

Tab 1	SB 284 by Brodeur; Energy					
761046	A	S	RCS	GO, Brodeur	Before L.20:	02/21 05:25 PM
186330	A	S	UNFAV	GO, Polsky	Delete L.65 - 66:	02/21 05:25 PM

Tab 2	SB 314 by Rodriguez; (Identical to H 00169) Licensed Counseling for First Responders					
897888	D	S	RCS	GO, Rodriguez	Delete everything after	02/21 05:26 PM

Tab 3	SM 176 by Avila; (Identical to H 00189) Balancing the Federal Budget					
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Tab 4	SPB 7006 by GO; OGSr/Nationwide Public Safety Broadband Network					
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Tab 5	SPB 7008 by GO; Public Records/Building Plans, Blueprints, Schematic Drawings, and Diagrams					
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Tab 6	SPB 7010 by GO; OGSr/United States Census Bureau					
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Avila, Chair
 Senator Polsky, Vice Chair

MEETING DATE: Tuesday, February 21, 2023

TIME: 3:30—5:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Avila, Chair; Senator Polsky, Vice Chair; Senators Albritton, Davis, Hooper, Rodriguez, Rouson, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 284 Brodeur	Energy; Revising the selection criteria for purchasing or leasing vehicles for state agencies, state universities, community colleges, and local governments under a state purchasing plan; deleting a provision requiring the use and procurement of ethanol and biodiesel blended fuels; requiring the Department of Management Services, before a specified date, to make recommendations to state agencies, state universities, community colleges, and local governments relating to the procurement and integration of electric and natural gas fuel vehicles, etc. GO 02/21/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
2	SB 314 Rodriguez (Identical H 169)	Licensed Counseling for First Responders; Requiring an employing agency of a first responder to pay for certain licensed counseling for first responders; prohibiting the employing agency from requiring the first responder to use specified leave for such counseling under certain circumstances; authorizing a first responder to select a licensed mental health professional and providing requirements for the employing agency related thereto, etc. GO 02/21/2023 Fav/CS CA FP	Fav/CS Yeas 8 Nays 0
3	SM 176 Avila (Identical HM 189)	Balancing the Federal Budget; Urging members of Congress to take immediate action to address the current national debt and balance the federal budget, etc. GO 02/21/2023 Favorable RC	Favorable Yeas 8 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Tuesday, February 21, 2023, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7006	OGSR/Nationwide Public Safety Broadband Network; Amending a provision which provides an exemption from public records requirements for certain information held by an agency relating to the Nationwide Public Safety Broadband Network; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Consideration of proposed bill:			
5	SPB 7008	Public Records/Building Plans, Blueprints, Schematic Drawings, and Diagrams; Amending a provision which provides an exemption from public records for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development; removing a provision authorizing disclosure of exempt information under certain circumstances; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Consideration of proposed bill:			
6	SPB 7010	OGSR/United States Census Bureau; Repealing a provision which provides an exemption from public records requirements for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses Program, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 284

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brodeur

SUBJECT: Energy

DATE: February 22, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVane	GO	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 284 exempts from sales tax the components and labor used in an electric vehicle conversion. The bill defines “electric vehicle conversion” to mean replacing the gas or diesel powertrain technology of a motor vehicle with 100 percent battery electric powertrain technology.

The bill revises the vehicle procurement requirements for the state purchasing plan. Specifically, the bill requires vehicles of a given use class to be selected for procurement based on the lowest lifetime ownership costs, including costs for fuel, operations, and maintenance rather than on the greatest fuel efficiency available, when fuel economy data is available. The current exemption to this requirement is continued for emergency response vehicles.

The bill removes requirements that state agencies use ethanol and biodiesel fuel when available, and that certain entities procure biofuels for fleets when possible.

The bill requires the Department of Management Services to make recommendations by July 1, 2024, regarding the procurement of electric vehicles and natural gas fuel vehicles along with the best practices for integrating these vehicles into existing fleets.

The bill expands the definition of “single-trade inspection” for purposes of building code inspection services to include inspections of the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations. This allows the property owner

to contract with a private provider for the inspection services rather than rely solely on the local government code inspectors.

The impact on state and local government revenues and expenditures is indeterminate. The Department of Management Services will incur costs modifying the configuration of the Fleet Management Information System. Local governments may have reduced workloads relating to code inspections, but will experience a similar decline in revenues associated with those inspections conducted by private providers. Staff estimates the bill to significantly reduce General Revenue Fund receipts and local government revenue.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax (sales tax) on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² and a limited number of services,³ and a 5.5 percent sales and use tax on commercial real estate.⁴ Chapter 212, F.S., authorizes the levy and collection of Florida's sales tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances. Florida requires a dealer to add the tax to the sales price of the taxable good or service and collect it from the purchaser at the time of sale.⁵

In addition to the state tax, counties may levy local discretionary surtax, comprised of separate surtaxes.⁶ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁷ Discretionary sales surtax rates currently levied vary by county in a range from 0.0 to 1.5 percent.⁸

Although Florida's sales tax is predominately limited to the taxation of tangible personal property, services that are a part of a sale must be included in the sales price charged to a consumer.⁹ Furthermore, the sales price must include the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property.¹⁰ For example, the total charge made to a customer for a repair or modification of an automobile is subject to sales tax.

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.05(1)(i), F.S.

⁴ Section 212.031, F.S.

⁵ See ss. 212.07(2) and 212.06(3)(a), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054, F.S.

⁸ Office of Economic and Demographic Research (EDR), The Florida Legislature, *Florida Tax Handbook*, 2022 Local Discretionary Sales Surtax Rates in Florida's Counties, 231-232 (2022), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Feb. 20, 2023).

⁹ Section 212.02(16), F.S. See also 12A-1.006, F.A.C.

¹⁰ *Id.*

Procurement of Commodities or Contractual Services

Chapter 287, F.S., specifies the procedures for the state procurement of commodities or contractual services. The Department of Management Services (DMS) oversees state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.¹¹ The DMS establishes purchasing agreements and procures state term contracts for commodities and contractual services, and establishes uniform procurement policies, rules, and procedures.¹² The DMS negotiates contracts and purchasing agreements that are intended to leverage the state's buying power. The DMS is directed to consider the life-cycle cost of commodities purchased by the state.¹³ Section 287.83, F.S., authorizes the DMS to establish energy-efficiency standards for major energy-consuming products.

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,¹⁴ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,¹⁵ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,¹⁶ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,¹⁷ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.¹⁸ However, specific contractual services and commodities are not subject to competitive solicitation requirements.¹⁹

¹¹ Sections 287.032 and 287.042, F.S.

¹² *Id.*; see Rule 60A-1002, F.A.C.

¹³ Section 287.083(1), F.S.

¹⁴ Section 287.057(3)(c), F.S.

¹⁵ Section 287.057(1)(a), F.S.

¹⁶ Section 287.057(1)(b), F.S.

¹⁷ Section 287.057(1)(c), F.S.

¹⁸ Section 287.057(1), F.S.

¹⁹ Section 287.057(3)(e), F.S.

Climate-friendly Public Business

Section 286.29, F.S., requires state agencies to:

- Consult with the “Florida Climate-Friendly Preferred Products List,”²⁰ in procuring products from state term contracts.²¹ If the price is comparable, then they shall procure such products.²²
- Contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.^{23,24}
- Ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.²⁵ When procuring new vehicles, to define the intended purpose for such vehicle which will then be chosen based on greatest fuel efficiency available for a given use class, when fuel economy data is available.²⁶
- Use ethanol and biodiesel blended fuels when available.²⁷
- Procure biofuels for fleet, to the greatest extent practicable, if the agency administers central fueling operations.²⁸

Florida Building Codes

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (Building Code). The purpose and intent of the Building Code is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures, or facilities in Florida. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²⁹

Contractors and property owners are permitted to hire licensed Building Code administrators, engineers, and architects, referred to as “private providers,” to review building plans, perform

²⁰ The DMS keeps a Florida Climate-Friendly Preferred Products List at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list, (last visited Jan. 31, 2023).

²¹ Section 286.29(1), F.S.

²² *Id.*

²³ The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida's natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) communication and education with customers, employees, and the public; (2) waste reduction, reuse and recycling; (3) water conservation; (4) energy efficiency; and (5) indoor air quality. *See, Green Lodging*, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (Last visited Jan. 31, 2023).

²⁴ Section 286.29(2), F.S.

²⁵ Section 286.29(3), F.S., requires state agencies to report compliance to the DMS through the Equipment Management Information System database. The DMS is implementing a new Statewide Fleet Management Information System that can be used to manage cost information and reports to ensure the effective and efficient use, operation, maintenance, repair, and replacement of motor vehicles, watercraft, and aircraft. *See, Fleet Management Information System*, https://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management/fleet_management_information_system (Last visited Jan. 31, 2023).

²⁶ *Id.*

²⁷ Section 286.29(5), F.S.

²⁸ *Id.*

²⁹ Section 553.72(1), F.S.

building inspections, and prepare certificates of completion.³⁰ A private provider and any duly authorized representative may only perform building code inspection services that are set forth in statute, including single-trade inspections. A “single-trade inspection” is defined as:

[a]ny inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.³¹

A private provider cannot provide building code inspection services to any building designed or constructed by the private provider or the private provider’s firm.³² A fee owner or the fee owner’s contractor who uses a private provider to provide building code inspection services must notify the local building official in writing that a private provider has been contracted to perform the required inspections of construction, including single-trade inspections.³³ If the fee owner or the fee owner’s contractor makes any changes to the listed private providers or the services to be provided by such private providers the fee owner’s contractors must update the notice to reflect such changes.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., to exempt from sales tax the components and labor used in an electric vehicle conversion. The bill defines “electric vehicle conversion” to mean replacing the gas or diesel powertrain technology of a motor vehicle with 100 percent battery electric powertrain technology.

Section 2 amends s. 286.29, F.S., to require any governmental entity that purchases under the state purchasing plan to select vehicles based on the lowest lifetime ownership costs, including costs for fuel, operations, and maintenance, rather than based on the greatest fuel efficiency available when fuel economy data is available. The section deletes the current law requirement that state agencies use ethanol and biodiesel fuel when available. It also removes the requirement that state agencies that administer central fueling operations for state-owned vehicles procure biofuels for fleet needs to the greatest extent practicable. The current exemption to this requirement continues for emergency response vehicles.

Section 3 requires the DMS to make recommendations before July 1, 2024, to state agencies, including state colleges and universities, and local governments regarding the procurement of electric vehicles and natural gas fuel vehicles and the best practices for integrating those vehicles into existing fleets.

³⁰ Section 553.791, F.S.

³¹ *Id.*

³² *Id.*

³³ Section 553.791(4), F.S.

³⁴ *Id.*

Section 4 amends s. 553.791, F.S., to expand the definition of “single-trade inspection” to include the inspection of an installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

Section 5 provides the bill takes effect July 1, 2023.

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 mandates requirements do not apply to laws having an insignificant impact, which is \$2.3 million or less for Fiscal Year 2023-2024.

The Revenue Estimating Conference has not analyzed the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not analyzed the effect of exempting components and labor used in electric vehicle conversions. However, staff estimates the bill to significantly reduce General Revenue Fund receipts and local government revenue.

B. Private Sector Impact:

Section 4 of the bill, allowing the use of private providers to inspect the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations, may increase efficiencies and lower costs for its owners. Additionally, persons qualified to be a private provider will be able to offer official inspection services, increasing business opportunities.

C. Government Sector Impact:

To implement section 3 of the bill, the DMS states that modifications, including a possible configuration in the Fleet Management Information System, will be necessary to capture information needed to make recommendations.³⁵

Section 4 of the bill, allowing the use of private providers to inspect the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations, may reduce the workload of the local governments relating to inspections; however, each inspection performed by a private provider will reduce the revenue otherwise collected by the local governmental entity that would have conducted the inspection.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Management Services has stated that the July 1, 2024 implementation date would be challenging due to the need to consult with outside experts on best practices for integrating electric vehicles into the existing fleet.³⁶

VIII. Statutes Affected:

This bill substantially amends sections 212.08, 286.29, and 553.791 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Governmental Oversight and Accountability on February 20, 2023:**

The committee substitute:

- Exempts from sales tax the components and labor used in an electric vehicle conversion.

³⁵ Department of Management Services, *2023 Agency Legislative Bill Analysis*, available at: <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34198> (Last visited Feb. 17, 2023).

³⁶ *Id.*

- Defines “electric vehicle conversion” to mean replacing the gas or diesel powertrain technology of a motor vehicle with 100 percent battery electric powertrain technology.

B. Amendments:

None.

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



761046

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Before line 20
insert:

Section 1. Paragraph (qqq) is added to subsection (7) of
section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and
storage tax; specified exemptions.—The sale at retail, the
rental, the use, the consumption, the distribution, and the
storage to be used or consumed in this state of the following



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are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(qqq) Electric vehicle conversion components and labor.—

1. As used in this paragraph, the term "electric vehicle conversion" means replacing the gas or diesel powertrain technology of a motor vehicle with 100 percent battery electric powertrain technology.

2. Electric vehicle components and labor hours used for electric vehicle conversion are exempt from the tax imposed by this chapter.



761046

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

41 And the title is amended as follows:

42 Delete line 2

43 and insert:

44 An act relating to energy; amending s. 212.08, F.S.;

45 defining the term "electric vehicle conversion";

46 exempting certain components and labor used for

47 electric vehicle conversion from sales tax; amending

48 s. 286.29, F.S.;



186330

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 65 - 66
and insert:
governments regarding the procurement of electric vehicles and
best practices for integrating such

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

And the title is amended as follows:

Delete line 13



186330

11 and insert:
12 integration of electric vehicles;

By Senator Brodeur

10-00301-23

2023284__

1 A bill to be entitled
 2 An act relating to energy; amending s. 286.29, F.S.;
 3 revising the selection criteria for purchasing or
 4 leasing vehicles for state agencies, state
 5 universities, community colleges, and local
 6 governments under a state purchasing plan; deleting a
 7 provision requiring the use and procurement of ethanol
 8 and biodiesel blended fuels; requiring the Department
 9 of Management Services, before a specified date, to
 10 make recommendations to state agencies, state
 11 universities, community colleges, and local
 12 governments relating to the procurement and
 13 integration of electric and natural gas fuel vehicles;
 14 amending s. 553.791, F.S.; revising the definition of
 15 the term "single-trade inspection"; providing an
 16 effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Subsections (4) and (5) of section 286.29,
 21 Florida Statutes, are amended to read:
 22 286.29 Climate-friendly public business.—The Legislature
 23 recognizes the importance of leadership by state government in
 24 the area of energy efficiency and in reducing the greenhouse gas
 25 emissions of state government operations. The following shall
 26 pertain to all state agencies when conducting public business:
 27 (4) When procuring new vehicles, all state agencies, state
 28 universities, community colleges, and local governments that
 29 purchase vehicles under a state purchasing plan shall first

Page 1 of 3

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

10-00301-23

2023284__

30 define the intended purpose for the vehicle and determine which
 31 of the following use classes for which the vehicle is being
 32 procured:
 33 (a) State business travel, designated operator;
 34 (b) State business travel, pool operators;
 35 (c) Construction, agricultural, or maintenance work;
 36 (d) Conveyance of passengers;
 37 (e) Conveyance of building or maintenance materials and
 38 supplies;
 39 (f) Off-road vehicle, motorcycle, or all-terrain vehicle;
 40 (g) Emergency response; or
 41 (h) Other.
 42
 43 Vehicles described in paragraphs (a) through (h), when being
 44 processed for purchase or leasing agreements, must be selected
 45 based on the lowest lifetime ownership costs, including costs
 46 for fuel, operations, and maintenance, for the greatest fuel
 47 efficiency available for a given use class when fuel economy
 48 data are available. Exceptions may be made for individual
 49 vehicles in paragraph (g) when accompanied, during the
 50 procurement process, by documentation indicating that the
 51 operator or operators will exclusively be emergency first
 52 responders or have special documented need for exceptional
 53 vehicle performance characteristics. Any request for an
 54 exception must be approved by the purchasing agency head and any
 55 exceptional performance characteristics denoted as a part of the
 56 procurement process prior to purchase.
 57 ~~(5) All state agencies shall use ethanol and biodiesel~~
 58 ~~blended fuels when available. State agencies administering~~

Page 2 of 3

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

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~~central fueling operations for state-owned vehicles shall
procure biofuels for fleet needs to the greatest extent
practicable.~~

Section 2. Before July 1, 2024, the Department of
Management Services shall make recommendations to state
agencies, state universities, community colleges, and local
governments regarding the procurement of electric and natural
gas fuel vehicles and best practices for integrating such
vehicles into existing fleets.

Section 3. Paragraph (p) of subsection (1) of section
553.791, Florida Statutes, is amended to read:

553.791 Alternative plans review and inspection.—

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

(p) "Single-trade inspection" means any inspection focused
on a single construction trade, such as plumbing, mechanical, or
electrical. The term includes, but is not limited to,
inspections of door or window replacements; fences and block
walls more than 6 feet high from the top of the wall to the
bottom of the footing; stucco or plastering; reroofing with no
structural alteration; HVAC replacements; installation of
electric vehicle charging stations; solar energy and energy
storage installations or alterations; ductwork or fan
replacements; alteration or installation of wiring, lighting,
and service panels; water heater changeouts; sink replacements;
and repiping.

Section 4. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR

10th District

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

January 30, 2023

The Honorable Bryan Avila
Chair, Committee on Government Oversight and Accountability
326 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Avila,

I respectfully request that **Senate Bill 284, Energy**, be placed on the agenda of the Government Oversight and Accountability Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive, with the first name "Jason" being more prominent than the last name "Brodeur".

Senator Jason Brodeur – District 10

CC: Joe McVaney – Staff Director
Jessie Harmsen – Deputy Staff Director
Tamra Redig – Administrative Assistant

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

2/21/23

Meeting Date

Gvt Oversight &Acct 37SB

Committee

The Florida Senate

APPEARANCE RECORD

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

284

Bill Number or Topic

761046

Amendment Barcode (if applicable)

Name

David Cullen

Phone

941-323-2404

Address

2838 Little Deal Rd

Email

cullenasea@gmail.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Sierra Club Florida

☐

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §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)

2/21/23

Meeting Date

Gvt Oversight &Acct 37SB

Committee

Name

David Cullen

Phone

941-323-2404

Address

2838 Little Deal Rd

Email

cullenasea@gmail.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:

Sierra Club Florida



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

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

284

Bill Number or Topic

186330

Amendment Barcode (if applicable)

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

APPEARANCE RECORD

Meeting Date

2-21-23
Gov. Oversight

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

Bill Number or Topic

284
186330

Committee

Amendment Barcode (if applicable)

Name

Dale Calhoun

Phone

850 681 0496

Address

PO Box 11026

Email

dale@floridagas.org

Street

Tallahassee FL 32302

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/21/2023

Meeting Date

Governmental Oversight

Committee

SB 284

Bill Number or Topic

Amendment Barcode (if applicable)

Name Garrett Wallace

Phone 850-727-5000

Address 115 East Park Ave

Email garrett.wallace@tnc.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:
The Nature Conservancy

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

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

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S-001 (08/10/2021)

2/21/23

APPEARANCE RECORD

284

Meeting Date

Bill Number or Topic

Gov't Oversight & Accountability

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Committee

Amendment Barcode (if applicable)

Name Michael Weiss

Phone 202 380 1950 ext 3025

Address 1010 Vermont Ave NW
Street

Email mweiss@advancedenergyunited.org

Washington D.C.
City

State

20005
Zip

Speaking:



Against



Information

OR

Waive Speaking:



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Advanced Energy United



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/2020-2022-JointRules.pdf)

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S-001 (08/10/2021)

21
2/22/23

The Florida Senate
APPEARANCE RECORD

SB 284

Meeting Date

Senate Governmental Oversight & Accountability

Deliver both copies of this form to
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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Karl Rasmussen** Phone _____

Address **119 South Monroe Street** Email **KR@MHDfirm.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:

Electrification Coalition

☐ 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)

2/21/23

Meeting Date

Gvt Oversight &Acct 37SB

Committee

The Florida Senate

APPEARANCE RECORD

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

284

Bill Number or Topic

Amendment Barcode (if applicable)

Name

David Cullen

Phone

941-323-2404

Address

2838 Little Deal Rd

Email

cullenasea@gmail.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Sierra Club Florida

☐

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §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 Governmental Oversight and Accountability

BILL: CS/SB 314

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez

SUBJECT: Licensed Counseling for First Responders

DATE: February 22, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Fav/CS
2.			CA	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 314 requires a state or local government agency to provide licensed counseling to an employee or volunteer who is a law enforcement officer, firefighter, emergency medical technician, paramedic, correctional officer, or correctional probation officer if the employee has witnessed certain traumatic events in the course of the employee's or volunteer's official duties.

The licensed counseling to address the traumatic event must be provided by a licensed psychologist, psychiatrist, clinical social worker, marriage and family therapist, or a mental health counselor chosen by the affected employee or volunteer, but the employing agency must pay for the first 12 hours and up to 24 additional hours if the counselor determines such counseling will likely improve the first responder's condition. The cost for the employer-paid counseling may not exceed \$500 per hour. The employer-paid counseling must be completed within 1 year after the first counseling visit. The employing agency may not require the employee to use leave if the counseling is scheduled during the employee's established work hours.

The public employers must report annually to the Chief Financial Officer data reflecting participation in the program and worker compensation claims relating to these employees.

The costs that will be incurred by the state and local governments are indeterminate.

The bill takes effect July 1, 2023.

II. Present Situation:

First Responder Worker Compensation Benefits

Section 112.1815, F.S., provides special provisions relating to employment-related accidents and injuries to first responders. “First responder” is defined to include law enforcement officers, firefighters, emergency medical technicians, and paramedics employed by state or local government.¹ Volunteer law enforcement officers, firefighters, emergency medical technicians, and paramedics engaged by state or local government are also included as first responders in this section.²

Under this law, a posttraumatic stress disorder (PTSD) suffered by a first responder may be a compensable occupational disease for worker compensation purposes. The disorder must result from the first responder acting within the course of employment and must be diagnosed by a licensed psychiatrist as due to the first responder’s experience of one of the following qualifying events:³

- Seeing for oneself a deceased minor;
- Seeing or hearing for oneself the death of a minor;
- Seeing or hearing for oneself an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;
- Participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;
- Manually transporting (performing physical labor to move) an injured minor who subsequently died before or upon arrival at a hospital emergency department;
- Seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience;
- Seeing or hearing for oneself a death, including suicide, that involved grievous bodily harm of a nature that shocks the conscience;
- Seeing or hearing for oneself a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing as defined in 28 U.S.C. s. 530C, manslaughter, self-defense, misadventure, and negligence.
- Seeing or hearing for oneself an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
- Participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; or
- Manually transporting (performing physical labor to move) a person who was injured, including attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

¹ Section 112.1815(1), F.S.

² *Id.*

³ Section 112.1815(5)(a)2., F.S.

The Department of Financial Services has adopted a rule⁴ that specifies injuries that qualify as “grievous bodily harm of a nature that shocks the conscience.” These injuries are:

- Decapitation (full or partial);
- Degloving (a traumatic injury that results in the top layers of skin and tissue being torn away from the underlying muscle, connective tissue or bone);
- Enucleation (eyeball protruding from the orbit);
- Evisceration (disembowelment);
- Exposure of one or more of the following internal organs:
 - Brain;
 - Heart;
 - Intestines;
 - Kidneys;
 - Liver; or
 - Lungs.
- Impalement;
- Severance (full or partial); and
- Third degree burn on 9 percent or more of the body.

Benefits for the first responder in this instance do not require a physical injury to the first responder. The notice of injury in cases of compensable PTSD must be given within 90 days of the qualifying event or the diagnosis of the disorder, whichever is later. A claim must be noticed within 52 weeks after the qualifying event or the diagnosis of the disorder, whichever is later.⁵

A first responder who has been diagnosed with PTSD as a result of experiencing a qualifying event is eligible for medical treatment and wage replacement benefits under chapter 440, F.S.

The number of employees and volunteers who are first responders, correctional officers, and correctional probation officers is estimated to be roughly 205,000. There are 48,615 certified law enforcement officers,⁶ 28,220 correctional officers,⁷ 2,108 correctional probation officers,⁸ 49,805 certified firefighters,⁹ 40,500 active certified emergency medical technicians,¹⁰ and 35,800 active certified paramedics.¹¹

Employee Assistance Programs

Section 110.1091, F.S., allows a state agency to provide a counseling, therapeutic, or other professional treatment program to any employee who has a behavioral disorder, medical

⁴ Rule 69L-3.009, F.A.C.

⁵ Section 112.1815(5)(d), F.S.

⁶ Florida Department of Law Enforcement, <http://www.fdle.state.fl.us/CJSTC/Publications/Quarterly-Update.asp>.

⁷ *Id.*

⁸ *Id.*

⁹ E-mail from Matt Voyer, Division of State Fire Marshal, to Gabriela Limones-Borja, Governmental Oversight and Accountability Committee, The Florida Senate (Feb. 17, 2023) (on file with Senate Governmental Oversight and Accountability Committee).

¹⁰ Florida Department of Health, Division of Medical Quality Assurance “Annual Report and Long-Range Plan,” <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html>.

¹¹ *Id.*

disorder, or substance abuse problem, or who has an emotional difficulty that affects the employee's job performance. The Department of Management Services has taken the lead on establishing the program on behalf of state agencies.

The State Employee Assistance Program is administered by KEPRO. Under this program, state employees are allowed up to four counseling sessions with a professional counselor by phone, and the Employee Assistance Program will provide a referral to see a local counselor at no cost for issues such as anxiety, stress, grief, and depression. Other governmental employers offer similar programs but are not required to offer such programs.

The personal identifying information of a state employee contained in records held by an employing state agency relating to an employee's participation in an employee assistance program is confidential and exempt from public inspection and copying requirements.¹²

Health Insurance Coverage

The State of Florida, similar to other public sector entities, offers health insurance benefits to its employees and dependents. Within the State Group Health Insurance Program, administered by the Department of Management Services, a covered employee can seek mental health treatment. The covered employee would incur the \$40 copayment for specialty care if in the health maintenance organization setting or a 20 percent coinsurance if in the Preferred Provider Organization setting. The covered employee will also be eligible for the prescription drug program upon payment of the appropriate copayments or coinsurance.¹³

Patient medical records and medical claims records of state employees, former state employees, and their eligible covered dependents in the custody or control of the state group insurance program are confidential and exempt from the public inspection and copying requirements.¹⁴ Likewise, all medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan shall be kept confidential and are exempt from public inspection and copying requirements.¹⁵

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 112.1815 and 112.18155, F.S., to require the employing agency of a law enforcement officer, firefighter, emergency medical technician, paramedic, correctional officer, or correctional probation officer to pay for up to 12 hours of licensed counseling for the employee who has experienced certain events in the course of employment. If the mental health professional determines that the employee's condition is likely to improve with additional counseling, the employing agency must pay for up to an additional 24 hours of licensed

¹² Section 110.1091, F.S.

¹³ Florida DMS, Division of State Group Insurance, *2023 Benefits Guide*, https://www.mybenefits.myflorida.com/content/download/157212/1042248/2023_Benefits_Guide12-28.pdf (last visited Feb. 20, 2023).

¹⁴ Section 110.123(10), F.S.

¹⁵ Section 112.08(7), F.S.

counseling. The counseling may be in person or through telehealth. The cost of such employer-paid counseling may not exceed \$500 per hour.

The licensed counseling must be provided by a licensed psychiatrist, psychologist, clinical social worker, a marriage and family therapist, or a mental health counselor. The licensed counseling required to be paid by the employing agency must be completed within 1 year of the initial counseling visit.

The employee is permitted to make the first selection of a licensed mental health professional. If that professional declines to provide counseling, the employing agency must provide a list of other qualified licensed mental health professionals.

The employing agency may not require the employee to use accrued leave, personal leave, or sick leave to attend counseling during established work hours.

The public employers of these employees and volunteers must report annually to the Chief Financial Officer on the participation of its employees in the program.

Section 3 makes a legislative finding that the bill fulfills an important state interest.

Section 4 provides that the act takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides, in pertinent part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless:”

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments.

The bill requires a county or municipality employing first responders and correctional officers to spend money to provide counseling services in certain instances. The bill applies to all similarly situated governmental agencies employing first responders, correctional officers, and correctional probation officers in the State of Florida, including state agencies, school districts, universities, and colleges. Section 3 of the bill contains a legislative finding that the bill fulfills an important state interest. Thus, the bill appears to be binding on counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost to state and local government employers of law enforcement officers, firefighters, emergency medical technicians, paramedics, correctional officers, or correctional probation officers is indeterminate. These costs, however, may be significant because the bill allows the affected employee to select a licensed mental health professional with the cost of counseling not to exceed \$500 per hour paid by the employing agency.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether the personal identifying information of employees and volunteers participating in this counseling program will be exempt from public disclosure requirements under current public record exemptions. To ensure the exempt status of this information, the Legislature should consider whether to enact a specific public records exemption to protect such information.

VIII. None. Statutes Affected:

This bill substantially amends sections 112.1815 and 112.18155 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on February 21, 2023:

The committee substitute:

- Expands the employees eligible for the counseling program to include correctional officers and correctional probation officers;
- Limits the counseling to address the enumerated experiences that may cause posttraumatic stress;
- Limits the cost of counseling to no more than \$500 per hour (paid by the employer);
- Expands the licensed mental health professionals to include clinical social workers, marriage and family therapists, and mental health counselors;
- Clarifies that the counseling is in addition to other employer-paid health insurance coverage;
- Adds reporting by the employers to the Chief Financial Officer on the use of such counseling services; and
- Adds a legislative finding that the bill fulfills an important state interest.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 112.1815, Florida
Statutes, is amended, and subsection (7) is added to that
section, to read:

112.1815 Firefighters, paramedics, emergency medical
technicians, and law enforcement officers; special provisions



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for employment-related accidents and injuries.—

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

(a) ~~The term~~ "First responder" as used in this section
means a law enforcement officer as defined in s. 943.10, a
firefighter as defined in s. 633.102, or an emergency medical
technician or paramedic as defined in s. 401.23 employed by
state or local government. A volunteer law enforcement officer,
firefighter, or emergency medical technician or paramedic
engaged by the state or a local government is also considered a
first responder of the state or local government for purposes of
this section.

(b) "Licensed counseling" means counseling provided by a
licensed mental health professional.

(c) "Licensed mental health professional" means a
psychiatrist licensed under chapter 458 or chapter 459, a
psychologist as defined in s. 490.003, or a licensed
practitioner under chapter 491.

(7) (a) An employing agency of a first responder, including
volunteer first responders, must pay for up to 12 hours of
licensed counseling for a first responder who experiences an
event listed in subparagraph (5) (a)2. in the course of his or
her employment. The licensed counseling may be used only to
address an event listed in subparagraph (5) (a)2. The licensed
counseling may be in person or through telehealth in accordance
with s. 456.47. The licensed counseling is in addition to, and
separate from, any benefits already provided by an employer-
sponsored health plan or a group health insurance trust fund.

(b) If a licensed mental health professional determines
that the first responder needs additional hours of licensed



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counseling beyond the initial 12 hours and that the additional hours of licensed counseling are likely to improve the first responder's condition, the employing agency of the first responder must pay for up to an additional 24 hours of licensed counseling for the first responder.

(c) All hours of licensed counseling authorized under paragraphs (a) or (b) must be completed within 1 year after the first responder's first visit to a licensed mental health professional.

(d) The employing agency of the first responder may not require the first responder to use his or her accrued annual or vacation leave, personal leave, or sick leave if the first responder's licensed counseling is scheduled during his or her established work hours.

(e) A first responder may select a licensed mental health professional for licensed counseling under this subsection. However, if the licensed mental health professional selected by the first responder declines to provide such counseling, the employing agency of the first responder is not required to secure the counseling services of that licensed mental health professional and must provide a list of other qualified licensed mental health professionals to the first responder.

(f) Payment by the employing agency of the first responder for licensed counseling under this subsection may not exceed \$500 per hour and does not create a presumption that the first responder suffered a compensable occupational disease as defined in subsection (4) and s. 440.151(2).

(g) Beginning on March 1, 2024, and each March 1 thereafter, each employing agency of first responders shall



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submit a report to the Chief Financial Officer. The report must contain all of the following:

1. The total number of employees, by employment category, who have participated in the program.

2. A breakdown for each employment category which includes:

a. The average number of visits per employee.

b. The average number of months an employee participated in the program.

c. The total number of employees who participated in the program and who subsequently filed a workers' compensation claim.

d. The total number of employees who have participated in the program and who received additional visits in addition to the 12 hours provided.

Section 2. Present paragraphs (b), (c), and (d) of subsection (1) of section 112.18155, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, a new paragraph (b) is added to that subsection, and subsection (8) is added to that section, to read:

112.18155 Correctional officers and correctional probation officers; special provisions for posttraumatic stress disorders.—

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

(b) "Correctional probation officer" has the same meaning as in s. 943.10(3).

(8) (a) An employing agency of a correctional officer or a correctional probation officer must pay for up to 12 hours of licensed counseling for a correctional officer or a correctional probation officer who experiences an event listed in paragraph



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(2) (b) in the course of his or her employment. The licensed counseling may be used only to address an event listed in paragraph (2) (b). The licensed counseling may be in person or through telehealth in accordance with s. 456.47. The licensed counseling is in addition to, and separate from, any benefits already provided by an employer-sponsored health plan or a group health insurance trust fund.

(b) If a licensed mental health professional determines that the correctional officer or correctional probation officer needs additional hours of licensed counseling beyond the initial 12 hours and that the additional hours of licensed counseling are likely to improve the correctional officer's or the correctional probation officer's condition, the employing agency of the correctional officer or the correctional probation officer must pay for up to an additional 24 hours of licensed counseling for the correctional officer or the correctional probation officer.

(c) All hours of licensed counseling authorized under paragraphs (a) or (b) must be completed within 1 year after the correctional officer's or the correctional probation officer's first visit to a licensed mental health professional.

(d) The employing agency of the correctional officer or the correctional probation officer may not require the correctional officer or the correctional probation officer to use his or her accrued annual or vacation leave, personal leave, or sick leave if the licensed counseling is scheduled during his or her established work hours.

(e) A correctional officer or a correctional probation officer may select a licensed mental health professional for



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licensed counseling under this subsection. However, if the
licensed mental health professional selected by the correctional
officer or the correctional probation officer declines to
provide such counseling, the employing agency of the
correctional officer or the correctional probation officer is
not required to secure the counseling services of that licensed
mental health professional and must provide a list of other
qualified licensed mental health professionals to the
correctional officer or correctional probation officer.

(f) Payment by the employing agency of the correctional
officer or the correctional probation officer for licensed
counseling under this subsection may not exceed \$500 per hour
and does not create a presumption that the correctional officer
or the correctional probation officer suffered a compensable
occupational disease as defined in subsection (2) and s.
440.151(2).

(g) Beginning on March 1, 2024, and each March 1
thereafter, each employing agency of correctional officers and
correctional probation officers shall submit a report to the
Chief Financial Officer. The report must contain all of the
following:

1. The total number of employees, by employment category,
who have participated in the program.

2. A breakdown for each employment category which includes:
a. The average number of visits per employee.
b. The average number of months an employee participated in
the program.

c. The total number of employees who participated in the
program and who subsequently filed a workers' compensation



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claim.

d. The total number of employees who have participated in the program and who received additional visits in addition to the 12 hours provided.

Section 3. The Legislature determines and declares that this act fulfills an important state interest.

Section 4. This act shall take effect July 1, 2023.

===== 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 licensed counseling for first responders, correctional officers, and correctional probation officers; amending s. 112.1815, F.S.; defining terms; requiring an employing agency of a first responder to pay for licensed counseling for certain first responders; specifying that such counseling is limited to addressing specified events; providing that such counseling is in addition to and separate from any benefits provided to the first responder; requiring that such counseling be completed within a specified timeframe; prohibiting the employing agency from requiring the first responder to use specified leave for such counseling under certain circumstances; authorizing a first responder to select a licensed mental health professional and providing requirements for the employing agency related thereto;



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specifying the maximum amount an employer may pay for such counseling; providing that payment by the employing agency for such counseling does not create a presumption of a compensable occupational disease; requiring employing agencies to submit a specified annual report to the Chief Financial Officer, beginning on a specified date; amending s. 112.18155, F.S.; defining the term "correctional probation officer"; requiring an employing agency of a correctional officer or a correctional probation officer to pay for licensed counseling for such officers under certain circumstances; specifying that such counseling is limited to addressing specified events; providing that such counseling is in addition to and separate from any benefits provided to a correctional officer or a correctional probation officer; requiring that such counseling be completed within a specified timeframe; prohibiting the employing agency from requiring a correctional officer or a correctional probation officer to use specified leave for such counseling under certain circumstances; authorizing a correctional officer or a correctional probation officer to select a licensed mental health professional and providing requirements for the employing agency related thereto; specifying the maximum amount an employer may pay for such counseling; providing that payment by the employing agency for such counseling does not create a presumption of a compensable occupational disease;



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213 requiring employing agencies to submit a specified
214 annual report to the Chief Financial Officer,
215 beginning on a specified date; providing a declaration
216 of important state interest; providing an effective
217 date.

By Senator Rodriguez

40-00428-23

2023314__

A bill to be entitled

An act relating to licensed counseling for first responders; amending s. 112.1815, F.S.; requiring an employing agency of a first responder to pay for certain licensed counseling for first responders; requiring such counseling to be completed within a specified timeframe; prohibiting the employing agency from requiring the first responder to use specified leave for such counseling under certain circumstances; authorizing a first responder to select a licensed mental health professional and providing requirements for the employing agency related thereto; providing that payment by the employing agency for such counseling does not create a presumption of a compensable occupational disease; defining terms; providing an effective date.

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

Section 1. Subsection (7) is added to section 112.1815, Florida Statutes, to read:

112.1815 Firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries.—

(7) (a) An employing agency of a first responder, including volunteer first responders, must pay for up to 12 hours of licensed counseling for a first responder who experiences an event listed in subparagraph (5) (a) 2. in the course of his or her employment. The licensed counseling may be in person or

Page 1 of 3

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

40-00428-23

2023314__

through telehealth in accordance with s. 456.47.

(b) If a licensed mental health professional determines that the first responder needs additional hours of licensed counseling beyond the initial 12 hours and that the additional hours of licensed counseling are likely to improve the first responder's condition, the employing agency of the first responder must pay for up to an additional 24 hours of licensed counseling for the first responder.

(c) All hours of licensed counseling authorized under paragraphs (a) and (b) must be completed within 1 year after the first responder's first visit to a licensed mental health professional.

(d) The employing agency of the first responder may not require the first responder to use his or her accrued annual or vacation leave, personal leave, or sick leave if the first responder's licensed counseling is scheduled during his or her established work hours.

(e) A first responder may select a licensed mental health professional for licensed counseling under this subsection. However, if the licensed mental health professional selected by the first responder declines to provide such counseling, the employing agency of the first responder is not required to secure the counseling services of that licensed mental health professional and must provide a list of other qualified licensed mental health professionals to the first responder.

(f) Payment by the employing agency of the first responder for licensed counseling under this subsection does not create a presumption that the first responder suffered a compensable occupational disease as defined in subsection (4) and s.

Page 2 of 3

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

40-00428-23

2023314__

59 440.151(2).60 (g) As used in this subsection, the term:61 1. "Licensed counseling" means counseling provided by a
62 licensed mental health professional.63 2. "Licensed mental health professional" means a
64 psychiatrist licensed under chapter 458 or chapter 459 or a
65 psychologist as defined in s. 490.003.

66 Section 2. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 26, 2023

I respectfully request that **Senate Bill #314**, relating to Licensed Counseling for First Responders, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40

Redig, Tamra

From: Limones, Gabriela
Sent: Monday, February 20, 2023 11:43 AM
To: Redig, Tamra
Subject: FW: Numbers of Firefighters in Florida

From: Voyer, Matt <Matt.Voyer@myfloridacfo.com>
Sent: Friday, February 17, 2023 10:22 AM
To: Limones, Gabriela <Limones.Gabriela@flsenate.gov>
Subject: Numbers of Firefighters in Florida

	CAREER	VOLUNTEER	TOTAL
CERTIFIED FIREFIGHTERS	46,304	3,501	49,805
Total Fire Service Providers <i>(Cities, Counties, and Fire Districts)</i>			482

This information is from the Florida State Fire College as of January 31, 2023. Please let me know if you have any questions.

Matt Voyer
Administrative Assistant III
Division of State Fire Marshal
Office of the Director
Matt.Voyer@myfloridacfo.com
(850) 413-3609

APPEARANCE RECORD

2/21/23

Meeting Date

SB 314

Bill Number or Topic

Gov't Oversight & Accountability

Committee

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

Amendment Barcode (if applicable)

Name Elio Perez

Phone 305 782 2629

Address 17833 SW 155th
Street

Email elio@metro-dade.gov

Miami FL 33187
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:

Metro Dade Firefighters Local 1403

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

2/21/23

Meeting Date

SB 314

Bill Number or Topic

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

Gov't Oversight & Accountability

Committee

Amendment Barcode (if applicable)

Name Stephen Busse

Phone 305-283-9939

Address 630 Falcon Ave

Email Stephen.busse@local1403.org

Street

City Miami Springs

State FL

Zip 33166

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:

Metro Dade Fire Fighters Local 1403

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

2/21/23

Meeting Date

SB 0314

Bill Number or Topic

Gov Oversight

Committee

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

Amendment Barcode (if applicable)

Name William B Smith

Phone 305-333-4344

Address 300 E BREVARD ST
Street

Email WSmith@FLPBA.ORG

Tallah 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:

FL PBA

☐

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 Governmental Oversight and Accountability

BILL: SM 176

INTRODUCER: Senator Avila

SUBJECT: Balancing the Federal Budget

DATE: February 20, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2. _____	_____	<u>RC</u>	_____

I. Summary:

SM 176 is a memorial to Congress urging the members of Congress to reduce the current national debt and enact legislation requiring a balanced federal budget.

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on the state or local governments.

II. Present Situation:

The National Debt

The national debt is the amount of money the federal government has borrowed to cover the outstanding balance of expenses incurred over time. The current national debt is \$31.46 trillion.¹ The federal debt is made up of debt held by the public² and intragovernmental debt.^{3,4}

¹ U.S. Department of Treasury, *The National Debt Explained*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#the-national-debt-explained> (last visited Jan. 23, 2023).

² Debt held by the public is all the debt that the federal government owes to those outside of the federal government. Committee for a Responsible Federal Budget, *Gross Debt Versus Debt Held by the Public*, <https://www.crfb.org/papers/qa-gross-debt-versus-debt-held-public#:~:text=The%20gross%20federal%20debt%20is,the%20public%20and%20intragovernmental%20debt>. (last visited Jan. 26, 2023).

³ “Intragovernmental debt” is debt that one part of the government owes to another part. Committee for a Responsible Federal Budget, *Gross Debt Versus Debt Held by the Public*, <https://www.crfb.org/papers/qa-gross-debt-versus-debt-held-public#:~:text=The%20gross%20federal%20debt%20is,the%20public%20and%20intragovernmental%20debt>. (last visited Jan. 26, 2023).

⁴ U.S. Department of Treasury, *Breaking Down the Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=How%20much%20the%20government%20pays,over%20the%20past%20ten%20years>. (last visited Jan. 23, 2023).

To pay for this deficit,⁵ the federal government borrows money by selling marketable securities such as treasury bonds,⁶ bills,⁷ notes,⁸ floating rate notes,⁹ and treasury inflation-protected securities.^{10,11} The national debt enables the federal government to pay for important programs and services even if it does not have the funds immediately available. Decreases in federal revenue coupled with increased government spending further increases the national debt.

The Growing National Debt

The U.S. has carried debt since its inception. Recent notable events that have triggered large spikes in the debt include the Afghanistan and Iraq Wars, the 2008 Great Recession, and the Covid-19 pandemic. Tax cuts, stimulus programs, increased government spending, and decreased tax revenue generally account for sharp rises in the national debt.¹²

The federal government is charged interest for the use of lenders' money depending on the total national debt and the various securities' interest rates. As of December 2022, it costs \$210 billion to maintain the national debt, which is 15 percent of the total federal spending.¹³

Debt Limit

The debt limit is the total amount of money that the United States government is authorized to borrow to meet its existing legal obligations, including Social Security and Medicare benefits, military salaries, interest on the national debt, tax refunds, and other payments.¹⁴ Once the debt limit is reached, the federal government cannot increase the amount of outstanding debt, losing the ability to pay bills and fund government programs and services. However, the Department of Treasury can use extraordinary measures authorized by Congress to temporarily suspend certain

⁵ "Deficit" is the amount of money the federal government spends minus the amount of money it collects from taxes. Center on Budget and Policy Priorities, Policy Basics: Deficits, Debt, and Interest, <https://www.cbpp.org/research/federal-budget/deficits-debt-and-interest#:~:text=The%20deficit%20drives%20the%20amount,all%20government%20deficits%20and%20surpluses> (last visited Feb. 1, 2023).

⁶ "Treasury bonds" are government securities that pay interest every six months and mature in 20 or 30 years. Treasury Direct, *Treasury Bonds*, <https://www.treasurydirect.gov/marketable-securities/treasury-bonds/> (last visited Jan. 23, 2023).

⁷ "Bills" are short-term government securities with maturities ranging from a few days to 52 weeks. Treasury Direct, *Treasury Bills*, <https://www.treasurydirect.gov/marketable-securities/treasury-bills/> (last visited Jan. 23, 2023).

⁸ "Notes" are government securities that are issued with maturities of 2, 3, 5, 7, and 10 years and pay interest every six months. Treasury Direct, *Treasury Notes*, <https://www.treasurydirect.gov/marketable-securities/treasury-notes/> (last visited Jan. 23, 2023).

⁹ "Floating rate notes" are government securities issued for a term of two years and pay varying amounts of interest quarterly until maturity. Treasury Direct, *Floating Rate Notes*, <https://treasurydirect.gov/marketable-securities/floating-rate-notes/> (last visited Jan. 23, 2023).

¹⁰ "Treasury inflation-protected securities" are marketable securities whose principal is adjusted by changes in the Consumer Price Index. Treasury Direct, *Treasury Inflation Protected Securities*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#the-national-debt-explained> (last visited Jan. 23, 2023).

¹¹ See supra note 1.

¹² U.S. Department of Treasury, *The Growing National Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt> (last visited Jan. 30, 2023).

¹³ U.S. Department of Treasury, *Maintaining the National Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt> (last visited Jan. 30, 2023).

¹⁴ U.S. Department of Treasury, *Debt Limit*, <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/debt-limit> (last visited Jan. 23, 2023).

intragovernmental debt, allowing it to borrow to fund programs or services for a limited amount of time after it has reached the debt ceiling.¹⁵

The U.S. hit the debt limit on January 19, 2023, and the Department of Treasury has been undertaking a set of extraordinary measures to ensure all of its obligations are met. The Department of Treasury estimates that those measures will only be sufficient to last through early June. Unless Congress raises or suspends the debt limit before June, the federal government will lack the funds to pay for all its obligations.¹⁶ If the debt limit is not suspended or raised, the federal government would have to temporarily default on many of its obligations, including Social Security payments, salaries for federal civil employment, military and veterans' benefits, and much more.¹⁷

State Balanced Budget Requirements

Balanced budget requirements (BBRs) are constitutional or statutory rules that prohibit states from spending more than they collect in revenue.¹⁸ A strong balanced budget requirement meets one or more of the following:

- Requires the governor to sign a balanced budget;
- Prohibits the state from carrying over a deficit into the following year or biennium; or
- Requires the legislature to pass a balanced budget.¹⁹

Although there is no agreed upon definition for BBRs, all states except North Dakota and Wyoming have some form of BBRs. The design and stringency varies across states.

Florida's requirement is prescribed in article VII, section 1 of the Florida Constitution. The constitution requires that "[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period."²⁰ Section 216.221, F.S., provides that all appropriations shall be maximum appropriations, based on the collection of sufficient revenue. In addition, "[i]t is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund."²¹

Section 215.98, F.S., provides that the "Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio

¹⁵ U.S. Department of Treasury, *The Debt Ceiling*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt>. (last visited Jan. 30, 2023).

¹⁶ Brookings Institute, *How worried should we be if the debt ceiling isn't lifted?* <https://www.brookings.edu/2023/01/25/how-worried-should-we-be-if-the-debt-ceiling-isnt-lifted/> (last visited Jan. 30, 2023).

¹⁷ Committee for a Responsible Federal Debt, *Q&A: Everything You Should Know About the Debt Ceiling*, <https://www.crfb.org/papers/qa-everything-you-should-know-about-debt-ceiling#what%20happens> (last visited Jan. 30, 2023).

¹⁸ Tax Policy Center, *What are state balanced budget requirements and how do they work?* [https://www.taxpolicycenter.org/briefing-book/what-are-state-balanced-budget-requirements-and-how-do-they-work#:~:text=Balanced%20Budget%20Requirements%20\(BBRs\)%20are,reduced%20spending%20and%20smaller%20deficits](https://www.taxpolicycenter.org/briefing-book/what-are-state-balanced-budget-requirements-and-how-do-they-work#:~:text=Balanced%20Budget%20Requirements%20(BBRs)%20are,reduced%20spending%20and%20smaller%20deficits). (last visited Jan. 27, 2023).

¹⁹ *Id.*

²⁰ FLA. CONST. art VII, s. 1(d).

²¹ Section 216.221(1), F.S.

of debt service to revenues available to pay debt service to exceed 7 percent unless” it finds that the additional debt is necessary to address a critical state emergency.²²

Senate Memorial

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses, but does not require the governor’s approval, nor is it subject to a veto. Memorials often express the Legislature’s desire that Congress take action on a certain matter or request that Congress propose an amendment to the United States Constitution.²³

III. Effect of Proposed Changes:

The Memorial contains 11 whereas clauses. The clauses outline the impact of the current national debt and urge Congress to take immediate action to address the national debt and balance the federal budget.

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²² Section 215.98(1), F.S.

²³ Office of Bill Drafting Services, *Manual for Drafting Legislation*, The Florida Senate, at 137-138. (2009).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Avila

39-00242-23

2023176__

Senate Memorial

A memorial to the Congress of the United States, urging members of Congress to take immediate action to address the current national debt and balance the federal budget.

WHEREAS, the United States' national debt for the federal fiscal year 2021-2022, which ended September 30, 2022, totaled \$30.93 trillion, which represents an increase of \$2.5 trillion in debt from the previous fiscal year, and

WHEREAS, the amount of debt carried by the Federal Government affects the amount of interest it pays in a fiscal year, and

WHEREAS, as of October 2022, the first month in the 2022-2023 federal fiscal year, maintaining the national debt costs the Federal Government \$48 billion per month or 12 percent of total federal spending, and

WHEREAS, as inflation and interest rates increase, the Federal Government encounters higher interest rates on borrowed moneys, and

WHEREAS, as the national debt increases, Congress is forced to raise the debt ceiling or risk not being able to pay Federal Government expenditures, resulting in government shutdowns and employee furloughs that threaten national security, and

WHEREAS, 41 states, including Florida, require their state legislatures to pass balanced budgets that ensure fiscal discipline and responsibility, and

WHEREAS, Congress has attempted, unsuccessfully, to introduce and enact legislation requiring its members to pass a

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39-00242-23

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balanced budget, and

WHEREAS, the people of Florida recognized the wisdom of fiscal discipline and enshrined in the State Constitution the requirement for a balanced budget, thereby placing prudent limits on government spending, and

WHEREAS, the Florida Legislature has made fiscally responsible decisions, has maintained a balanced budget, and has saved residents of this state from crippling deficits, massive debt burdens, and bankruptcy, and

WHEREAS, the Florida Legislature calls on members of Congress to enact legislation requiring a balanced budget; to mandate the Federal Government operate with fiscal responsibility, discipline, and common sense; and to operate within the revenues granted to it by the people, and

WHEREAS, in order to ensure the stability of government and business functions at the local, regional, state, and national levels, it is imperative that the Federal Government take action to cut costs, reduce the tax burden on American families and businesses, operate according to principles of fiscal responsibility and discipline, and balance the federal budget, NOW, THEREFORE,

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

That the Congress of the United States is urged to take immediate action to begin to reduce the national debt and enact legislation requiring a balanced federal budget.

BE IT FURTHER RESOLVED that the Secretary of State is directed to dispatch copies of this memorial to the President of

Page 2 of 3

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39-00242-23

2023176__

59 the United States, to the President of the United States Senate,
60 to the Speaker of the United States House of Representatives,
61 and to each member of the Florida delegation to the Congress of
62 the United States.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7006

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Nationwide Public Safety Broadband Network

DATE: February 21, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limones-Borja</u>	<u>McVane</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7006 saves from repeal the current public records exemption which makes information relating to the Nationwide Public Safety Broadband Network (FirstNet) held by an agency confidential and exempt from public inspection and copying requirements. FirstNet is a nationwide broadband network dedicated to emergency responders and the public safety community.

Unless saved from repeal by the Legislature, the exemption for information relating to FirstNet is scheduled to repeal on October 2, 2023. This bill removes the scheduled repeal to continue the confidential and exempt status of information held by an agency that relates to FirstNet.

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

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violations of those laws.

⁹ FLA CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- The release of sensitive personal information would be defamatory or jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specific questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

First Responder Network Authority

Following the 9/11 terrorist attacks, Congress created the National Commission on Terrorist Attacks Upon the United States (Commission). The Commission was tasked with preparing a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, along with recommendations designed to guard against future attacks.²⁶ One of the Commission's recommendations to prevent the incidents of communication disruption that occurred between first responders during the terrorist attacks was to "support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes."²⁷

The federal Middle Class Tax Relief and Job Creation Act of 2012²⁸ created the First Responder Network Authority (FirstNet Authority) as an independent authority within the Department of Commerce to oversee the Nationwide Public Safety Broadband Network (FirstNet). FirstNet is designed to provide emergency responders with a nationwide, high-speed, broadband network dedicated to public safety.²⁹ FirstNet commenced operations in 2018.

FirstNet's public-private partnership with AT&T provides first responders with immediate access to mission-critical capabilities over the FirstNet network.³⁰ This includes priority and preemption features³¹ that give first responders their own 'fast lane' on the public safety network to communicate and share information during emergencies, large events or other situations when

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

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ National Commission on Terrorist Attacks Upon the United States, *About the Commission*, available at <https://govinfo.library.unt.edu/911/about/index.htm> (last visited January 20, 2023).

²⁷ 9/11 Commission, *The 9/11 Commission Report*, pgs. 396-397, (2004), available at <https://govinfo.library.unt.edu/911/report/911Report.pdf> (last visited January 20, 2023).

²⁸ Pub. Law No. 112-96, H.R. 3630, 112th Cong. (2012).

²⁹ FirstNet Authority, *About Us*, available at: <https://www.firstnet.gov/about> (last visited December 5, 2022).

³⁰ FirstNet Authority, *History*, available at: <https://www.firstnet.gov/about/history> (last visited December 5, 2022).

³¹ FirstNet Authority, *Experience FirstNet: How priority and preemption help public safety connect when they need it most*, available at: <https://www.firstnet.gov/newsroom/blog/experience-firstnet-how-priority-and-preemption-help-public-safety-connect-when-they> (last visited December 5, 2022).

commercial networks could become congested. FirstNet is the only broadband network to provide preemption for public safety.³²

FirstNet's enabling federal legislation³³ requires each Governor to determine whether to:

- Opt-in, by choosing to participate in the deployment of the nationwide, interoperable network as proposed by the FirstNet State Plan, or
- Opt-out, by choosing to deploy, maintain, operate, and improve a Radio Access Network that interoperates with the FirstNet network.³⁴

Public safety agencies who opt-in to FirstNet are eligible to contract with FirstNet, to provide first responders immediate access to AT&T's commercial network on a priority basis, and preemptive access within the year. Additionally, AT&T will install the FirstNet Radio Access Network at no cost to opt-in jurisdictions.³⁵

FirstNet in Florida

All fifty states, five U.S. territories, and Washington D.C., have opted to participate in FirstNet. Each state has an individualized state plan detailing how FirstNet will be deployed in its state.³⁶ FirstNet has worked with Florida public safety officials since 2014 to ensure the design of the Florida FirstNet met all of Florida's specific needs.³⁷ In 2017, Governor Scott elected to opt-in to the nationwide broadband network as proposed by the FirstNet State Plan.³⁸

Open Government Sunset Review of the Public Records Exemption for Information Relating to FirstNet

In 2018 the Legislature created the public records exemption for information held by an agency that relates to FirstNet if release of such information would reveal:

- The design, development, construction, deployment, and operation of network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
- The features, functions, and capabilities of network infrastructure and facilities;
- The features, functions, and capabilities of network services provided to first responders and other network users;

³² AT&T, *FirstNet Launches Ruthless Preemption for First Responders*, available at:

https://about.att.com/story/preemption_for_first_responders.html (last visited December 5, 2022).

³³ 47 U.S.C. s. 1442(e)(2).

³⁴ *Id.*

³⁵ IWCE, *FirstNet hits 50% 'opt-in' threshold as Indiana makes announcement*, available at:

<https://urgentcomm.com/2017/10/11/firstnet-hits-50-opt-in-threshold-as-indiana-makes-announcement/> (last visited December 5, 2022).

³⁶ FirstNet, *The Network*,

<https://www.firstnet.gov/network#:~:text=Delivering%20on%20the%20FirstNet%20promise,deployed%20in%20their%20state%2Fterritory> (last visited December 7, 2022).

³⁷ FirstNet, *Florida*, <https://www.firstnet.gov/public-safety/firstnet-for/florida> (last visited December 7, 2022).

³⁸ Letter from Rick Scott, Governor, State of Florida, to Mike Poth, Chief Executive Officer, First Responder Network Authority (December 28, 2017) available at: <https://www.flgov.com/wp-content/uploads/2017/12/122817.pdf> (last visited December 7, 2022).

- The design, features, functions, and capabilities of network devices provided to first responders and other network users; or
- Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

The public necessity statement, as required by the State Constitution, specified that it is a public necessity to protect such information because disclosure of this information would adversely affect the business interests and network security of these providers and its networks. Additionally, the public necessity statement provides that without the exemption, competitors could appropriate the information in such a way as to impede full and fair competition, therefore disadvantaging consumers of communications services as they relate to FirstNet.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple Florida sheriff offices and police departments to ascertain whether the public records exemption in s. 119.071(3)(d), F.S., remains necessary. Staff reviewed the agencies' responses and a majority of those agencies recommend that the Legislature reenact the public records exemption without any changes.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(3)(d), F.S., to save from repeal the public records exemption for information relating to FirstNet held by an agency. The bill deletes the scheduled repeal date of October 2, 2023, to maintain the confidential and exempt status of the information.

Section 2 provides that the bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does not create or expand an exemption, thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

justifying the exemption. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-00865-23

20237006pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for certain information held by an agency relating to the Nationwide Public Safety Broadband Network; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(d)~~1~~ Information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if release of such information would reveal:

1.a The design, development, construction, deployment, and operation of network facilities;

2.b Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;

3.e The features, functions, and capabilities of network infrastructure and facilities;

4.d The features, functions, and capabilities of network

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

585-00865-23

20237006pb

services provided to first responders, as defined in s.

112.1815, and other network users;

~~5.e~~ The design, features, functions, and capabilities of network devices provided to first responders and other network users; or

~~6.f~~ Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

~~2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2023.

Page 2 of 2

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

APPEARANCE RECORD

Feb 21, 2023

Meeting Date

SB7006

Bill Number or Topic

Gov. Oversight & Acct.

Committee

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

Amendment Barcode (if applicable)

Name

AT+ T / Karen Dearden

Phone

850-591-6009

Address

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Email

kd6930@att.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

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 Governmental Oversight and Accountability

BILL: SPB 7008

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Building Plans, Blueprints, Schematic Drawings, and Diagrams

DATE: February 21, 2023

REVISED: _____

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

I. Summary:

SPB 7008 saves from repeal the current public records exemption for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development. The bill removes language related to the disclosure of information.

The Open Government Sunset Review Act requires the Legislature to review each public record exemption 5 years after enactment. The exemption is scheduled to repeal on October 2, 2023. This bill removes the scheduled repeal to continue the exempt status.

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

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c).

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- The release of sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(a), F.S. The specific questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Public Records Law on Building Plans, Blueprints, Schematic Drawings and Diagrams

In 2002, the Legislature created a public records exemption for building plans, blueprints, schematic drawings, and diagrams of specified facilities and structures *owned* or *operated* by an agency. The release of such information was authorized under the following circumstances:

- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency;
- Upon a showing of good cause before a court of competent jurisdiction; or
- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities.²⁵

In 2004, the law was amended to include documents *held* by an agency. The law was also amended to include the following structures and buildings:

- Attractions and recreation facility;
- Entertainment or resort complex;
- Industrial complexes;
- Retail and service development;
- Office development; and
- Hotel or motel developments.²⁶

The following are related public records exemptions that exist in current law:

- Section 119.071(3)(a), F.S., provides a public record exemption for security or firesafety system plans for any property owned by or leased to the state or any of its political subdivisions or for any privately owned or leased property held by an agency.
- Section 119.071(3)(b), F.S., provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.

-
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²³ FLA. CONST. art. I, s. 24(c).

²⁴ Section 119.15(7), F.S.

²⁵ Ch. 2002-67, Laws of Fla.; HB 735 (2002).

²⁶ Ch. 2004-9, Laws of Fla.; HB 317 (2004).

- Section 311.13, F.S., provides a public record exemption for certain seaport security plans. A public record exemption is also provided for photographs, maps, blueprints, drawings, and similar materials that depict critical seaport operating facilities to the extent that a seaport reasonably determines that such items contain information that is not generally known and could jeopardize the seaport's security.
- Section 331.22, F.S., provides a public record exemption for the airport security plans of certain aviation authorities or certain aviation departments. Photographs, maps, blueprints, drawings, and similar materials that depict critical airport operating facilities are also exempt to the extent that such aviation authority or department reasonably determines that the security plan contains information that is not generally known and could jeopardize airport security.
- Section 1004.0962(2), F.S., provides a public record exemption for any portion of a campus emergency response held by a public postsecondary educational institution.

Open Government Sunset Review of the Public Records Exemption for Building Plans, Blueprints, Schematic Drawings and Diagrams

Current law exempts from public inspection and copying requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats held by an agency, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development. Current law allows an agency to disclose of this information:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- To the owner or owners of the structure in question or the owner's legal representative; or
- Upon the showing of good cause before a court of competent jurisdiction.

In the public necessity statement adopted in the initial enacting legislation²⁷ and subsequent legislation^{28,29,30} expanding the exemption, the Legislature specified the exemption is necessary because security system plans are a vital component of public safety. Such plans contain components that address safety issues for public and private property on which public business is conducted and address the security of private property on which a large segment of the public relies. Allowing public access could increase the ability of persons to inflict harm on persons located in or utilizing those facilities, developments, or structures.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(3)(c)1., F.S., remains necessary. A majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. However, committee staff recommends the removal of language relating to the disclosure of information. Records designated as "exempt" may be released at the discretion of

²⁷ See supra note 25.

²⁸ See supra note 26.

²⁹ Ch. 2009-235, Laws of Fla.; HB 7017 (2009).

³⁰ Ch. 2018-53, Laws of Fla.; SB 551 (2018).

the records custodian under certain circumstances.³¹ Current law limits the discretion of the custodian, thus making it inconsistent with these public records being treated similarly to other exempt records.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(3)(c)1., F.S., to save from repeal the public records exemption for information relating to the following information held by an agency:

- Building plans;
- Blueprints;
- Schematic drawings; and
- Diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development.

The bill removes superfluous language regarding the release of the exempt information.

Section 2 provides that the bill take effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does not create or expand an exemption, thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

³¹ See supra note 15.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01730-23

20237008pb

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S., which provides an exemption from public records for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development; removing a provision authorizing disclosure of exempt information under certain circumstances; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development, which records are held by an agency are exempt from

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585-01730-23

20237008pb

s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

~~3. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities, to the owner or owners of the structure in question or the owner's legal representative, or upon a showing of good cause before a court of competent jurisdiction.~~

4. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

~~4.5.~~ As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park

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

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comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

(I) Encompasses more than 400,000 square feet of gross floor area; or

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(II) Provides parking spaces for more than 2,500 motor vehicles.

e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

f. "Health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.

g. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

~~6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7010

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/United States Census Bureau

DATE: February 21, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limonas-Borja</u>	<u>McVane</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7010 repeals the current exemption from public inspection and copying requirements for United States Census Bureau (USCB) address information held by an agency pursuant to the Local Update of Census Addresses (LUCA) program.

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption 5 years after initial enactment. If the Legislature does not reenact the exemption, the exemption automatically repeals on October 2nd of the fifth year after enactment.

The LUCA program was a decennial census geographic partnership program that allowed the USCB to benefit from local knowledge in developing its master address file for the census. Current law provides a public record exemption for USCB address information held by an agency pursuant to the LUCA program. The LUCA program officially ended as of October 15, 2022.¹ As such, there is no need to continue the public record exemption.

The bill is not expected to impact state or local government revenue or expenditures.

The bill takes effect upon becoming a law.

¹ U.S. Census Bureau, *Census Bureau Statement on 2020 Census Data Collection Ending*, available at: <https://www.census.gov/newsroom/press-releases/2020/2020-census-data-collection-ending.html#:~:text=Census%20Bureau%20Statement%20on%202020%20Census%20Data%20Collection%20Ending,-October%2013%2C%202020&text=OCT.,conclude%20on%20October%2015%2C%202020>. (last visited January 5, 2023).

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.² This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.³

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

The Public Records Act contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁶ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

² FLA. CONST., art. I, s. 24(a).

³ *Id.*

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹⁴ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁷ with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁹ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

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

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

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²¹
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects trade or business secrets.²³

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

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

United States Census Bureau

The United States Census Bureau (USCB) is part of the United States Department of Commerce.²⁷ Amongst its research duties, the USCB conducts the decennial census. The decennial census is a comprehensive population and housing count of all 50 states, the District of Columbia, and the U.S. island areas. Results of the decennial census determine the number of seats for each state in the U.S. House of Representatives. The results are also relied upon in drawing congressional and state legislative districts. The census is critical to the annual distribution of hundreds of billions of dollars in federal funds.²⁸ Moreover, information collected during the census is used not only by all levels of government but also by businesses, non-profits, and policy makers.²⁹

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

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

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

²⁵ FLA. CONST. art. I, s. 24(c).

²⁶ Section 119.15(7), F.S.

²⁷ U.S. Census Bureau, *Who We Are*, available at: <https://www.census.gov/about/who.html> (last visited November 21, 2022).

²⁸ U.S. Census Bureau, *U.S. Census Bureau at a Glance*, available at: <https://www.census.gov/about/what/census-at-a-glance.html#censuses> (last visited November 22, 2022).

²⁹ Patrick R. Potyondy, National Conference of State Legislatures, *LegisBrief: The 2020 Census, What You Need to Know About the 2020 Census* (November 2017), available at: <http://www.ncsl.org/research/redistricting/what-you-need-to-know-aboutthe-2020-census.aspx> (last visited November 22, 2022).

Local Update of Census Addresses Program

Local Update of Census Addresses (LUCA) is a program offered once every 10 years to state and local governments by the USCB in preparation for the decennial census. Specifically, LUCA enables states and local entities to update address information on a master list maintained by the LUCA, to make the decennial census as accurate as possible.

Entities eligible to participate in LUCA are:

- States;
- Counties;
- Cities;
- Townships; and
- Federally recognized tribes with a reservation on or off-reservation trust lands.³⁰

On June 29, 2017, the USCB announced that starting in July 2017, governments across the country could initiate the process of sharing address information through the 2020 Census LUCA program.³¹ Entities that chose to participate were required to sign the Confidentiality Agreement Form provided by the LUCA.³²

Public Records Law on United States Census Bureau Address Information

Federal law protects the confidentiality of any and all information collected during the census.³³ After the conclusion of the LUCA Feedback Phase, LUCA participants must destroy or return to the Census Bureau all of its Title 13 protected materials. Following the destruction or return of the Title 13 protected materials LUCA participants must certify that they no longer have any Title 13 protected materials.³⁴

Open Government Sunset Review of the Public Records Exemption for USCB address information

In 2018, the Legislature created a public records exemption for certain address information maintained by the USCB and held by an agency. Specifically, the bill makes confidential and exempt the following information held by an agency pursuant to the federal LUCA program:

- USCB address information, including maps showing structure location points;
- Agency records that verify addresses; and
- Agency records that identify address errors or omissions.³⁵

³⁰ United States Census Bureau, *Local Update of Census Addresses (LUCA) Operation*, available at: https://www.census.gov/programs-surveys/decennial-census/about/luca.html#par_textimage_216831044 (last visited November 22, 2022).

³¹ United States Census Bureau, *2020 Census Local Update of Census Addresses Operation to Begin*, available at: <https://www.census.gov/newsroom/press-releases/2017/cb17-109-luca.html> (last visited December 2, 2022).

³² U.S. Census Bureau, *2020 Census LUCA FAQs*, 3 (August 6, 2019), available at: [2020 Census Local Update of Census Addresses Operation \(LUCA\) Frequently Asked Questions \(FAQs\)](https://www.census.gov/programs-surveys/decennial-census/about/luca.html#closeout) (last visited January 10, 2023).

³³ 13 U.S.C. §§ 9, 214 (1997).

³⁴ U.S. Census Bureau, *Local Update of Census Addresses (LUCA) Operation*, available at: <https://www.census.gov/programs-surveys/decennial-census/about/luca.html#closeout> (last visited January 5, 2023).

³⁵ Ch. 2018-77, Laws of Fla.; HB 7053 (2018).

The public necessity statement, as required by the State Constitution, specified that without the exemption, agencies would be denied participation into the LUCA program. As such, the effective and efficient administration of the LUCA program would be hindered, which could result in a negative fiscal impact on the state.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(1)(g)1., F.S., remains necessary. A majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. However, since the LUCA program officially ended as of October 15, 2022,³⁶ legislative staff recommends that there is no need to continue the public record exemption at this time.

III. Effect of Proposed Changes:

Section 1 repeals the public records exemption for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses program.

Section 2 provides that the bill take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

³⁶ U.S. Census Bureau, *Census Bureau Statement on 2020 Census Data Collection Ending*, available at: <https://www.census.gov/newsroom/press-releases/2020/2020-census-data-collection-ending.html#:~:text=Census%20Bureau%20Statement%20on%202020%20Census%20Data%20Collection%20Ending,-October%2013%2C%202020&text=OCT.,conclude%20on%20October%2015%2C%202020>. (last visited January 5, 2023).

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 119.071 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-00870-23

20237010pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; repealing s. 119.071(1)(g), F.S., which provides an exemption from public records requirements for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses Program; providing an effective date.

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

Section 1. Paragraph (g) of subsection (1) of section 119.071, Florida Statutes, is repealed.

Section 2. This act shall take effect upon becoming a law.

Overview of Governmental Oversight and Accountability Committee



SENATOR AVILA, *CHAIR*
SENATOR POLSKY, *VICE CHAIR*

SENATOR ALBRITTON
SENATOR DAVIS
SENATOR HOOPER
SENATOR RODRIGUEZ
SENATOR ROUSON
SENATOR WRIGHT

Committee Staff



- Joe McVaney
Staff Director
- Jessie Harmsen
Deputy Staff Director/Attorney
- Tamra Redig
Senior Administrative Assistant
- Gabriela (Gaby) Limones-Borja
Legislative Research Assistant

Entity Oversight



- Executive Office of the Governor
 - ✦ (except the Division on Emergency Management)
- State Board of Administration
- Department of State
 - ✦ (except the Division of Elections and Division of Corporations)
- Department of Management Services
 - Florida Human Relations Commission
 - Public Employees Relations Commission
 - Division of Administrative Hearings

Committee Subject Areas



- Public sector retirement plans
- Enterprise technology and infrastructure
- Investment management of state funds
- State workforce and benefits
- State procurement and contracting
- Open government (public records and open meetings)
- Arts, culture, and historical preservation programs
- Administrative Procedures Act
- Government organization

Potential Committee Issues



- Local government retirement plans
- Enterprise technology governance
- Investment management of state funds
- State workforce and benefits
- State procurement and contracting
- Florida Retirement System
- Collective bargaining for state employees

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 2/21/2023 3:30:43 PM

Ends: 2/21/2023 4:21:15 PM

Length: 00:50:33

3:30:42 PM Meeting called to order, roll call
3:31:12 PM Quorum is present
3:31:19 PM Chair Avila makes opening remarks
3:31:44 PM Tab 1- SB 284, Energy by Senator Brodeur
3:32:19 PM Chair Avila recognizes Senator Brodeur to explain the bill
3:32:26 PM Senator Brodeur explains the bill
3:35:01 PM Questions:
3:35:05 PM Senator Polsky
3:35:23 PM Senator Brodeur
3:36:47 PM Senator Albritton
3:36:55 PM Senator Brodeur
3:37:15 PM Senator Rouson
3:37:23 PM Senator Brodeur
3:37:42 PM Amendment 761046
3:37:51 PM Chair Avila recognizes Senator Brodeur
3:37:59 PM Senator Brodeur explains the amendment
3:39:01 PM Chair Avila reads card waiving in support
3:39:19 PM Senator Brodeur waives close on the amendment
3:39:26 PM Roll call on the amendment
3:39:38 PM Amendment 186330
3:39:44 PM Chair Avila recognizes Senator Polsky
3:39:52 PM Senator Polsky explains the amendment
3:40:52 PM Chair Avila recognizes appearance cards
3:41:16 PM David Cullen, Sierra Club Florida
3:43:38 PM Dale Calhoun, Florida Natural Gas Association
3:44:56 PM Senator Davis
3:45:29 PM Dale Calhoun, Florida Natural Gas Association
3:47:34 PM Debate:
3:47:37 PM Senator Brodeur
3:48:54 PM Senator Polsky waives close on the amendment
3:49:00 PM Roll call on the amendment
3:49:16 PM Chair Avila reports the amendment
3:49:36 PM Chair Avila reads cards appearance cards waiving
3:50:01 PM David Cullen, Sierra Club Florida
3:51:25 PM Senator Brodeur closes on the bill
3:51:49 PM Roll call on CS/SB 284
3:52:07 PM Chair Avila reports the bill
3:52:15 PM Tab 2- SB 314, Licensed Counseling for First Responders by Senator Rodriguez
3:52:39 PM Chair Avila recognizes Senator Rodriguez
3:52:46 PM Senator Rodriguez explains the bill
3:53:28 PM Amendment 89788
3:53:33 PM Senator Rodriguez explains the amendment
3:54:12 PM Questions:
3:54:17 PM Senator Davis
3:54:59 PM Senator Rodriguez
3:55:38 PM Senator Hooper
3:56:13 PM Senator Rodriguez
3:56:22 PM Senator Hooper
3:56:42 PM Senator Rodriguez
3:57:25 PM Debate:
3:57:27 PM Senator Hooper
3:59:42 PM Senator Rodriguez waives close on the amendment

3:59:48 PM	Roll call on the amendment
4:00:03 PM	Questions:
4:00:05 PM	Senator Rouson
4:00:25 PM	Senator Rodriguez
4:01:00 PM	Senator Rouson
4:01:28 PM	Senator Rodriguez
4:01:53 PM	Senator Davis
4:02:30 PM	Senator Rodriguez
4:03:03 PM	Chair Avila recognizes appearance cards
4:03:11 PM	Dr. Elio Perez
4:04:26 PM	Senator Rouson
4:04:49 PM	Elio Perez
4:05:40 PM	Stephen Busse, Miami Dade Firefighter
4:07:49 PM	William Smith, Florida PBA
4:10:54 PM	Senator Rodriguez closes on the bill
4:11:35 PM	Roll call on CS/SB 314
4:11:50 PM	Chair Avila reports the bill
4:12:03 PM	Chair Avila turns the Chair over the Vice Chair Polsky
4:12:14 PM	Tab 3 - SM 176, Balancing the Federal Budget by Senator Avila
4:12:40 PM	Chair Polsky recognizes Senator Avila
4:12:48 PM	Senator Avila explains the bill
4:14:23 PM	Senator Avila waives close
4:14:30 PM	Roll call on SM 176
4:14:48 PM	Chair Polsky reports the bill
4:14:54 PM	Tab 4- SPB 7006, OGSR/Nationwide Public Safety broadband network
4:15:20 PM	Chair Polsky recognizes Senator Avila
4:15:27 PM	Senator Avila explains the bill
4:16:08 PM	Chair reads cards waiving in support
4:16:18 PM	Senator Rouson moves to submit SPB 7006 as a Committee Bill
4:16:53 PM	Roll call on SPB 7006
4:17:03 PM	Chair Polsky reports the bill
4:17:13 PM	Tab 5- SPB 7008, Public Records/Building Plans, Blueprints, Schematic Drawings, and Diagrams
4:17:24 PM	Chair Polsky recognizes Senator Avila
4:17:31 PM	Senator Avila explains the bill
4:18:28 PM	Senator Davis moves to submit SPB 7008 as a Committee Bill
4:18:36 PM	Roll call on SPB 7008
4:18:55 PM	Chair Polsky reports the bill
4:18:59 PM	Tab 6- SPB 7010, OGSR/United States Census Bureau
4:19:06 PM	Chair Polsky recognizes Senator Avila
4:19:08 PM	Senator Avila explains the bill
4:20:06 PM	Senator Albritton moves to submit SPB 7010 as a Committee Bill
4:20:13 PM	Roll call on SPB 7010
4:20:29 PM	Chair Polsky reports the bill
4:20:35 PM	Chair Polsky returns the chair back to Chair Avila
4:20:46 PM	Senator Wright makes comments
4:21:02 PM	Senator Davis moves to adjourn
4:21:06 PM	Meeting adjourned