022, F.S.; revising the types of nonprofit organizations which are exempt from commission jurisdiction; creating s. 367.24, F.S.; providing a procedure for use by the commission in determining whether an organization is a qualifying nonprofit organization exempt from commission jurisdiction; providing criteria for making such determinations; authorizing an organization to petition the commission to regain qualifying nonprofit organization status under certain



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circumstances; requiring a specified waiting period
before certain organizations may petition to regain
qualifying nonprofit organization status; requiring
the commission to submit a proposed rule by a
specified date; amending ss. 288.0655, 377.814, and
624.105, F.S.; conforming cross-references; reenacting
s. 553.975, F.S., relating to the report to the
Governor and Legislature, to incorporate the amendment
made to s. 366.82, F.S., in a reference thereto;
providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2025	.	
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	.	

The Committee on Regulated Industries (Gaetz) recommended the following:

Senate Substitute for Amendment (444212) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—



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(1) The Florida Public Service Commission shall be composed
~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s.
350.031. One member must be a certified public accountant, and
one member must be a chartered financial analyst.

Section 2. Section 350.129, Florida Statutes, is created to
read:

350.129 Orders of the Florida Public Service Commission.—

(1) All orders issued by the commission must contain
adequate support for the commission's conclusions, including the
specific facts and factors on which the conclusions are based.
While the commission may make conclusions based upon the public
interest, as provided in chapters 350-368, the commission shall
specify in its orders a rationale for its conclusions.

(2) For commission orders that affect substantial interests
pursuant to s. 120.569, when issuing an order accepting or
denying a settlement agreement reached by any of the parties to
a proceeding, the commission shall provide a reasoned
explanation, citing the specific facts and factors on which it
relied. In addition, the commission shall provide in its order a
discussion of the major elements of the settlement and a
rationale for its conclusions.

Section 3. Present subsection (4) of section 366.06,
Florida Statutes, is redesignated as subsection (5), and a new
subsection (4) is added to that section, to read:

366.06 Rates; procedure for fixing and changing.—

(4) In order to best meet the needs of Florida households,
the commission shall work to keep the allowable return on equity
for public utilities close to the risk-free rate of return and
shall require that upward deviations from the risk-free rate be



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specifically justified by the public utility seeking a tariff
modification.

Section 4. Section 366.07, Florida Statutes, is amended to
read:

366.07 Rates; adjustment.—

(1) Whenever the commission, after public hearing either
upon its own motion or upon complaint, shall find the rates,
rentals, charges or classifications, or any of them, proposed,
demanded, observed, charged or collected by any public utility
for any service, or in connection therewith, or the rules,
regulations, measurements, practices or contracts, or any of
them, relating thereto, are unjust, unreasonable, insufficient,
excessive, or unjustly discriminatory or preferential, or in
anywise in violation of law, or any service is inadequate or
cannot be obtained, the commission shall determine and by order
fix the fair and reasonable rates, rentals, charges or
classifications, and reasonable rules, regulations,
measurements, practices, contracts or service, to be imposed,
observed, furnished or followed in the future.

(2) The commission shall establish a schedule by which rate
change requests may be submitted to the commission by each
public utility company.

Section 5. Section 366.077, Florida Statutes, is created to
read:

366.077 Report on rates.—The commission shall require each
public utility to submit an annual report to the Governor and
the Legislature by each March 1.

(1) The report must include all of the following:

(a) An investigation of contemporary economic analysis



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related to rate changes in this state.

(b) An analysis of potential cost impacts to utility customers in this state if excess returns on equity have occurred, and, if such excess returns have not occurred at a significant rate, any resulting cost savings to such customers.

(c) An analysis of returns on equity models presented by public utilities and used by the commission to determine approved returns on equity for public utilities in this state. Such analysis must:

1. Compare models used by federal agencies and other state utility regulatory bodies with those used by the commission;

2. Determine whether the models used are generally financially logical; and

3. Determine whether the models used comport with generally accepted economic theory both inside and outside of the utility industry.

(d) An assessment of long-term impacts, including the economic repercussions of rising rates of returns on equity, to utilities and their customers in the future.

(e) A summary providing detailed information regarding the compensation of the executive officers of each public utility providing service to the residents of this state, or the executive officers of public utility's affiliated companies or parent company. Such information must include, but need not be limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and must highlight any



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compensation that exceeds the industry average. The commission shall also include any rationale provided by a public utility justifying compensation exceeding the industry average and, for each public utility, an explanation as to how specific data gathered during the compiling of information informed the commission's decisions on the public utility's rate change requests.

(2) The report must provide benchmarking, comparing public utilities providing service to the residents of this state with public utilities providing service to the residents of other states, including commentary on all findings.

Section 6. Subsections (4) and (11) of section 366.96, Florida Statutes, are amended to read:

366.96 Storm protection plan cost recovery.—

(4) At a minimum, any improvement included in a transmission and distribution storm protection plan filed pursuant to this section must have a forecasted customer benefit exceeding its forecasted cost. In addition, in its review of each ~~transmission and distribution storm protection~~ plan filed pursuant to this section, the commission shall consider:

(a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance and whether the cost of implementing the plan is reasonable and prudent given the expected benefit.

(b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory,



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including, but not limited to, flood zones and rural areas.

(c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.

(d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

(e) The performance of previously approved plan improvements in reducing outage times and storm restoration costs.

~~(11) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.~~

Section 7. Present subsections (7), (8), and (9) and (10) through (13) of section 367.021, Florida Statutes, are redesignated as subsections (8), (9), and (10) and (12) through (15), respectively, and new subsections (7) and (11) are added to that section, to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Governing board" means a board of directors, nonprofit board, board of trustees, corporate governing body as established in the in the bylaws or articles of incorporation of an organization, or similar body overseeing the operations of an organization.

(11) "Qualifying nonprofit organization" means an organization that meets all of the following criteria:

(a) The organization is a nonprofit corporation, association, or cooperative providing service solely to members



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who own and control such nonprofit corporation, association, or cooperative.

(b) The organization conducts open and fair elections to its governing board at an annual meeting of its members. The term of any one governing board member may not exceed 36 months; however, a candidate may run for reelection without any limit on the number of terms they may serve.

(c) At least 75 percent of the governing board of the organization is made up of the organization's members.

(d) The organization provides a mechanism for members of the organization to directly nominate candidates directly for the governing board. At a minimum, any member or candidate who obtains the signatures of at least 1 percent of members of the organization on a petition for nomination for a particular board position or election must, as established by that organization's bylaws, be allowed to stand for election in the same manner as if that member had been nominated by the existing governing board, a committee on nominations established by the board, or other nomination mechanism or procedure as established by the organization's governing documents. Such candidate must meet all other requirements established by law or by the organization's governing documents to serve on the board.

(e) The organization is not subject to disqualification pursuant to s. 367.24.

Section 8. Subsection (7) of section 367.022, Florida Statutes, is amended to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:



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(7) Qualifying nonprofit organizations ~~Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.~~

Section 9. Section 367.24, Florida Statutes, is created to read:

367.24 Disqualification from exempt status.—

(1) The commission may, upon its own motion or petition by any person, initiate a proceeding to determine whether an organization meets the definition of a qualifying nonprofit organization under s. 367.021.

(a) A person must, before filing such a petition, notify the organization in writing of his or her intention to file such a petition. Such notification must:

1. Be delivered by certified mail, return receipt requested, to the name and mailing address provided by the organization for customer service or other external inquiries or be served upon organization's registered agent, if the organization has one; and

2. Make specific allegations regarding the manner in which the organization does not meet the definition of a qualifying nonprofit organization under s. 367.021.

(b) The organization shall have 90 days after receipt of such notice to respond to such writing, or by e-mail if the person has provided an e-mail address for such response. However, the organization may not respond to the notice if it so chooses;

(c) After the expiration of the 90 days provided in paragraph (b), if the person is dissatisfied with the response



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of the governing body, such person may file the petition to
initiate the commission proceeding provided for in this
subsection. In filing such a petition, the person must, at
minimum, include the following:

1. The initial notification to the organization as provided
in paragraph (a);

2. The response of the organization as provided in
paragraph (b) or, if a response has not been received, a
statement attesting to such; and

3. Specific allegations regarding the manner in which the
organization does not meet the definition of a qualifying
nonprofit organization under s. 367.021.

(2) In making its determination as to whether an
organization meets the definition of a qualifying organization
pursuant to a petition filed under subsection (1), the
commission shall consider:

(a) The governing documents of the organization;

(b) The conduct of the organization;

(c) The conduct of the governing board of the organization;

and

(d) Any other relevant information provided by the
organization, or other party to the proceeding, demonstrating
whether the organization meets such definition.

(3) If the commission determines that an organization does
not meet the definition of a qualifying nonprofit organization,
the commission must provide the organization reasoning for its
determination and allow the organization 90 days to address the
commission's determination.

(4) If, after the expiration of the 90-day period specified



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in subsection (3), the commission maintains its determination that the organization does not meet the definition of a qualifying nonprofit organization, the commission must issue an order stating that the organization is not exempt from the jurisdiction of the commission pursuant to s. 367.022 and must be regulated as a utility under this chapter.

(5) The commission shall follow the procedures established in s. 367.171(2) for an organization determined to be not exempt from the jurisdiction of the commission under subsection (4). The commission shall follow such procedures as if the organization were an established utility in a county newly entering into the commission's jurisdiction.

(6) After a period of 24 months, an organization that is determined to be not exempt from the jurisdiction of the commission under subsection (4) may petition the commission to regain qualifying nonprofit organization status. In reviewing this petition, the commission shall use the procedure established in subsections (2), (3), and (4) of this section. If the commission does not approve the petition, the organization must wait an additional 24 months before petitioning the commission again for qualifying nonprofit organization status.

(7) Consistent with the commission's jurisdiction over utility rates and service, issues relating to whether an organization is exempt from its jurisdiction pursuant to this section, and the manner in which a utility is brought under its jurisdiction pursuant to this section, must be resolved by the commission.

(8) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as



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soon as practicable after July 1, 2026.

Section 10. The Public Service Commission shall submit a proposed rule for adoption which implements the amendments made by this act to s. 366.96, Florida Statutes, as soon as practicable after the effective date of this act, but not later than October 31, 2025.

Section 11. Paragraph (b) of subsection (2) of section 288.0655, Florida Statutes, is amended to read:

288.0655 Rural Infrastructure Fund.—

(2)

(b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 75 percent of the total infrastructure project cost, or up to 100 percent of the total infrastructure project cost for a project located in a rural community as defined in s. 288.0656(2) which is also located in a fiscally constrained county as defined in s. 218.67(1) or a rural area of opportunity as defined in s. 288.0656(2). Eligible uses of funds may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth and reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities. Eligible uses of



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funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure. Authorized infrastructure may include the following public or public-private partnership facilities: storm water systems; telecommunications facilities; roads or other remedies to transportation impediments; nature-based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly or privately owned self-powered nature-based tourism facilities, publicly owned telecommunications facilities, and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(14) ~~s. 367.021(12)~~, or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state when:

1. A contribution-in-aid of construction is required to serve public or public-private partnership facilities under the tariffs of any natural gas, electric, water, or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

Section 12. Paragraph (b) of subsection (5) of section 377.814, Florida Statutes, is amended to read:

377.814 Municipal Solid Waste-to-Energy Program.—

(5) FUNDING.—

(b) Funds awarded under the grant programs set forth in



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this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

Section 13. Section 624.105, Florida Statutes, is amended to read:

624.105 Waiver of customer liability.—Any regulated company as defined in s. 350.111, any electric utility as defined in s. 366.02(4), any utility as defined in s. 367.021(14) ~~s. 367.021(12)~~ or s. 367.022(2) and (7), and any provider of communications services as defined in s. 202.11(1) may charge for and include an optional waiver of liability provision in their customer contracts under which the entity agrees to waive all or a portion of the customer's liability for service from the entity for a defined period in the event of the customer's call to active military service, death, disability, involuntary unemployment, qualification for family leave, or similar qualifying event or condition. Such provisions may not be effective in the customer's contract with the entity unless affirmatively elected by the customer. No such provision shall constitute insurance so long as the provision is a contract between the entity and its customer.

Section 14. For the purpose of incorporating the amendment made by this act to section 366.82, Florida Statutes, in a reference thereto, section 553.975, Florida Statutes, is reenacted to read:

553.975 Report to the Governor and Legislature.—The Public Service Commission shall submit a biennial report to the Governor, the President of the Senate, and the Speaker of the



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House of Representatives, concurrent with the report required by s. 366.82(10), beginning in 1990. Such report shall include an evaluation of the effectiveness of these standards on energy conservation in this state.

Section 15. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Florida Public Service Commission; amending s. 350.01, F.S.; revising the membership of the Florida Public Service Commission; creating s. 350.129, F.S.; requiring that orders issued by the commission contain adequate support for any conclusions made by the commission; requiring the commission to provide an explanation and a discussion of major elements of the settlement when issuing an order accepting or denying certain settlement agreements; amending s. 366.06, F.S.; requiring the commission to keep the allowable return on equity for public utilities close to the risk-free rate of return and require that upward deviations away from the risk-free rate be specifically justified by the public utility seeking a tariff modification; amending s. 366.07, F.S.; requiring the commission to establish a schedule by which rate change requests may be submitted to the commission by each public utility



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company; creating s. 366.077, F.S.; requiring the
commission to require public utilities to provide a
report to the Governor and the Legislature by a
specified date each year; providing requirements for
such report; amending s. 366.96, F.S.; requiring that
improvements included in certain transmission and
distribution storm protection plans have forecasted
customer benefits exceeding their forecasted cost;
revising the factors that the Public Service
Commission must consider in reviewing such plans;
deleting obsolete language; amending s. 367.021, F.S.;
defining terms; amending s. 367.022, F.S.; revising
the types of nonprofit organizations which are exempt
from commission jurisdiction; creating s. 367.24,
F.S.; authorizing the commission to initiate a
proceeding to determine whether an organization is a
qualifying nonprofit organization; requiring a person
to notify an organization before filing a petition for
such proceeding; providing requirements for such
notification; authorizing an organization to respond
to such notice in a certain manner and in a specified
timeframe after receipt; authorizing a person to file
a petition to initiate a proceeding to determine
whether an organization is a qualifying nonprofit
organization after a specified timeframe under certain
circumstances; providing requirements for such
petition; requiring the commission to consider certain
information in making its determination of whether an
organization is a qualifying nonprofit organization;



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417 requiring the commission to provide its reasoning for
418 a determination that an organization is not a
419 qualifying nonprofit organization; requiring the
420 commission to allow such organization a certain period
421 of time in which to address the commission's
422 determination; requiring the commission, under certain
423 circumstances, to issue an order stating that the
424 organization is not exempt from the jurisdiction of
425 the commission and must be regulated as a utility;
426 requiring the commission to follow specified
427 procedures for an organization not exempt from the
428 commission's jurisdiction; authorizing an organization
429 to petition the commission to regain qualifying
430 nonprofit organization status under certain
431 circumstances; requiring a specified waiting period
432 before certain organizations may petition to regain
433 qualifying nonprofit organization status; requiring
434 the commission to adopt rules for a certain purpose;
435 requiring the commission to submit a proposed rule by
436 a specified date; amending ss. 288.0655, 377.814, and
437 624.105, F.S.; conforming cross-references; reenacting
438 s. 553.975, F.S., relating to the report to the
439 Governor and Legislature, to incorporate the amendment
440 made to s. 366.82, F.S., in a reference thereto;
441 providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2025	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Gaetz) recommended the following:

Senate Substitute for Amendment (444212) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—



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(1) The Florida Public Service Commission shall be composed
~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s.
350.031. One member must be a certified public accountant, and
one member must be a chartered financial analyst.

Section 2. Section 350.129, Florida Statutes, is created to
read:

350.129 Orders of the Florida Public Service Commission.—

(1) All orders issued by the commission must contain
adequate support for the commission's conclusions, including the
specific facts and factors on which the conclusions are based.
While the commission may make conclusions based upon the public
interest, as provided in chapters 350-368, the commission shall
specify in its orders a rationale for its conclusions.

(2) For commission orders that affect substantial interests
pursuant to s. 120.569, when issuing an order accepting or
denying a settlement agreement reached by any of the parties to
a proceeding, the commission shall provide a reasoned
explanation, citing the specific facts and factors on which it
relied. In addition, the commission shall provide in its order a
discussion of the major elements of the settlement and a
rationale for its conclusions.

Section 3. Present subsection (4) of section 366.06,
Florida Statutes, is redesignated as subsection (5), and a new
subsection (4) is added to that section, to read:

366.06 Rates; procedure for fixing and changing.—

(4) In order to best meet the needs of Florida households,
the commission shall work to keep the allowable return on equity
for public utilities close to the risk-free rate of return and
shall require that upward deviations from the risk-free rate be



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specifically justified by the public utility seeking a tariff modification.

Section 4. Section 366.07, Florida Statutes, is amended to read:

366.07 Rates; adjustment.—

(1) Whenever the commission, after public hearing either upon its own motion or upon complaint, shall find the rates, rentals, charges or classifications, or any of them, proposed, demanded, observed, charged or collected by any public utility for any service, or in connection therewith, or the rules, regulations, measurements, practices or contracts, or any of them, relating thereto, are unjust, unreasonable, insufficient, excessive, or unjustly discriminatory or preferential, or in anywise in violation of law, or any service is inadequate or cannot be obtained, the commission shall determine and by order fix the fair and reasonable rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

(2) The commission shall establish a schedule by which rate change requests may be submitted to the commission by each public utility company.

Section 5. Section 366.077, Florida Statutes, is created to read:

366.077 Report on rates.—The commission shall submit an annual report to the Governor and the Legislature by each March 1.

(1) The report must include all of the following:

(a) An investigation of contemporary economic analysis



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related to rate changes in this state.

(b) An analysis of potential cost impacts to utility customers in this state if excess returns on equity have occurred, and, if such excess returns have not occurred at a significant rate, any resulting cost savings to such customers.

(c) An analysis of returns on equity models presented by public utilities and used by the commission to determine approved returns on equity for public utilities in this state. Such analysis must:

1. Compare models used by federal agencies and other state utility regulatory bodies with those used by the commission;

2. Determine whether the models used are generally financially logical; and

3. Determine whether the models used comport with generally accepted economic theory both inside and outside of the utility industry.

(d) An assessment of long-term impacts, including the economic repercussions of rising rates of returns on equity, to utilities and their customers in the future.

(e) A summary providing detailed information regarding the compensation of the executive officers of each public utility providing service to the residents of this state, or the executive officers of public utility's affiliated companies or parent company. Such information must include, but need not be limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and must highlight any



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compensation that exceeds the industry average. The commission shall also include any rationale provided by a public utility justifying compensation exceeding the industry average and, for each public utility, an explanation as to how specific data gathered during the compiling of information informed the commission's decisions on the public utility's rate change requests.

(2) The report must provide benchmarking, comparing public utilities providing service to the residents of this state with public utilities providing service to the residents of other states, including commentary on all findings.

Section 6. Subsections (4) and (11) of section 366.96, Florida Statutes, are amended to read:

366.96 Storm protection plan cost recovery.—

(4) At a minimum, any improvement included in a transmission and distribution storm protection plan filed pursuant to this section must have a forecasted customer benefit exceeding its forecasted cost. In addition, in its review of each ~~transmission and distribution storm protection~~ plan filed pursuant to this section, the commission shall consider:

(a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance and whether the cost of implementing the plan is reasonable and prudent given the expected benefit.

(b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory,



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including, but not limited to, flood zones and rural areas.

(c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.

(d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

(e) The performance of previously approved plan improvements in reducing outage times and storm restoration costs.

~~(11) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.~~

Section 7. Present subsections (7), (8), and (9) and (10) through (13) of section 367.021, Florida Statutes, are redesignated as subsections (8), (9), and (10) and (12) through (15), respectively, and new subsections (7) and (11) are added to that section, to read:

367.021 Definitions.—As used in this chapter, the following words or terms shall have the meanings indicated:

(7) "Governing board" means a board of directors, nonprofit board, board of trustees, corporate governing body as established in the in the bylaws or articles of incorporation of an organization, or similar body overseeing the operations of an organization.

(11) "Qualifying nonprofit organization" means an organization that meets all of the following criteria:

(a) The organization is a nonprofit corporation, association, or cooperative providing service solely to members



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who own and control such nonprofit corporation, association, or cooperative.

(b) The organization conducts open and fair elections to its governing board at an annual meeting of its members. The term of any one governing board member may not exceed 36 months; however, a candidate may run for reelection without any limit on the number of terms they may serve.

(c) At least 75 percent of the governing board of the organization is made up of the organization's members.

(d) The organization provides a mechanism for members of the organization to directly nominate candidates directly for the governing board. At a minimum, any member or candidate who obtains the signatures of at least 1 percent of members of the organization on a petition for nomination for a particular board position or election must, as established by that organization's bylaws, be allowed to stand for election in the same manner as if that member had been nominated by the existing governing board, a committee on nominations established by the board, or other nomination mechanism or procedure as established by the organization's governing documents. Such candidate must meet all other requirements established by law or by the organization's governing documents to serve on the board.

(e) The organization is not subject to disqualification pursuant to s. 367.24.

Section 8. Subsection (7) of section 367.022, Florida Statutes, is amended to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:



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(7) Qualifying nonprofit organizations ~~Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.~~

Section 9. Section 367.24, Florida Statutes, is created to read:

367.24 Disqualification from exempt status.—

(1) The commission may, upon its own motion or petition by any person, initiate a proceeding to determine whether an organization meets the definition of a qualifying nonprofit organization under s. 367.021.

(a) A person must, before filing such a petition, notify the organization in writing of his or her intention to file such a petition. Such notification must:

1. Be delivered by certified mail, return receipt requested, to the name and mailing address provided by the organization for customer service or other external inquiries or be served upon organization's registered agent, if the organization has one; and

2. Make specific allegations regarding the manner in which the organization does not meet the definition of a qualifying nonprofit organization under s. 367.021.

(b) The organization shall have 90 days after receipt of such notice to respond to such writing, or by e-mail if the person has provided an e-mail address for such response. However, the organization may not respond to the notice if it so chooses;

(c) After the expiration of the 90 days provided in paragraph (b), if the person is dissatisfied with the response



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of the governing body, such person may file the petition to
initiate the commission proceeding provided for in this
subsection. In filing such a petition, the person must, at
minimum, include the following:

1. The initial notification to the organization as provided
in paragraph (a);

2. The response of the organization as provided in
paragraph (b) or, if a response has not been received, a
statement attesting to such; and

3. Specific allegations regarding the manner in which the
organization does not meet the definition of a qualifying
nonprofit organization under s. 367.021.

(2) In making its determination as to whether an
organization meets the definition of a qualifying organization
pursuant to a petition filed under subsection (1), the
commission shall consider:

(a) The governing documents of the organization;

(b) The conduct of the organization;

(c) The conduct of the governing board of the organization;

and

(d) Any other relevant information provided by the
organization, or other party to the proceeding, demonstrating
whether the organization meets such definition.

(3) If the commission determines that an organization does
not meet the definition of a qualifying nonprofit organization,
the commission must provide the organization reasoning for its
determination and allow the organization 90 days to address the
commission's determination.

(4) If, after the expiration of the 90-day period specified



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in subsection (3), the commission maintains its determination that the organization does not meet the definition of a qualifying nonprofit organization, the commission must issue an order stating that the organization is not exempt from the jurisdiction of the commission pursuant to s. 367.022 and must be regulated as a utility under this chapter.

(5) The commission shall follow the procedures established in s. 367.171(2) for an organization determined to be not exempt from the jurisdiction of the commission under subsection (4). The commission shall follow such procedures as if the organization were an established utility in a county newly entering into the commission's jurisdiction.

(6) After a period of 24 months, an organization that is determined to be not exempt from the jurisdiction of the commission under subsection (4) may petition the commission to regain qualifying nonprofit organization status. In reviewing this petition, the commission shall use the procedure established in subsections (2), (3), and (4) of this section. If the commission does not approve the petition, the organization must wait an additional 24 months before petitioning the commission again for qualifying nonprofit organization status.

(7) Consistent with the commission's jurisdiction over utility rates and service, issues relating to whether an organization is exempt from its jurisdiction pursuant to this section, and the manner in which a utility is brought under its jurisdiction pursuant to this section, must be resolved by the commission.

(8) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as



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soon as practicable after July 1, 2026.

Section 10. The Public Service Commission shall submit a proposed rule for adoption which implements the amendments made by this act to s. 366.96, Florida Statutes, as soon as practicable after the effective date of this act, but not later than October 31, 2025.

Section 11. Paragraph (b) of subsection (2) of section 288.0655, Florida Statutes, is amended to read:

288.0655 Rural Infrastructure Fund.—

(2)

(b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 75 percent of the total infrastructure project cost, or up to 100 percent of the total infrastructure project cost for a project located in a rural community as defined in s. 288.0656(2) which is also located in a fiscally constrained county as defined in s. 218.67(1) or a rural area of opportunity as defined in s. 288.0656(2). Eligible uses of funds may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth and reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities. Eligible uses of



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funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure. Authorized infrastructure may include the following public or public-private partnership facilities: storm water systems; telecommunications facilities; roads or other remedies to transportation impediments; nature-based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly or privately owned self-powered nature-based tourism facilities, publicly owned telecommunications facilities, and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(14) ~~s. 367.021(12)~~, or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state when:

1. A contribution-in-aid of construction is required to serve public or public-private partnership facilities under the tariffs of any natural gas, electric, water, or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

Section 12. Paragraph (b) of subsection (5) of section 377.814, Florida Statutes, is amended to read:

377.814 Municipal Solid Waste-to-Energy Program.—

(5) FUNDING.—

(b) Funds awarded under the grant programs set forth in



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this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

Section 13. Section 624.105, Florida Statutes, is amended to read:

624.105 Waiver of customer liability.—Any regulated company as defined in s. 350.111, any electric utility as defined in s. 366.02(4), any utility as defined in s. 367.021(14) ~~s. 367.021(12)~~ or s. 367.022(2) and (7), and any provider of communications services as defined in s. 202.11(1) may charge for and include an optional waiver of liability provision in their customer contracts under which the entity agrees to waive all or a portion of the customer's liability for service from the entity for a defined period in the event of the customer's call to active military service, death, disability, involuntary unemployment, qualification for family leave, or similar qualifying event or condition. Such provisions may not be effective in the customer's contract with the entity unless affirmatively elected by the customer. No such provision shall constitute insurance so long as the provision is a contract between the entity and its customer.

Section 14. For the purpose of incorporating the amendment made by this act to section 366.82, Florida Statutes, in a reference thereto, section 553.975, Florida Statutes, is reenacted to read:

553.975 Report to the Governor and Legislature.—The Public Service Commission shall submit a biennial report to the Governor, the President of the Senate, and the Speaker of the



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House of Representatives, concurrent with the report required by s. 366.82(10), beginning in 1990. Such report shall include an evaluation of the effectiveness of these standards on energy conservation in this state.

Section 15. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Florida Public Service Commission; amending s. 350.01, F.S.; revising the membership of the Florida Public Service Commission; creating s. 350.129, F.S.; requiring that orders issued by the commission contain adequate support for any conclusions made by the commission; requiring the commission to provide an explanation and a discussion of major elements of the settlement when issuing an order accepting or denying certain settlement agreements; amending s. 366.06, F.S.; requiring the commission to keep the allowable return on equity for public utilities close to the risk-free rate of return and require that upward deviations away from the risk-free rate be specifically justified by the public utility seeking a tariff modification; amending s. 366.07, F.S.; requiring the commission to establish a schedule by which rate change requests may be submitted to the commission by each public utility



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company; creating s. 366.077, F.S.; requiring the
commission to provide a report to the Governor and the
Legislature by a specified date each year; providing
requirements for such report; amending s. 366.96,
F.S.; requiring that improvements included in certain
transmission and distribution storm protection plans
have forecasted customer benefits exceeding their
forecasted cost; revising the factors that the Public
Service Commission must consider in reviewing such
plans; deleting obsolete language; amending s.
367.021, F.S.; defining terms; amending s. 367.022,
F.S.; revising the types of nonprofit organizations
which are exempt from commission jurisdiction;
creating s. 367.24, F.S.; authorizing the commission
to initiate a proceeding to determine whether an
organization is a qualifying nonprofit organization;
requiring a person to notify an organization before
filing a petition for such proceeding; providing
requirements for such notification; authorizing an
organization to respond to such notice in a certain
manner and in a specified timeframe after receipt;
authorizing a person to file a petition to initiate a
proceeding to determine whether an organization is a
qualifying nonprofit organization after a specified
timeframe under certain circumstances; providing
requirements for such petition; requiring the
commission to consider certain information in making
its determination of whether an organization is a
qualifying nonprofit organization; requiring the



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commission to provide its reasoning for a
determination that an organization is not a qualifying
nonprofit organization; requiring the commission to
allow such organization a certain period of time in
which to address the commission's determination;
requiring the commission, under certain circumstances,
to issue an order stating that the organization is not
exempt from the jurisdiction of the commission and
must be regulated as a utility; requiring the
commission to follow specified procedures for an
organization not exempt from the commission's
jurisdiction; authorizing an organization to petition
the commission to regain qualifying nonprofit
organization status under certain circumstances;
requiring a specified waiting period before certain
organizations may petition to regain qualifying
nonprofit organization status; requiring the
commission to adopt rules for a certain purpose;
requiring the commission to submit a proposed rule by
a specified date; amending ss. 288.0655, 377.814, and
624.105, F.S.; conforming cross-references; reenacting
s. 553.975, F.S., relating to the report to the
Governor and Legislature, to incorporate the amendment
made to s. 366.82, F.S., in a reference thereto;
providing an effective date.

By Senator Gaetz

1-00565-25

A bill to be entitled

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1 An act relating to the Public Service Commission;
2 amending s. 350.01, F.S.; revising the membership of
3 the Public Service Commission; amending s. 366.06,
4 F.S.; requiring the commission to establish a certain
5 schedule; amending s. 366.81, F.S.; revising
6 legislative findings and intent; amending s. 366.82,
7 F.S.; revising the requirements for the annual report
8 provided by the commission to the Governor and the
9 Legislature; reenacting ss. 366.8255(4),
10 366.8260(2) (b), and 366.95(2) (c), F.S., relating to
11 environmental cost recovery, storm-recovery financing,
12 and financing for certain nuclear generating asset
13 retirement or abandonment costs, respectively, to
14 incorporate the amendment made to s. 366.06, F.S., in
15 references thereto; reenacting s. 553.975, F.S.,
16 relating to the report to the Governor and
17 Legislature, to incorporate the amendment made to s.
18 366.82, F.S., in a reference thereto; providing an
19 effective date.
20
21
22 Be It Enacted by the Legislature of the State of Florida:
23
24 Section 1. Subsection (1) of section 350.01, Florida
25 Statutes, is amended to read:
26 350.01 Florida Public Service Commission; terms of
27 commissioners; vacancies; election and duties of chair; quorum;
28 proceedings; public records and public meetings exemptions.—
29 (1) The Florida Public Service Commission shall be composed

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30 ~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s.
31 350.031. One member must be a certified public accountant, and
32 one member must be a chartered financial analyst.
33 Section 2. Subsection (1) of section 366.06, Florida
34 Statutes, is amended to read:
35 366.06 Rates; procedure for fixing and changing.—
36 (1) A public utility may ~~shall~~ not, directly or indirectly,
37 charge or receive any rate not on file with the commission for
38 the particular class of service involved, ~~and no change shall be~~
39 ~~made in any schedule~~. All applications for changes in rates must
40 ~~shall~~ be made to the commission in writing under rules and
41 regulations prescribed, and the commission has ~~shall have~~ the
42 authority to determine and fix fair, just, and reasonable rates
43 that may be requested, demanded, charged, or collected by any
44 public utility for its service. The commission shall investigate
45 and determine the actual legitimate costs of the property of
46 each utility company, of what is actually used and useful in the
47 public service, and shall keep a current record of the net
48 investment of each public utility company in such property of
49 which value, as determined by the commission, must ~~shall~~ be used
50 for ratemaking purposes and ~~shall~~ be the money honestly and
51 prudently invested by the public utility company in such
52 property used and useful in serving the public, less accrued
53 depreciation, and may ~~shall~~ not include any goodwill or going-
54 concern value or franchise value in excess of payment made
55 therefor. In fixing fair, just, and reasonable rates for each
56 customer class, the commission shall, to the extent practicable,
57 consider the cost of providing service to the class, as well as
58 the rate history, value of service, and experience of the public

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 59 utility; the consumption and load characteristics of the various
 60 classes of customers; and public acceptance of rate structures.
 61 The commission shall establish a schedule by which rate change
 62 requests may be submitted to the commission by each public
 63 utility company.
 64 Section 3. Section 366.81, Florida Statutes, is amended to
 65 read:
 66 366.81 Legislative findings and intent.—The Legislature
 67 finds and declares that it is critical to use ~~utilize~~ the most
 68 efficient and cost-effective demand-side renewable energy
 69 systems and conservation systems in order to protect the health,
 70 prosperity, and general welfare of the state and its citizens.
 71 Reduction in, and control of, the growth rates of electric
 72 consumption and of weather-sensitive peak demand are of
 73 particular importance. The Legislature further finds that the
 74 Florida Public Service Commission is the appropriate agency to
 75 adopt goals and approve plans related to the promotion of
 76 demand-side renewable energy systems and the conservation of
 77 electric energy and natural gas usage. The Legislature directs
 78 the commission to develop and adopt overall goals and authorizes
 79 the commission to require each utility to develop plans and
 80 implement programs for increasing energy efficiency and
 81 conservation and demand-side renewable energy systems within its
 82 service area, subject to the approval of the commission. In
 83 order to best meet the needs of Florida households, the
 84 commission shall work to keep the allowable return on equity
 85 close to the risk-free rate of return and shall require that
 86 upward deviations away from the risk-free rate be specifically
 87 justified by the utility seeking a tariff modification. Since

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 88 solutions to our energy problems are complex, the Legislature
 89 intends that the use of solar energy, renewable energy sources,
 90 highly efficient systems, cogeneration, and load-control systems
 91 be encouraged. Accordingly, in exercising its jurisdiction, the
 92 commission ~~may shall~~ not approve any rate or rate structure
 93 which discriminates against any class of customers on account of
 94 the use of such facilities, systems, or devices. This expression
 95 of legislative intent may shall not be construed to preclude
 96 experimental rates, rate structures, or programs. The
 97 Legislature further finds and declares that ss. 366.80-366.83
 98 and 403.519 are to be liberally construed in order to meet the
 99 complex problems of reducing and controlling the growth rates of
 100 electric consumption and reducing the growth rates of weather-
 101 sensitive peak demand; increasing the overall efficiency and
 102 cost-effectiveness of electricity and natural gas production and
 103 use; encouraging further development of demand-side renewable
 104 energy systems; and conserving expensive resources, particularly
 105 petroleum fuels.
 106 Section 4. Subsection (10) of section 366.82, Florida
 107 Statutes, is amended to read:
 108 366.82 Definition; goals; plans; programs; annual reports;
 109 energy audits.—
 110 (10) The commission shall require periodic reports from
 111 each utility and shall provide the Governor and the Legislature
 112 ~~and the Governor~~ with an annual report by March 1 of the goals
 113 it has adopted and its progress toward meeting those goals. The
 114 commission shall also consider the performance of each utility
 115 pursuant to ss. 366.80-366.83 and 403.519 when establishing
 116 rates for those utilities over which the commission has

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117 ratesetting authority.

118 (a) The annual report must include all of the following:

119 1. An investigation of contemporary economic analysis

120 related to rate changes in this state.

121 2. An analysis of potential cost impacts to utility

122 customers of this state if excess returns on equity have

123 occurred, and potential cost savings, if any, to customers if

124 the excess returns to equity have not occurred at a significant

125 rate.

126 3. An analysis of alternative rate-of-return scenarios,

127 including an investigation of the rationale for why such

128 scenarios were not chosen in the past, and an investigation of

129 the applicability of such scenarios for the future.

130 4. An assessment of long-term impacts and economic

131 repercussions of rising rates of regulated returns on equity to

132 utilities and their customers in the future.

133 5. A summary detailing the compensation of the executive

134 officers of all public utilities servicing this state, or the

135 executive officers of their affiliated companies or parent

136 company, including, but not limited to, salaries, benefits,

137 stock options, bonuses, stock buybacks, and other taxable

138 payments, expressed both as dollar amounts and as a percentage

139 of the entity's total revenue. The summary must include the

140 profits and losses of each entity as reported in its financial

141 statements and highlight any compensation exceeding the industry

142 average. The office shall also include in the report any

143 rationale provided by the insurer justifying compensation

144 exceeding the industry average and, for each insurer, an

145 explanation of how specific data gathered during the creation of

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146 the report informed the office's decisions on that insurer's

147 rate change requests.

148 (b) The report must provide benchmarking, comparing public

149 utilities servicing this state with public utilities servicing

150 other states, including commentary on all findings.

151 Section 5. For the purpose of incorporating the amendment

152 made by this act to section 366.06, Florida Statutes, in a

153 reference thereto, subsection (4) of section 366.8255, Florida

154 Statutes, is reenacted to read:

155 366.8255 Environmental cost recovery.—

156 (4) Environmental compliance costs recovered through the

157 environmental cost-recovery factor shall be allocated to the

158 customer classes using the criteria set out in s. 366.06(1),

159 taking into account the manner in which similar types of

160 investment or expense were allocated in the company's last rate

161 case.

162 Section 6. For the purpose of incorporating the amendment

163 made by this act to section 366.06, Florida Statutes, in a

164 reference thereto, paragraph (b) of subsection (2) of section

165 366.8260, Florida Statutes, is reenacted to read:

166 366.8260 Storm-recovery financing.—

167 (2) FINANCING ORDERS.—

168 (b)1. Proceedings on a petition submitted pursuant to

169 paragraph (a) shall begin with a petition by an electric utility

170 and shall be disposed of in accordance with the provisions of

171 chapter 120 and applicable rules, except that the provisions of

172 this section, to the extent applicable, shall control.

173 a. Within 7 days after the filing of a petition, the

174 commission shall publish a case schedule, which schedule shall

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175 place the matter before the commission on an agenda that will
176 permit a commission decision no later than 120 days after the
177 date the petition is filed.
178 b. No later than 135 days after the date the petition is
179 filed, the commission shall issue a financing order or an order
180 rejecting the petition. A party to the commission proceeding may
181 petition the commission for reconsideration of the financing
182 order within 5 days after the date of its issuance. The
183 commission shall issue a financing order authorizing financing
184 of reasonable and prudent storm-recovery costs, the storm-
185 recovery reserve amount determined appropriate by the
186 commission, and financing costs if the commission finds that the
187 issuance of the storm-recovery bonds and the imposition of
188 storm-recovery charges authorized by the order are reasonably
189 expected to result in lower overall costs or would avoid or
190 significantly mitigate rate impacts to customers as compared
191 with alternative methods of financing or recovering storm-
192 recovery costs and storm-recovery reserve. Any determination of
193 whether storm-recovery costs are reasonable and prudent shall be
194 made with reference to the general public interest in, and the
195 scope of effort required to provide, the safe and expeditious
196 restoration of electric service.
197 2. In a financing order issued to an electric utility, the
198 commission shall:
199 a. Except as provided in sub-subparagraph f. and in
200 subparagraph 4., specify the amount of storm-recovery costs and
201 the level of storm-recovery reserves, taking into consideration,
202 to the extent the commission deems appropriate, any other
203 methods used to recover these costs, and describe and estimate

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204 the amount of financing costs which may be recovered through
205 storm-recovery charges; and specify the period over which such
206 costs may be recovered.
207 b. Determine that the proposed structuring, expected
208 pricing, and financing costs of the storm-recovery bonds are
209 reasonably expected to result in lower overall costs or would
210 avoid or significantly mitigate rate impacts to customers as
211 compared with alternative methods of financing or recovering
212 storm-recovery costs.
213 c. Provide that, for the period specified pursuant to sub-
214 subparagraph a., the imposition and collection of storm-recovery
215 charges authorized in the financing order shall be paid by all
216 customers receiving transmission or distribution service from
217 the electric utility or its successors or assignees under
218 commission-approved rate schedules or under special contracts,
219 even if the customer elects to purchase electricity from an
220 alternative electric supplier following a fundamental change in
221 regulation of public utilities in the state.
222 d. Determine what portion, if any, of the storm-recovery
223 reserves must be held in a funded reserve and any limitations on
224 how the reserve may be held, accessed, or used.
225 e. Include a formula-based mechanism for making expeditious
226 periodic adjustments in the storm-recovery charges that
227 customers are required to pay under the financing order and for
228 making any adjustments that are necessary to correct for any
229 overcollection or undercollection of the charges or to otherwise
230 ensure the timely payment of storm-recovery bonds and financing
231 costs and other required amounts and charges payable in
232 connection with the storm-recovery bonds.

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233 f. Specify the storm-recovery property that is, or shall
 234 be, created in favor of an electric utility or its successors or
 235 assignees and that shall be used to pay or secure storm-recovery
 236 bonds and financing costs.

237 g. Specify the degree of flexibility to be afforded to the
 238 electric utility in establishing the terms and conditions of the
 239 storm-recovery bonds, including, but not limited to, repayment
 240 schedules, interest rates, and other financing costs.

241 h. Provide that storm-recovery charges be allocated to the
 242 customer classes using the criteria set out in s. 366.06(1), in
 243 the manner in which these costs or their equivalent were
 244 allocated in the cost-of-service study approved in connection
 245 with the electric utility's last rate case. If the electric
 246 utility's last rate case was resolved by a settlement agreement,
 247 the cost-of-service methodology filed by the electric utility in
 248 that case shall be used.

249 i. Provide that, after the final terms of an issuance of
 250 storm-recovery bonds have been established and prior to the
 251 issuance of storm-recovery bonds, the electric utility shall
 252 determine the resulting initial storm-recovery charge in
 253 accordance with the financing order and such initial storm-
 254 recovery charge shall be final and effective upon the issuance
 255 of such storm-recovery bonds without further commission action.

256 j. Include any other conditions that the commission
 257 considers appropriate and that are not otherwise inconsistent
 258 with this section.

259

260 In performing the responsibilities of this subparagraph and
 261 subparagraph 5., the commission may engage outside consultants

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262 or counsel. Any expenses associated with such services shall be
 263 included as part of financing costs and included in storm-
 264 recovery charges.

265 3. A financing order issued to an electric utility may
 266 provide that creation of the electric utility's storm-recovery
 267 property pursuant to sub-subparagraph 2.f. is conditioned upon,
 268 and shall be simultaneous with, the sale or other transfer of
 269 the storm-recovery property to an assignee and the pledge of the
 270 storm-recovery property to secure storm-recovery bonds.

271 4. If the commission issues a financing order, the electric
 272 utility shall file with the commission at least biannually a
 273 petition or a letter applying the formula-based mechanism
 274 pursuant to sub-subparagraph 2.e. and, based on estimates of
 275 consumption for each rate class and other mathematical factors,
 276 requesting administrative approval to make the adjustments
 277 described in sub-subparagraph 2.e. The review of such a request
 278 shall be limited to determining whether there is any
 279 mathematical error in the application of the formula-based
 280 mechanism relating to the appropriate amount of any
 281 overcollection or undercollection of storm-recovery charges and
 282 the amount of an adjustment. Such adjustments shall ensure the
 283 recovery of revenues sufficient to provide for the payment of
 284 principal, interest, acquisition, defeasance, financing costs,
 285 or redemption premium and other fees, costs, and charges in
 286 respect of storm-recovery bonds approved under the financing
 287 order. Within 60 days after receiving an electric utility's
 288 request pursuant to this paragraph, the commission shall either
 289 approve the request or inform the electric utility of any
 290 mathematical errors in its calculation. If the commission

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291 informs the utility of mathematical errors in its calculation,
292 the utility may correct its error and refile its request. The
293 timeframes previously described in this paragraph shall apply to
294 a refiled request.
295 5. Within 120 days after the issuance of storm-recovery
296 bonds, the electric utility shall file with the commission
297 information on the actual costs of the storm-recovery bond
298 issuance. The commission shall review such information to
299 determine if such costs incurred in the issuance of the bonds
300 resulted in the lowest overall costs that were reasonably
301 consistent with market conditions at the time of the issuance
302 and the terms of the financing order. The commission may
303 disallow any incremental issuance costs in excess of the lowest
304 overall costs by requiring the utility to make a contribution to
305 the storm reserve in an amount equal to the excess of actual
306 issuance costs incurred, and paid for out of storm-recovery bond
307 proceeds, and the lowest overall issuance costs as determined by
308 the commission. The commission may not make adjustments to the
309 storm-recovery charges for any such excess issuance costs.
310 6. Subsequent to the earlier of the transfer of storm-
311 recovery property to an assignee or the issuance of storm-
312 recovery bonds authorized thereby, a financing order is
313 irrevocable and, except as provided in subparagraph 4. and
314 paragraph (c), the commission may not amend, modify, or
315 terminate the financing order by any subsequent action or
316 reduce, impair, postpone, terminate, or otherwise adjust storm-
317 recovery charges approved in the financing order. After the
318 issuance of a financing order, the electric utility retains sole
319 discretion regarding whether to assign, sell, or otherwise

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320 transfer storm-recovery property or to cause the storm-recovery
321 bonds to be issued, including the right to defer or postpone
322 such assignment, sale, transfer, or issuance.
323 Section 7. For the purpose of incorporating the amendment
324 made by this act to section 366.06, Florida Statutes, in a
325 reference thereto, paragraph (c) of subsection (2) of section
326 366.95, Florida Statutes, is reenacted to read:
327 366.95 Financing for certain nuclear generating asset
328 retirement or abandonment costs.—
329 (2) FINANCING ORDERS.—
330 (c)1. Proceedings on a petition submitted pursuant to
331 paragraph (a) begin with the petition by an electric utility,
332 filed subject to the timeframe specified in paragraph (b), if
333 applicable, and shall be disposed of in accordance with chapter
334 120 and applicable rules, except that this section, to the
335 extent applicable, controls.
336 a. Within 7 days after the filing of a petition, the
337 commission shall publish a case schedule, which must place the
338 matter before the commission on an agenda that permits a
339 commission decision no later than 120 days after the date the
340 petition is filed.
341 b. No later than 135 days after the date the petition is
342 filed, the commission shall issue a financing order or an order
343 rejecting the petition. A party to the commission proceeding may
344 petition the commission for reconsideration of the financing
345 order within 5 days after the date of its issuance. The
346 commission shall issue a financing order authorizing the
347 financing of reasonable and prudent nuclear asset-recovery costs
348 and financing costs if the commission finds that the issuance of

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the nuclear asset-recovery bonds and the imposition of nuclear asset-recovery charges authorized by the financing order have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset-recovery costs. Any determination of whether nuclear asset-recovery costs are reasonable and prudent shall be made with reference to the general public interest and in accordance with paragraph (b), if applicable.

2. In a financing order issued to an electric utility, the commission shall:

a. Except as provided in sub-subparagraph d. and subparagraph 4., specify the amount of nuclear asset-recovery costs to be financed using nuclear asset-recovery bonds, taking into consideration, to the extent the commission deems appropriate, any other methods used to recover these costs. The commission shall describe and estimate the amount of financing costs which may be recovered through nuclear asset-recovery charges and specify the period over which such costs may be recovered. Any such determination as to the overall time period for cost recovery must be consistent with a settlement agreement, if any, under paragraph (b);

b. Determine if the proposed structuring, expected pricing, and financing costs of the nuclear asset-recovery bonds have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset-recovery costs. A financing order must provide detailed findings of fact addressing cost-effectiveness

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and associated rate impacts upon retail customers and retail customer classes;

c. Require, for the period specified pursuant to subparagraph a., that the imposition and collection of nuclear asset-recovery charges authorized under a financing order be nonbypassable and paid by all existing and future customers receiving transmission or distribution service from the electric utility or its successors or assignees under commission-approved rate schedules or under special contracts, even if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in this state;

d. Include a formula-based true-up mechanism for making expeditious periodic adjustments in the nuclear asset-recovery charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of nuclear asset-recovery bonds and financing costs and other required amounts and charges payable in connection with the nuclear asset-recovery bonds;

e. Specify the nuclear asset-recovery property that is, or shall be, created in favor of an electric utility or its successors or assignees and that shall be used to pay or secure nuclear asset-recovery bonds and all financing costs;

f. Specify the degree of flexibility to be afforded to the electric utility in establishing the terms and conditions of the nuclear asset-recovery bonds, including, but not limited to, repayment schedules, expected interest rates, and other

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financing costs consistent with sub-subparagraphs a.-e.;
g. Require nuclear asset-recovery charges to be allocated to the customer classes using the criteria set out in s. 366.06(1), in the manner in which these costs or their equivalent was allocated in the cost-of-service study that was approved in connection with the electric utility's last rate case and that is in effect during the nuclear asset-recovery charge annual billing period. If the electric utility's last rate case was resolved by a settlement agreement, the cost-of-service methodology that was adopted in the settlement agreement in that case and that is in effect during the nuclear asset-recovery charge annual billing period shall be used;
h. Require, after the final terms of an issuance of nuclear asset-recovery bonds have been established and before the issuance of nuclear asset-recovery bonds, that the electric utility determine the resulting initial nuclear asset-recovery charge in accordance with the financing order and that such initial nuclear asset-recovery charge be final and effective upon the issuance of such nuclear asset-recovery bonds without further commission action so long as the nuclear asset-recovery charge is consistent with the financing order; and
i. Include any other conditions that the commission considers appropriate and that are authorized by this section.
In performing the responsibilities of this subparagraph and subparagraph 5., the commission may engage outside consultants and counsel. All expenses associated with such services shall be included as part of financing costs and included in the nuclear asset-recovery charge.

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3. A financing order issued to an electric utility may provide that creation of the electric utility's nuclear asset-recovery property pursuant to sub-subparagraph 2.e. is conditioned upon, and simultaneous with, the sale or other transfer of the nuclear asset-recovery property to an assignee and the pledge of the nuclear asset-recovery property to secure nuclear asset-recovery bonds.
4. If the commission issues a financing order and nuclear asset-recovery bonds are issued, the electric utility or assignee must file with the commission at least biannually a petition or a letter applying the formula-based true-up mechanism pursuant to sub-subparagraph 2.d. and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make the adjustments described in sub-subparagraph 2.d. The review of such a request is limited to determining whether there is any mathematical error in the application of the formula-based mechanism relating to the amount of any overcollection or undercollection of nuclear asset-recovery charges and the amount of any adjustment. Such adjustments shall ensure the recovery of revenues sufficient to provide for the timely payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges relating to nuclear asset-recovery bonds approved under the financing order. Within 60 days after receiving an electric utility's request pursuant to this paragraph, the commission must approve the request or inform the electric utility of any mathematical errors in its calculation. If the commission informs the utility of mathematical errors in its calculation,

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the utility may correct the error and refile the request. The
timeframes previously described in this paragraph apply to a
refiled request.
5. Within 120 days after the issuance of nuclear asset-
recovery bonds, the electric utility shall file with the
commission information on the actual costs of the nuclear asset-
recovery bonds issuance. The commission shall review, on a
reasonably comparable basis, such information to determine if
such costs incurred in the issuance of the bonds resulted in the
lowest overall costs that were reasonably consistent with market
conditions at the time of the issuance and the terms of the
financing order. The commission may disallow all incremental
issuance costs in excess of the lowest overall costs by
requiring the electric utility to make a credit to the capacity
cost recovery clause in an amount equal to the excess of actual
issuance costs incurred, and paid for out of nuclear asset-
recovery bonds proceeds, and the lowest overall issuance costs
as determined by the commission. The commission may not make
adjustments to the nuclear asset-recovery charges for any such
excess issuance costs.
6. Subsequent to the transfer of nuclear asset-recovery
property to an assignee or the issuance of nuclear asset-
recovery bonds authorized thereby, whichever is earlier, a
financing order is irrevocable and, except as provided in
subparagraph 4. and paragraph (d), the commission may not amend,
modify, or terminate the financing order by any subsequent
action or reduce, impair, postpone, terminate, or otherwise
adjust nuclear asset-recovery charges approved in the financing
order. After the issuance of a financing order, the electric

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utility retains sole discretion regarding whether to assign,
sell, or otherwise transfer nuclear asset-recovery property or
to cause nuclear asset-recovery bonds to be issued, including
the right to defer or postpone such assignment, sale, transfer,
or issuance. If the electric utility decides not to cause
nuclear asset-recovery bonds to be issued, the electric utility
may not recover financing costs, as defined in paragraph (1)(e),
from customers.
Section 8. For the purpose of incorporating the amendment
made by this act to section 366.82, Florida Statutes, in a
reference thereto, section 553.975, Florida Statutes, is
reenacted to read:
553.975 Report to the Governor and Legislature.—The Public
Service Commission shall submit a biennial report to the
Governor, the President of the Senate, and the Speaker of the
House of Representatives, concurrent with the report required by
s. 366.82(10), beginning in 1990. Such report shall include an
evaluation of the effectiveness of these standards on energy
conservation in this state.
Section 9. This act shall take effect July 1, 2025.

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The Florida Senate

Committee Agenda Request

To: Senator Jennifer Bradley, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 4, 2025

I respectfully request that **Senate Bill #354**, relating to Public Service Commission, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Don Gaetz", is written over a horizontal line.

Senator Don Gaetz
Florida Senate, District 1

Date: February 28, 2025

Agency Affected: Public Service Commission
Agency Contact: David Frank, Director of Legislative Affairs | (850) 413-6125

RE: SB 354

I. SUMMARY:

SB 354 makes numerous changes to laws related to the Florida Public Service Commission (Commission or FPSC). It amends Section 350.01, Florida Statutes (F.S.), to expand the Commission from five to seven members and to add qualifications for two commissioners. It also amends Section 366.06, F.S., to require the FPSC to establish a schedule by which public utilities may submit rate change requests. It amends Section 366.81, F.S., to give Legislative direction regarding Return on Equity (ROE). Finally, it amends Section 366.82, F.S., to expand the scope of the Commission's annual report on activities under FEECA. The bill takes effect on July 1, 2025.

II. PRESENT SITUATION:

Statutory Background

Section 350.01(1), F.S., establishes that the Commission shall consist of five Commissioners appointed in accordance with the requirements of Section 350.031, F.S. Section 350.01(2), F.S., establishes 4-year staggered terms for Commissioners. At present, the Gerald Gunter building, which houses the Commission, and the hearing room in the Betty Easley building, where the Commission holds most of its public hearings, are designed around a five-member Commission. Currently, each Commissioner is afforded a personal staff of two, including a legal/technical advisor and an executive assistant.

Subsection 350.031(5), F.S., requires the Florida Public Service Commission Nominating Council to nominate to the Governor persons who are competent and knowledgeable in one or more fields, including: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the Commission. Subsection (5) also requires the Commission to fairly represent the above-stated fields. Members of the Commission are not required to be certified or licensed in a particular profession.

Section 366.02, F.S., defines a public utility as an entity selling electricity or natural gas to the public but excludes municipal utilities and rural electric cooperatives, as well as certain sellers of natural gas. As a result, the term "public utilities," as used in Chapter 366, F.S., applies to Florida's four investor-owned electric utilities, as well as seven natural gas local distribution companies.

Section 366.04, F.S., establishes the jurisdiction of the Commission to regulate and supervise each public utility with respect to its rates and service. Section 366.041, F.S., establishes the considerations the Commission is to apply in fixing just, reasonable, and compensatory rates:

the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the Commission's authority over the procedure for fixing and changing rates. Specifically, Section 366.06(1), F.S., confers authority to the Commission that all applications for changes in rates shall be made to the Commission in writing under rules and regulations prescribed. The Commission has adopted rules to facilitate the orderly filing, review, and consideration of rate proceedings that will meet the 12-month statutory deadline for final agency action under Section 366.04(3), F.S. Also, Section 366.06(2), F.S., requires the Commission to hold a public hearing whenever the Commission finds that rates are either insufficient or excessive, and to determine just and reasonable rates to be thereafter charged.

Base Rate Proceedings (Rate Cases)

The Commission establishes separate rates and charges to recover various components of a public utility's cost of service. Base rate proceedings, filed less frequently, address a utility's costs of infrastructure including a reasonable return on investment, operating and maintenance expenses and the cost of administering the utility. The cost of salaries and benefits, including executive compensation, is reviewed at an aggregate level. Considerations include a relative comparison to industry norms and the need to attract and retain qualified executive and non-executive utility personnel.

In fixing a reasonable rate of return, the Commission is guided by the Supreme Court of the United States' decisions in *Hope* and *Bluefield*, under which a reasonable return is one that is commensurate with the return investors would expect from like investments of comparable risk, is reasonably sufficient to assure investor confidence that the utility is financially sound, and is adequate to attract capital on reasonable terms. A just and reasonable ROE is integral to meeting sound regulatory economics and the standards set forth by the U.S. Supreme Court. The *Bluefield* case set the standard against which just and reasonable rates are measured:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties. . . . The return should be reasonable, sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain and support

its credit and enable it to raise money necessary for the proper discharge of its public duties.¹

The *Hope* case expanded on the guidelines as to a reasonable ROE, reemphasizing the findings in *Bluefield* and establishing that the rate-setting process must produce an end result that allows the utility a reasonable opportunity to cover its capital costs. The U.S. Supreme Court stated:

From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain credit and attract capital.²

In a base rate proceeding, the Commission establishes a utility's authorized rate of return or cost of capital. This is based upon the return on equity, long-term and short-term debt, customer deposits, and deferred taxes. A substantial evidentiary record of information is developed, including analyses of ROE using various industry-accepted models, as well as perspectives on the various risks impacting the utility. The rate of return authorized by the Commission provides an opportunity for the utility to earn a reasonable return. The Commission establishes a mid-point ROE for purposes of setting rates, and an ROE range of 100 basis points (+/- 1%) for purposes of ensuring rates remain reasonable.

The realized return, based upon a utility's earnings, is dependent on the utility's ability to manage its costs and react to exogenous factors, some of which may be outside its control. Such factors include changes in revenues due to the impact of weather on sales; or new, modified, or cancelled tariffed rates or charges. Other factors include the costs of materials, supplies, and labor; and interest rates affecting the cost of debt that could place upward or downward pressure on earnings. The Commission monitors the earnings of each public utility through recurring surveillance reports. The realized ROE filed in a surveillance report is analyzed for whether it falls within the established ROE range. Should earnings fall outside the range, the Commission's staff makes inquiries to gather information in order to recommend potential actions by the Commission.

In a base rate proceeding, the entire financial and operational condition of a utility is reviewed, as well as the grounds for a utility's request to adjust rates. This perspective affords the Commission the opportunity to assess a utility's risk in current and near-term market conditions, while judging the reasonableness of the need for increased revenue.

Cost Recovery Clauses, Infrastructure Surcharges, Interim Charges

Cost recovery clause proceedings are designed to recover variable, volatile, or legislatively mandated costs. For electric public utilities, proceedings are held annually to address fuel and

¹*Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).

²*Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

purchased power costs, capacity costs, environmental compliance costs, storm protection plan costs, and energy conservation program costs.³ For natural gas public utilities, annual proceedings address purchased natural gas and energy conservation program costs. The annual proceedings are governed by orders establishing procedure, including the schedule of key milestones.

Interim charges may be established to recover storm restoration costs. The charge is time-limited and subject to true-up following a subsequent Commission hearing to determine final costs that are eligible for recovery.

Finally, natural gas public utilities have received Commission approval to establish surcharges to recover costs required to comply with natural gas infrastructure safety mandates. The surcharges are reviewed annually and revised to ensure revenues match costs.

These types of proceedings establish rates to recover discrete costs. The Commission does not establish ROE or the overall rate of return in these focused rate setting processes, as that function is part of a broad base rate case.

Tariffs

A utility's tariffs are a series of documents that provide the rates, terms, and conditions for service. Tariffs are approved by the Commission as part of every rate setting proceeding, including those described above. A utility's tariffs also include standard forms for different service offerings and standard contracts and agreements. These can include the legislatively mandated contracts to purchase energy from cogenerators or renewable energy providers. While tariffs are normally revised or new tariffs approved as part of the proceedings described above, utilities can seek approval to modify an existing tariff or for a new tariff as circumstances warrant. The Commission, however, does not establish ROE or the overall rate of return in reviewing stand alone requests to approve new, modified or to cancel a tariff.

Florida Energy Efficiency and Conservation Act (FEECA)

Sections 366.80 through 366.83, and 403.519, F.S., are collectively known as FEECA. FEECA emphasizes four key areas: reducing the growth rates of weather-sensitive peak demand and electricity usage, increasing the efficiency of the production and use of electricity and natural gas, encouraging demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels. Sections 366.82(2) and 366.82(6), F.S., require the Commission to establish goals for the FEECA utilities and review the goals every five years, at a minimum. The utilities are required to develop cost-effective demand-side management (DSM) plans and programs that meet their goals and submit them to the Commission for approval. Public utilities subject to FEECA may seek cost recovery for approved DSM programs.

³ Most utilities purchase fuels to generate electricity and these commodities can include natural gas, coal, uranium and refined crude oil products. Utilities may also purchase, through contracts, all or a portion of the electricity required to serve customers. Purchased power contracts typically have two components: 1) energy charges, and 2) demand or capacity charges, that reserve generating capacity to help meet peak demand. The energy charge component of purchased power is recovered through the fuel and purchased power cost recovery clause. The capacity component of purchased power is recovered through the capacity cost recovery clause.

Energy conservation and DSM in Florida are accomplished through a multi-pronged approach that includes energy efficiency requirements in building codes for new construction, federal appliance efficiency standards, utility programs, and consumer education. Utility programs, which are paid for by all customers, are aimed at increasing efficiency levels above building codes and appliance efficiency standards.

The Commission is required by Section 366.82(10), F.S., to provide an annual report to the Florida Legislature and the Governor by March 1, summarizing the adopted goals and the progress made toward achieving those goals. Similarly, Section 377.703(2)(f), F.S., requires the Commission to file information on electricity and natural gas energy conservation programs with the Department of Agriculture and Consumer Services.

III. EFFECT OF PROPOSED CHANGES:

Section 1 – Section 350.01, F.S.

The bill amends Section 350.01, F.S., to expand the Commission from five to seven members. It also adds a provision that one member must be a certified public accountant, and one member must be a chartered financial analyst. Because of the current composition of the Commission, the new appointments would be limited to these specific qualifications.

Subsection 350.01(2), F.S., outlines the method by which staggered term dates were initially established. As a result, two of the current Commissioners' terms end on January 1, 2026; two on January 1, 2027; and one on January 1, 2029. SB 354 does not provide a start or end date for the two new Commissioners' terms.

Each Commissioner would require two further FTEs as support staff, for a total of six added FTEs. The Gerald Gunter building, which currently houses the Commission, would need renovations to account for added workspace, as would the Commission hearing room in the Betty Easley Conference Center, where structural changes would be needed to accommodate an expanded Commission. The fiscal impact of these additional FTEs, as well as the construction costs, is discussed in section IV below.

Section 2 – Section 366.06, F.S.

The bill amends Section 366.06, F.S., to require the Commission to establish a schedule by which rate change requests may be submitted to the Commission by each public utility company. This section would apply to four investor-owned electric utilities, as well as seven natural gas local distribution companies. This section of the bill also makes various wording changes that do not appear to be substantive.

The bill does not establish the scope of the term “rate change requests.” As a result, the impact of this bill is dependent on whether “rate change requests” is interpreted narrowly, and only applies to base rate cases, or broadly, applying to any change in rates or charges in the various rate making proceedings described above, including stand alone changes to tariffed charges.

A narrow interpretation would require the Commission to establish a schedule by which electric and gas IOUs could file a base rate case. While this provision may ensure that the Commission's resources are not overwhelmed by multiple, simultaneous rate cases at any given time, in the event that a utility is over- or under-earning, a restrictive schedule could delay either the utility or its customers from receiving needed rate relief in a timely fashion. This provision appears to conflict with section 366.06(2), F.S., that requires the Commission to hold a public hearing whenever rates are either insufficient or excessive. With regard to the utility being unable to seek rate relief when needed, this could be considered a form of regulatory taking and raise a constitutionality question.

Under a broad interpretation, the bill could implicate many other types of proceedings where rates are impacted, leading to less-than-optimal schedules and inefficient processes for utilities and customers. Also, a broad interpretation introduces increased regulatory risk and instability that could increase risk to the financial integrity of the utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 3 – Section 366.81, F.S.

Sections 3 and 4 of the bill both make changes to portions of FEECA, though neither section appears to address FEECA, energy efficiency, or energy conservation directly. This analysis assumes that the placement of these sections of the bill within FEECA does not limit the application of those sections of the bill.

The bill amends Section 366.81, F.S., to require the Commission to work to keep the allowable ROE close to the risk-free rate of return and requires a utility seeking a tariff modification to specifically justify any upward deviations from that rate.

In establishing ROE in a base rate proceeding, the Commission considers the risk-free rate of return, which is based upon the average of the forecasted yields on 30-year U.S. Treasury bonds and adjusts upward based on a number of factors, including the various risks faced by the utility and the current returns of similarly situated utilities. Numerous factors go into ROE, and the Commission analyzes multiple models and potential scenarios to create a range of potential ROE figures that incorporate the factors affecting the risk that the utility faces. Factors such as storm damage and a volatile business environment can increase the amount of risk the company faces, while factors such as higher-than-typical equity or a stable business environment can lower that risk. The Commission strives to establish an ROE for a given company that properly reflects the risk that company faces.

Public utilities may seek approval for new tariffs or to modify existing tariffs in the various rate setting proceedings described in section II, and as part of discrete, stand alone requests to the Commission. The bill suggests that a public utility need only seek to modify a tariff in order to initiate a review of its authorized ROE and range. This could occur in the annual cost recovery clause proceedings, annual natural gas infrastructure surcharge proceedings, interim rate setting proceedings, or stand alone tariff modification proceedings. Revising ROE annually introduces increased regulatory risk and instability that could increase risk to the financial integrity of the

utility. Such increased risk could negatively impact investor expectations and potentially increase the cost of capital.

Section 4 – Section 366.82, F.S.

The bill amends Section 366.82, F.S., to significantly expand the Commission’s Annual Report on Activities pursuant to FEECA (FEECA Report). At present, the FEECA Report is solely concerned with activities directly related to FEECA, such as the programs utilities have undertaken and their success with those programs. The bill expands the FEECA Report to include numerous subjects outside of FEECA, including:

- An investigation of contemporary economic analysis related to rate changes in Florida;
- An analysis of potential cost impacts to Florida utility customers if excess ROEs have occurred, and potential cost savings, if any, to customers if the excess ROEs have not occurred at a significant rate;
- An analysis of alternative rate-of-return scenarios, including an investigation of the rationale for why such scenarios were not chosen in the past, and an investigation of the applicability of such scenarios for the future;
- An assessment of long-term impacts and economic repercussions of rising rates of regulated ROEs to utilities and their customers in the future;
- A summary detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity’s total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and highlight any compensation exceeding the industry average. The office shall also include in the report any rationale provided by the insurer justifying compensation exceeding the industry average and, for each insurer, an explanation of how specific data gathered during the creation of the report informed the office’s decisions on that insurer’s rate change requests; and
- Benchmarking that compares public utilities servicing Florida with public utilities servicing other states, including commentary on all findings.

It would be helpful to have further clarification on the references to “insurer” in lines 143-146, as well as which “office” is intended in line 146.

As explained earlier, the apparent concept behind the topics outlined above in the annual report is used and considered by the Commission in establishing the authorized ROE and range in a base rate proceeding. For example, the Commission routinely monitors public utility earnings

and has authority to initiate a proceeding to adjust rates whenever earnings are excessive or insufficient. Second, the Commission establishes a substantial record of evidence of alternative rate of return model results based on the assumptions of various expert witnesses in a base rate proceeding. Third, the returns of similarly situated utilities in and out of Florida are considered by the Commission in establishing the authorized ROE and range.

During a base rate proceeding, compensation is reviewed and established at an aggregate level. The additional reporting requirements involving “detailing the compensation of the executive officers of all public utilities servicing Florida, or the executive officers of their affiliated companies or parent company, including but not limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments” would require extensive discovery sent to public utilities. Much of this information would likely be considered proprietary business information that necessitates confidential treatment by the Commission under Section 366.093, F.S. It would be helpful to have further clarification on how this confidential information could be disseminated in a public report to the Legislature and remain consistent with current law.

The bill will take effect on July 1, 2025.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The bill is expected to have a significant fiscal impact on the Commission. Section 1 of the bill requires the Commission to add six FTEs: two Commissioners, two advisors, and two executive assistants, for an annual increase of \$762,353. The Commission will also need to conduct renovations in the Gerald Gunter and Betty Easley buildings to accommodate the additional Commissioners, at a non-recurring cost of \$1,000,000 - \$2,000,000. The actual construction cost will be provided once the legislation passes.

	(FY 25-26) <u>Amount / FTE</u>	(FY 26-27) <u>Amount / FTE</u>	(FY 27-28) <u>Amount / FTE</u>
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$762,353/6 FTE	\$762,353/6 FTE	\$762,353/6 FTE
2. Non-Recurring	\$31,838/0 FTE	\$0/0 FTE	\$0/0 FTE
3. Non-Recurring (Construction)*	\$1-\$2M/0 FTE		

* The building renovations will be required to accommodate additional staff. In consultation with Department of Management Services (DMS) the estimated range of construction cost is \$1-\$2M.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

The bill is not expected to have any significant effects on local governments.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The bill is not expected to have any significant effect on the private sector.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No conflicts with existing federal laws or regulations have been identified.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g., separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

Utilities do not currently file rate requests on a set schedule. Section 366.06(2), F.S., which currently governs the timing of rate requests, provides in full as follows:

Whenever the commission finds, upon request made or upon its own motion, that the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law; that such rates are insufficient to yield reasonable compensation for the services rendered; that such rates yield excessive compensation for services rendered; or that such service is inadequate or cannot be obtained, the commission shall order and hold a public hearing, giving notice to the public and to the public utility, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

Under this statute, fluctuations in revenues drive rate requests. The underlying events that drive these fluctuations are not predictable. This statute allows the Commission and the utility the ability to coordinate rate requests with revenues as circumstances dictate. The inherent statutory flexibility has operated as intended over time, with utilities maintaining rates that are neither excessive nor inadequate.

Adopting a set schedule directly conflicts with this statute. The dates adopted in the rate request schedule would drive the filings. Whether revenues are sufficient or excessive, the utility would have to wait for its scheduled date.

In addition to creating a statutory conflict, establishing by rule a schedule applicable to all utilities could have significant financial consequences for utilities and ratepayers. For example, under the current situation with no set schedule, a utility with sufficient revenues can delay the expense of a rate request until circumstances change. With a set schedule, that same utility would be forced to file an unnecessary rate request and incur those expenses, which are ultimately passed along to the ratepayers. Also, with no set schedule, a utility has the ability to file a rate

request as soon as a revenue increase or decrease indicates a near-term deficiency or excess. With a set schedule, that utility would have to wait for its scheduled submission date, which could make a bad situation worse.

A utility that is earning revenues below its adopted range is “underearning.” Under the proposed bill, a utility that is underearning would have to continue to do so until allowed to seek a rate increase pursuant to the “rate change request” schedule. Forcing a utility to maintain this position may result in a claim for a “regulatory taking.”

The rate of return which public utility companies may be allowed to earn is a question of vital importance to both rate payers and investors. An inadequate return may prevent satisfactory services to the public and concomitantly disappoint investors who will look for alternative sources of investment. The Public Service Commission is given the power to fix the return within certain limits. That return cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer.⁴

The phrase “rate change request” is not defined. The broader the interpretation of this phrase and wider the effect of the schedule, the more likely such a scenario is to occur.

On the other side of this spectrum, a utility that is earning revenues above its adopted range is “overearning.” A utility that is subject to the rule and is overearning at a time that does not coincide with its “rate change request” schedule would be prohibited from lowering its rates. Ratepayers would not receive the rate relief to which they are entitled in a timely manner. The utility would be compelled to accept and hold the overearnings, calculate refunds as part of its schedule “rate change request,” and deal with the potential of Commission sanctions for overearning.

The existing statutory framework avoids these scenarios. Utilities currently project revenues and seek rate adjustments either in the normal course of business or in reaction to unanticipated or sudden events or opportunities. An established schedule removes this maneuverability.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

The schedule for utilities to make a “rate change request” must be established by the Commission, presumably by rule adoption. Because the phrase “rate change request” is not defined in the legislation, it may be appropriate to provide a definition in that same rule. This definition and the establishment of the schedule may generate a rule challenge from utilities or affected ratepayers.

The potential for regulatory takings litigation was addressed immediately above in Section B.

⁴ *United Telephone Company v. Mayo*, 345 So. 2d 648, 653 (Fla. 1977)(emphasis added); see U.S. Const. amend. V; Fla. Const. art. X, § 6.

D. Other

There are a number of issues raised in Section 3 of the bill:

1. Section 3 amends the intent section of the Florida Energy Efficiency and Conservation Act (“FEECA”), Section 366.81, F.S., to include a new requirement regarding the utility’s Return on Equity (“ROE”). Placement of the new provision within Section 366.81, F.S., creates inherent confusion because that section of law is the legislative intent section of the FEECA statutes regarding demand side management (“DSM”) plans and programs. Because there are no tariffs adopted to implement legislative intent, the scope, application, and meaning of this provision could benefit from further clarification.
2. Section 3 interjects the placement of the substantive requirements for ROE in the FEECA statute and thus conflicts with the historic practice and application of Chapter 366, F.S. This is because ROE has consistently been litigated as an issue in base rate proceedings only. Return on common equity, once established in a base rate proceeding, is applied uniformly across the utility’s rate base until the utility’s next base rate proceeding.
3. Section 3 of the bill (notwithstanding that the new requirement is in the intent section of the FEECA statute) could be construed to require a full-blown analysis of ROE in a DSM proceeding, which could lead to a substantial change in the scope, magnitude, and cost of a DSM proceeding, especially since the DSM docket involves all electric IOUs (which could mean a review of the ROE of all utilities simultaneously). Of course, presumably it would apply only to those utilities “seeking a tariff modification” in connection with implementing their proposed DSM plans and programs. But any analysis of ROE is an involved undertaking and potentially costly to customers.
4. Section 3 could also benefit from further clarification as to whether the new language is intended to direct the Commission to establish generally-applicable ROE requirements in a DSM proceeding (i.e. applicable to all utilities).

VIII. COMMENTS:

Section 4 of the bill includes references to “insurer” and “office,” which do not have clear meaning or relevance within Chapter 366, F.S.

Prepared by: Benjamin Crawford and Shaw Stiller
Date: February 23, 2025

03/12/2025

Meeting Date

Regulated Industries

Committee

Alicia Keeter

Name

2970 Wellington Circle

Address

Street

Tallahassee

FL

32309

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

☒

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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APPEARANCE RECORD

The Florida Senate

SB 354

Meeting Date

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

Bill Number or Topic

948904

Committee

Alicia Keeter

Name

2970 Wellington Circle

Address

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Tallahassee

FL

32309

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

☒

I am appearing without compensation or sponsorship.

☐

I am a registered lobbyist, representing:

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

Amendment Barcode (if applicable)

850-520-1405

Phone

alicia@frwa.net

Email

The Florida Senate

APPEARANCE RECORD

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March 12 2025

Meeting Date

Regulated Industries

Committee

SB 354

Bill Number or Topic

William Hernandez

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Email

Amendment Barcode (if applicable)

Speaking:



For

☐ Against

Against

☐ Information

Information

OR

Waive Speaking:

☐ In Support

In Support

☐ Against

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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representing:

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AARP

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S-001 (08/10/2021)

APPEARANCE RECORD

3/12/2025

Meeting Date

Regulated Industries

Committee

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SB 354

Bill Number or Topic

Name
Zayne Smith

Phone

850 228-4243

Amendment Barcode (if applicable)

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Tally FL 32301

City

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zsmith@acarp.org

Speaking: ☒ For

☐ Against

☐ Information

OR

Waive Speaking: ☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

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APPEARANCE RECORD

Meeting Date

3-12-25

Bill Number or Topic

SB 354

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Regulated Industries

Committee

Amendment Barcode (if applicable)

813-220-5353

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Sabrina Christie

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Email

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State

33584

Zip

Speaking: ☒ For☐ Against☐ Information**OR**Waive Speaking: ☐ In Support☐ Against☐ I am appearing without
compensation or sponsorship.☐ I am a registered lobbyist,
representing:☒ I am not a lobbyist, but received
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(travel, meals, lodging, etc.),
sponsored by:

AARP

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S-001 (08/10/2021)

APPEARANCE RECORD

3/12/25

Meeting Date

Regulated Industries

Committee

Samantha Kaddis

Name

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SB 354

Bill Number or Topic

Amendment Barcode (if applicable)

727-242-0579

Phone

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SKaddis@cleoinsstitute.org

Email

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State

32308

Zip

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OR

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compensation or sponsorship.☒ I am a registered lobbyist,
representing:

The CLEO Institute

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S-001 (08/10/2021)

Weds March 12 2025

SB 354 PSC

APPEARANCE RECORD

Meeting Date

Bill Number or Topic

Rules Cmte

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Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

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S-001 (08/10/2021)

Weds March 12 2025

SB 354 PSC

APPEARANCE RECORD

Meeting Date

Bill Number or Topic

Rules Cmte

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Committee

Amendment Barcode (if applicable)

Name DOUG STAUFFERPhone 334-221-1611Address 1737 Maple AveEmail Chairman@

Street

Niceville FL 32578

State

Zip

OKALOO5A60D.comSpeaking: ☐ For☐ Against☐ Information**OR**Waive Speaking: ☒☒ In Support☐ Against☒ 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.),
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S-001 (08/10/2021)

Weds March 12 2025

Meeting Date

Rules

Committee

Sharon D. Regan

Name

202 Camelia Street

Address

Street

Gulf Breeze

FL

32561

City

State

Zip

Speaking: ☒ For

☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support

☐ Against

☒ 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)

The Florida Senate

APPEARANCE RECORD

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SB 354 PSC

Bill Number or Topic

Amendment Barcode (if applicable)

850-206-4931

Phone

sharonregan@hotmail.com

Email

Weds March 12 2025

APPEARANCE RECORD

SB 354 PSC

Meeting Date
Rules Cmte

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Susan Cundiff

850 932 8007

Name

Phone

Address

Email

Street

Gulf Breeze FL 32563

State

Zip

☐ For

☐ Against

☐ Information

OR

☒ Waive Speaking:

☐ In Support

☐ Against

Speaking:

☒

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.),
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The Florida Senate

APPEARANCE RECORD

Meeting Date

Wed 3/12/25

Bill Number or Topic

SB 354PSC

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Committee

Amendment Barcode (if applicable)

Denise Beckham

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City

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State

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Zip

Speaking: ☐ For ☐ Against

☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
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representing:

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S-001 (08/10/2021)

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District Aide
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Legislative Aide
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Randy Fine
Florida Senate
Senator, District 19

Tallahassee Office:
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Fine.Randy@flsenate.gov

Legislative Aide
Anna Budko
Budko.Anna@flsenate.gov

March 7, 2025

The Honorable Jennifer Bradley
Chairman of Committee on Regulated Industries,
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bradley,

I respectfully request an excused absence from the Committee on Regulated Industries meeting on March 12th, 2025.

Thank you in advance for your consideration of this request.

cc:
Staff Director Booter Imhof
Administrative Assistant Susan Datres

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Fine".

Randy Fine
State Senator, District 19

Governmental Oversight and Accountability, Chair
Community Affairs, Vice Chair
Joint Select Committee on Collective Bargaining, Alternating Chair
Appropriations -- Regulated Industries
Appropriations Committee on Agriculture, Environment, and General Government
Appropriations Committee on Pre-K - 12 Education -- Education Postsecondary
Brevard County Delegation

CourtSmart Tag Report

Room: KB 412 **Case No.:** -
Caption: Senate Committee on Regulated Industries

Type:
Judge:

Started: 3/12/2025 8:33:34 AM
Ends: 3/12/2025 10:24:04 AM **Length:** 01:50:31

8:33:37 AM	Chair Pizzo calls meeting to order
8:33:39 AM	Roll Call
8:33:57 AM	Quorum
8:34:00 AM	Opening remarks by Chair Pizzo
8:34:15 AM	Tab 3: SB 578 Wine Containers by Senator Leek
8:34:28 AM	Senator Leek explains bill
8:35:25 AM	Public testimony
8:35:30 AM	Derick Tabertshofer, Americans for Prosperity waives
8:35:43 AM	Senator Leek waives close on bill
8:35:46 AM	Roll Call
8:36:06 AM	Tab 4: SB 606 Public Lodging and Food Service Establishments by Senator Leek
8:36:14 AM	Senator Leek explains bill
8:38:02 AM	Public testimony
8:38:06 AM	Chair Pizzo reads waiving
8:38:35 AM	Senator Leek waives close on bill
8:38:39 AM	Roll Call
8:39:08 AM	Tab 1: SB 202 Municipal Water and Sewer Utility Rates by Senator Jones
8:39:18 AM	Senator Jones explains bill
8:40:41 AM	Questions
8:40:44 AM	Senator Bernard
8:40:52 AM	Senator Jones
8:40:57 AM	Senator Bernard
8:41:03 AM	Senator Jones
8:43:04 AM	Senator Bernard
8:43:10 AM	Senator Jones
8:43:43 AM	Senator Bernard
8:43:49 AM	Senator Jones
8:44:13 AM	Senator Bernard
8:44:19 AM	Senator Jones
8:44:31 AM	Chair Pizzo
8:44:42 AM	Senator Jones
8:44:55 AM	Public testimony
8:44:59 AM	Chair Pizzo reads waiving
8:45:44 AM	Sally Heyman
8:50:08 AM	Chair Pizzo
8:50:33 AM	Sally Heyman
8:50:44 AM	Chair Pizzo
8:50:56 AM	Sally Heyman
8:51:13 AM	Chair Pizzo
8:51:17 AM	Sally Heyman
8:51:43 AM	Mario Diaz
8:53:45 AM	Chair Pizzo
8:53:59 AM	Mario Diaz
8:54:14 AM	Chair Pizzo
8:54:18 AM	Mario Diaz
8:54:20 AM	Chair Pizzo
8:54:24 AM	Mario Diaz
8:54:41 AM	Felicia Robinson
8:59:31 AM	Chair Pizzo
8:59:38 AM	Felicia Robinson
8:59:41 AM	Chair Pizzo
8:59:46 AM	Felicia Robinson

8:59:56 AM	Chair Pizzo
9:00:00 AM	Felicia Robinson
9:00:22 AM	Chair Pizzo
9:00:40 AM	Felicia Robinson
9:00:53 AM	Chair Pizzo
9:00:56 AM	Felicia Robinson
9:01:18 AM	Senator Bernard
9:01:34 AM	Felicia Robinson
9:01:45 AM	Senator Bernard
9:01:49 AM	Felicia Robinson
9:02:15 AM	Senator Jones closes on bill
9:04:03 AM	Roll Call
9:04:26 AM	Chair Pizzo turns chair over to Senator Bradley
9:04:34 AM	Tab 5: SB 570 Swimming Pool and Spa Contractors by Senator Gruters
9:04:41 AM	Senator Gruters explains bill
9:05:21 AM	Questions
9:05:24 AM	Senator Boyd
9:05:35 AM	Senator Gruters
9:05:45 AM	Public testimony
9:06:10 AM	Dino Muggeo
9:07:39 AM	Dallas Thiesen, Florida Swimming Pool Association waives
9:07:50 AM	Senator Gruters waives close on bill
9:07:52 AM	Roll Call
9:08:16 AM	Tab 6: SB 928 Nonapproved Disposable Nicotine Dispensing Devices by Senator Calatayud
9:08:28 AM	Senator Calatayud explains bill
9:09:55 AM	Questions
9:09:57 AM	Senator Pizzo
9:10:03 AM	Senator Calatayud
9:10:08 AM	Senator Gruters
9:10:24 AM	Senator Calatayud
9:10:46 AM	Amendment 326832 by Senator Calatayud
9:10:51 AM	Senator Calatayud explains amendment
9:11:41 AM	Questions
9:11:42 AM	Senator Pizzo
9:11:55 AM	Senator Calatayud
9:12:09 AM	Debate
9:12:10 AM	Senator Burgess
9:12:54 AM	Senator Calatayud waives close on amendment
9:13:02 AM	Chair Bradley reports amendment
9:13:11 AM	Public testimony
9:13:15 AM	Chair Bradley reads waiving
9:13:49 AM	Kelly Mallette, Florida Smoke Free Association
9:14:40 AM	Senator Pizzo
9:14:47 AM	Kelly Mallette
9:14:50 AM	Senator Pizzo
9:14:51 AM	Kelly Mallette
9:14:52 AM	Senator Pizzo
9:14:53 AM	Kelly Mallette
9:14:55 AM	Senator Pizzo
9:14:57 AM	Kelly Mallette
9:15:20 AM	Senator Calatayud closes on bill
9:16:17 AM	Roll Call
9:16:41 AM	Tab 2: SB 346 State Preemption of the Regulation of Hoisting Equipment by Senator Rouson
9:16:58 AM	Senator Rouson explains bill
9:20:43 AM	Chair Bradley
9:20:49 AM	Senator Rouson
9:21:04 AM	Senator Pizzo
9:21:10 AM	Senator Rouson
9:21:27 AM	Senator Pizzo
9:21:50 AM	Senator Rouson
9:21:57 AM	Public testimony
9:22:10 AM	Carol Bowen, Associated Builders and Contractors of Florida

9:25:03 AM	Senator Pizzo
9:26:18 AM	Carol Bowen
9:26:54 AM	Senator Pizzo
9:27:58 AM	Carol Bowen
9:29:10 AM	Senator Ingoglia
9:29:34 AM	Carol Bowen
9:29:35 AM	Senator Ingoglia
9:29:48 AM	Carol Bowen
9:30:19 AM	Senator Ingoglia
9:30:41 AM	Carol Bowen
9:31:26 AM	Senator Ingoglia
9:31:37 AM	Carol Bowen
9:32:04 AM	Senator Ingoglia
9:32:13 AM	Carol Bowen
9:32:24 AM	Chair Bradley reads waiving
9:32:36 AM	Debate
9:32:38 AM	Senator Pizzo
9:34:03 AM	Senator Boyd
9:34:57 AM	Senator Burgess
9:36:03 AM	Senator Ingoglia
9:37:05 AM	Chair Bradley
9:38:13 AM	Senator Rouson closes on bill
9:38:58 AM	Roll Call
9:39:22 AM	Chair Bradley turns chair to Senator Pizzo
9:39:31 AM	Tab 7: SB 652 Veterinary Professional Associates by Senator Bradley
9:39:37 AM	Senator Bradley explains bill
9:41:07 AM	Amendment 164782 by Senator Bradley
9:41:18 AM	Senator Bradley explains amendment
9:41:56 AM	Chair Pizzo reports amendment
9:41:58 AM	Public testimony
9:42:03 AM	Chair Pizzo reads waiving
9:42:37 AM	Wayne Jensen
9:44:41 AM	Amy Caretenuto
9:47:13 AM	Debate
9:47:17 AM	Senator Boyd
9:48:17 AM	Chair Pizzo
9:48:27 AM	Senator Bradley closes on bill
9:49:34 AM	Roll Call
9:49:59 AM	Chair Pizzo turns chair to Senator Bradley
9:50:06 AM	Tab 8: SB 354 Public Service Commission by Senator Gaetz
9:50:31 AM	Amendment 444212 by Senator Gaetz
9:50:50 AM	Substitute Amendment 948904 by Senator Gaetz
9:50:56 AM	Senator Gaetz explains bill and amendment
9:54:35 AM	Questions
9:54:37 AM	Senator Ingoglia
9:54:45 AM	Chair Bradley
9:54:55 AM	Senator Ingoglia
9:55:27 AM	Senator Gaetz
9:56:14 AM	Senator Ingoglia
9:57:16 AM	Senator Gaetz
9:58:31 AM	Senator Ingoglia
9:58:55 AM	Senator Gaetz
10:00:40 AM	Senator Ingoglia
10:00:57 AM	Senator Gaetz
10:01:03 AM	Senator Ingoglia
10:02:15 AM	Senator Gaetz
10:02:33 AM	Senator Ingoglia
10:03:24 AM	Senator Gaetz
10:04:24 AM	Public testimony
10:04:41 AM	Alicia Keeter
10:08:45 AM	Senator Gaetz closes on amendment
10:10:09 AM	Chair Bradley reports amendment

10:10:17 AM Public testimony
10:10:39 AM William Herrman
10:13:08 AM Zayne Smith, AARP
10:14:08 AM Sabrina Christie
10:16:11 AM Chair Bradley reads waiving
10:16:42 AM Samantha Kaddis, CLEO Institute
10:18:27 AM Debate
10:18:28 AM Senator Pizzo
10:20:02 AM Chair Bradley
10:21:50 AM Senator Gaetz closes on bill
10:22:56 AM Roll Call
10:23:34 AM Senator Calatayud motion to vote after Roll Call for tab 4
10:23:41 AM Senator Ingoglia motion to vote after Roll Call for tabs 1, 5, & 6
10:23:49 AM Chair Bradley motion to vote after Roll Call for tabs 3 & 4
10:23:56 AM Senator Calatayud moves to adjourn
10:23:58 AM Meeting Adjourned