

Tab 1	CS/SB 234 by JU, Polsky (CO-INTRODUCERS) Martin; (Similar to CS/H 00117) Disclosure of Grand Jury Testimony					
408730	A	S	RCS	RC, Polsky	Delete L.36 - 76:	02/08 11:33 AM
Tab 2	SB 258 by Perry; (Identical to H 00317) Interstate Safety					
Tab 3	CS/CS/SB 312 by JU, CJ, Collins (CO-INTRODUCERS) Hooper; (Identical to CS/1ST ENG/H 00305) Offenses Involving Children					
Tab 4	SB 534 by Grall; (Identical to H 00521) Equitable Distribution of Marital Assets and Liabilities					
Tab 5	SB 554 by Bradley (CO-INTRODUCERS) Perry; (Similar to CS/H 00591) Hot Car Death Prevention					
365202	A	S	RCS	RC, Bradley	Delete L.20:	02/08 11:49 AM
Tab 6	SB 648 by DiCeglie; (Similar to H 00377) License or Permit to Operate a Vehicle for Hire					
Tab 7	SB 660 by DiCeglie; (Similar to CS/CS/H 00273) Public Records/Animal Shelter or Animal Control Agency					
Tab 8	SB 682 by Martin; (Compare to CS/H 00487) Lost or Abandoned Property					
Tab 9	CS/SB 756 by JU, Perry; (Similar to H 00429) Timeshare Properties					
214912	A	S	RCS	RC, Perry	Delete L.90 - 92:	02/08 12:17 PM
Tab 10	CS/SB 758 by JU, Martin; (Similar to CS/H 00401) Tracking Devices and Applications					
Tab 11	SB 790 by Yarborough (CO-INTRODUCERS) Osgood, Perry; (Similar to CS/H 00775) Surrendered Infants					
Tab 12	SB 814 by Yarborough; (Identical to H 00799) Easements Affecting Real Property Owned by the Same Owner					
737648	A	S		RC, Hutson	Delete L.36:	02/06 06:51 PM
Tab 13	SB 832 by Calatayud; (Identical to H 01137) Employment of Individuals with Disabilities					
Tab 14	CS/SB 850 by EE, DiCeglie; (Similar to H 00919) Use of Artificial Intelligence in Political Advertising					
223070	A	S	RCS	RC, DiCeglie	Delete L.30 - 45:	02/08 12:24 PM
Tab 15	CS/SB 984 by JU, Rouson; (Similar to CS/H 00175) Judgment Liens					
Tab 16	CS/SB 988 by BI, Martin; (Similar to CS/CS/H 00943) Public Records/My Safe Florida Home Program					
665166	A	S	RCS	RC, Martin	Delete L.38 - 60:	02/08 12:27 PM
Tab 17	SB 1082 by Collins; (Similar to CS/H 01051) Housing for Agricultural Workers					
727784	A	S		RC, Collins	Delete L.29 - 146:	02/08 08:11 AM
Tab 18	CS/SB 1112 by HP, Harrell; (Similar to CS/H 01295) Health Care Practitioner Titles and Designations					

Tab 19	CS/SB 1136 by CA, Trumbull ; (Similar to CS/CS/H 01163) Regulation of Water Resources					
564856	A	S	RCS	RC, Trumbull	Delete L.148 - 302:	02/08 12:32 PM
Tab 20	CS/SB 1198 by CM, Martin ; (Similar to CS/H 01189) Corporate Actions					
422858	A	S	RCS	RC, Martin	Delete L.418 - 649:	02/08 12:35 PM
Tab 21	SB 1218 by Burgess ; (Similar to H 01147) Broadband					
Tab 22	SB 1688 by Osgood (CO-INTRODUCERS) Yarborough, Hutson, Simon ; (Identical to H 00553) Career-themed Courses					
Tab 23	SB 1720 by Rodriguez ; (Identical to H 01407) Marine Encroachment on Military Operations					
Tab 24	SB 1746 by Ingoglia ; (Similar to H 01471) Public Employees					
681138	A	S	RCS	RC, Ingoglia	Delete L.350 - 359:	02/08 12:41 PM
197790	A	S	RCS	RC, Ingoglia	Delete L.377:	02/08 12:41 PM
Tab 25	SB 7030 by GO ; (Identical to H 07043) OGSR/Agency Personnel Information					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Mayfield, Chair
Senator Perry, Vice Chair

MEETING DATE: Thursday, February 8, 2024

TIME: 8:30—10:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Mayfield, Chair; Senator Perry, Vice Chair; Senators Baxley, Book, Boyd, Brodeur, Broxson, Burgess, Burton, DiCeglie, Garcia, Hooper, Hutson, Jones, Osgood, Rodriguez, Rouson, Simon, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 234 Judiciary / Polsky (Similar CS/H 117)	Disclosure of Grand Jury Testimony; Revising the list of persons prohibited from disclosing the testimony of a witness examined before, or the evidence received by, a grand jury; creating an exception for a request by the media or an interested person to the prohibited publishing, broadcasting, disclosing, divulging, or communicating of any testimony of a witness examined before the grand jury, or the content, gist, or import thereof; providing criminal penalties, etc. JU 12/13/2023 Fav/CS CJ 01/10/2024 Favorable RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
2	SB 258 Perry (Identical H 317)	Interstate Safety; Defining the term “furthestmost left-hand lane”; prohibiting a driver from operating a motor vehicle in the furthestmost left-hand lane of certain roadways, except under certain circumstances, etc. TR 01/10/2024 Favorable CJ 01/23/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
3	CS/CS/SB 312 Judiciary / Criminal Justice / Collins (Identical CS/H 305)	Offenses Involving Children; Increasing the maximum age of a child victim of specified acts whose out-of-court statements may be admissible in certain circumstances; providing that a first offense of specified sex trafficking offenses involving minors requires designation of the defendant as a sexual predator, etc. CJ 01/10/2024 Fav/CS JU 01/29/2024 Fav/CS RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 534 Grall (Identical H 521)	Equitable Distribution of Marital Assets and Liabilities; Requiring a court to consider certain factors when determining if extraordinary circumstances exist; prohibiting certain interspousal gifts unless certain requirements are met; providing that certain actions do not change whether certain real property is marital property; providing that business interest in a closely held business is a marital asset, etc. JU 01/16/2024 Favorable CF 01/23/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
5	SB 554 Bradley (Similar CS/H 591)	Hot Car Death Prevention; Citing this act as "Ariya's Act"; designating the month of April as "Hot Car Death Prevention Month"; providing that certain agencies and local governments are encouraged to sponsor events for a specified purpose, etc. CF 01/10/2024 Favorable RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
6	SB 648 DiCeglie (Similar H 377)	License or Permit to Operate a Vehicle for Hire; Providing that a person who holds a license or permit issued by a county or municipality to operate a vehicle for hire may operate a vehicle for hire in any other county or municipality without being subject to certain requirements or fees under certain circumstances; providing an exception for transportation services to and from an airport; defining the term "airport", etc. TR 01/17/2024 Favorable CA 01/29/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
7	SB 660 DiCeglie (Similar CS/CS/H 273)	Public Records/Animal Shelter or Animal Control Agency; Providing an exemption from public records requirements for records held by an animal shelter or animal control agency operated by a local government which contain certain information pertaining to persons with legal custody of an animal; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 01/10/2024 Favorable CA 01/22/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 682 Martin (Compare CS/H 487)	Lost or Abandoned Property; Revising the timeframe after which a law enforcement agency may take certain actions relating to abandoned property or specified vessels if the owner has not taken specified actions; making technical changes, etc. EN 01/10/2024 Favorable CJ 01/30/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
9	CS/SB 756 Judiciary / Perry (Similar H 429)	Timeshare Properties; Revising that a commissioner of deeds is appointed by the Secretary of State, rather than by the Governor, for a certain acknowledgement or proof taken, administered, or made outside this state but within the United States or within a foreign country; providing that the board of any timeshare condominium has certain powers regarding the accommodations or facilities of a timeshare plan without the approval of the members of the owners' association; providing that the managing entity of any timeshare project has all the rights and remedies of an operator of any public lodging establishment or public food service establishment for certain purposes, etc. RI 01/16/2024 Favorable JU 01/29/2024 Fav/CS RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
10	CS/SB 758 Judiciary / Martin (Similar CS/H 401)	Tracking Devices and Applications; Prohibiting the placement or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent; revising exceptions; providing criminal penalties, etc. CJ 01/10/2024 Favorable JU 01/29/2024 Fav/CS RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
11	SB 790 Yarborough (Similar CS/H 775)	Surrendered Infants; Changing the term "newborn infant" to "infant"; increasing the age at which a child is considered an infant; authorizing a parent to leave an infant with medical staff or a licensed health care professional at a hospital after the delivery of the infant, upon the parent giving a certain notification; authorizing a parent to surrender an infant by calling 911 to request that an emergency medical services provider meet the surrendering parent at a specified location, etc. HP 01/16/2024 Favorable CF 01/30/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 814 Yarborough (Identical H 799)	Easements Affecting Real Property Owned by the Same Owner; Authorizing an owner of real property to create an easement, servitude, or other interest in the owner's real property and providing that such easement, servitude, or other interest is valid; providing that the act does not revive or reinstate a right or interest that has been adjudicated invalid before a certain date, etc. JU 01/29/2024 Favorable RC 02/08/2024 Temporarily Postponed	Temporarily Postponed
13	SB 832 Calatayud (Identical H 1137)	Employment of Individuals with Disabilities; Requiring the collection and sharing of data between multiple agencies for the interagency cooperative agreement under the Employment First Act; requiring the Office of Reimagining Education and Career Help to issue an annual statewide report by a specified date each year, etc. ED 01/23/2024 Favorable CM 01/30/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
14	CS/SB 850 Ethics and Elections / DiCeglie (Similar H 919)	Use of Artificial Intelligence in Political Advertising; Defining the term "generative artificial intelligence"; requiring that certain political advertisements, electioneering communications, or other miscellaneous advertisements include a specified disclaimer; providing for criminal penalties; authorizing the filing of complaints regarding violations with the Florida Elections Commission, etc. EE 01/16/2024 Fav/CS RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
15	CS/SB 984 Judiciary / Rouson (Similar CS/H 175)	Judgment Liens; Authorizing a judgment lien to be acquired on specified personal property and in all payment intangibles and accounts of a judgment debtor whose location is in this state; specifying that the rights of certain judgment creditors to proceed against a judgment debtor's property are subject to certain provisions; prohibiting security interests and liens on payment intangibles or accounts and the proceeds thereof from taking priority over payment intangibles or accounts by a judgment lien certificate filed before a specified date, etc. JU 01/16/2024 Fav/CS BI 01/29/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	CS/SB 988 Banking and Insurance / Martin (Similar CS/CS/H 943)	Public Records/My Safe Florida Home Program; Providing an exemption from public records requirements for certain information contained in applications and home inspection reports submitted by applicants to the Department of Financial Services as a part of the My Safe Florida Home Program; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. BI 01/29/2024 Fav/CS RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
17	SB 1082 Collins (Similar CS/H 1051)	Housing for Agricultural Workers; Defining the terms “agricultural worker” and “housing site”; prohibiting a governmental entity from adopting or enforcing any legislation to inhibit the construction of housing for agricultural workers on agricultural land operated as a bona fide farm; authorizing governmental entities to adopt local land use regulations that are less restrictive than certain state and federal regulations; authorizing the continued use of housing sites constructed before the effective date of the act if certain conditions are met, etc. CA 01/16/2024 Favorable AG 01/23/2024 Favorable RC 02/08/2024 Temporarily Postponed	Temporarily Postponed
18	CS/SB 1112 Health Policy / Harrell (Similar CS/H 1295)	Health Care Practitioner Titles and Designations; Providing that, for specified purposes, the use of specified titles or designations in connection with one’s name constitutes the practice of medicine or the practice of osteopathic medicine; revising grounds for disciplinary action relating to a practitioner’s use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; requiring certain health care practitioners to prominently display a copy of their license in a conspicuous area of their practice, etc. HP 01/30/2024 Fav/CS RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	CS/SB 1136 Community Affairs / Trumbull (Similar CS/H 1163)	Regulation of Water Resources; Revising the qualification requirements a person must meet in order to take the water well contractor license examination; authorizing certain authorities who have been delegated enforcement powers by water management districts to apply disciplinary guidelines adopted by the districts; prohibiting a person or business entity from advertising water well drilling or construction services in specified circumstances; requiring that certain rules adopted by Department of Environmental Protection relating to the location of onsite sewage treatment and disposal systems allow licensed water well contractors to apply for and receive from the water management district within the region of installation a variance for private or public potable well installations, etc. EN 01/17/2024 Favorable CA 01/29/2024 Fav/CS RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
20	CS/SB 1198 Commerce and Tourism / Martin (Similar CS/H 1189)	Corporate Actions; Providing that a defective corporate action is not void or voidable in certain circumstances; requiring the board of directors to take certain action to ratify a defective corporate action; providing quorum and voting requirements for the ratification of certain defective corporate actions; requiring that notice be given to shareholders of certain corporate action taken by the board of directors; providing that notice is not required for holders of certain shares whose identities or addresses for notice cannot be determined, etc. CM 01/23/2024 Fav/CS RC 02/08/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
21	SB 1218 Burgess (Similar H 1147)	Broadband; Extending the date through which a promotional rate and related terms for certain wireline attachments of broadband facilities to municipal electric utility poles are effective, etc. RI 01/16/2024 Favorable CM 01/23/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 19 Nays 0
22	SB 1688 Osgood (Identical H 553)	Career-themed Courses; Revising the requirements for a specified school district strategic plan to include certain information; requiring the Department of Education to include specified data in an annual review of K-12 and postsecondary career and technical education offerings, etc. ED 01/23/2024 Favorable CM 01/30/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, February 8, 2024, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
23	SB 1720 Rodriguez (Identical H 1407)	Marine Encroachment on Military Operations; Requiring local governments to cooperate with certain major military installations and ranges to encourage compatible land use in associated areas, etc. CA 01/22/2024 Favorable MS 01/29/2024 Favorable RC 02/08/2024 Favorable	Favorable Yeas 20 Nays 0
24	SB 1746 Ingoglia (Similar H 1471)	Public Employees; Revising a prohibition on dues to certain mass transit employees; providing that specified employee organizations have the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorized such deduction and collection; revising the application employee organizations must submit to register as certified bargaining agents, etc. GO 01/22/2024 Favorable RC 02/08/2024 Fav/CS	Fav/CS Yeas 14 Nays 5
25	SB 7030 Governmental Oversight and Accountability (Identical H 7043)	OGSR/Agency Personnel Information; Amending a provision which provides public records exemptions for certain personal identifying and location information of specified agency personnel, and the spouses and children thereof; abrogating the scheduled repeal of the exemptions, etc. RC 02/08/2024 Favorable	Favorable Yeas 20 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 Rules

BILL: CS/CS/SB 234

INTRODUCER: Rules Committee; Judiciary Committee; and Senator Polsky and others

SUBJECT: Disclosure of Grand Jury Testimony

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
3.	<u>Davis</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 234 amends s. 905.27, F.S., that generally prohibits the disclosure of testimony or evidence received by a grand jury. There are currently three exceptions to this general prohibition: ascertaining whether the testimony is consistent with the testimony given by a witness before the court, determining whether a witness is guilty of perjury, or furthering justice.

The bill amends the third exception of “furthering justice” by expanding that concept to include furthering a public interest when the disclosure of testimony is requested by the media or an interested person. The testimony may be disclosed if:

- The subject of the grand jury inquiry is deceased;
- The grand jury inquiry is related to criminal or sexual activity between a subject of the grand jury investigation and a person who was a minor at the time;
- The testimony was previously disclosed by a court order; and
- The state attorney is provided notice of the request.

Even if these conditions are met, the court may limit the disclosure of testimony, which may include redacting parts of the testimony.

The bill also adds the custodian of a grand jury record to the list of persons in statute who may not disclose the testimony of a witness examined before a grand jury or disclose other evidence received by the grand jury.

The bill reenacts s. 905.17(1) and (2), F.S.

The Office of the State Courts Administrator expects a minimal fiscal impact to the State Court System from this bill. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

The Grand Jury

“There is a tradition in the United States, a tradition that is “older than our Nation itself,” that proceedings before a grand jury shall generally remain secret. ... The rule of secrecy, however, is not without exceptions.”¹

Background

The state court system has two types of juries: grand juries and petit juries. While a petit jury, also known as a trial jury, weighs evidence and returns a verdict of guilt or innocence after hearing from both sides, a grand jury does not hear from both sides. A grand jury only hears witnesses presented by a state attorney and determines whether there is sufficient evidence to formally indict, or charge, an accused person with a crime.² In other words, the grand jury initiates the criminal prosecution.³

The modern grand jury is rooted in ancient tradition. It originated in England centuries ago and was brought to this country by the early colonists. A grand jury was formally recognized in the Magna Carta in 1215 but can be traced even earlier to 997 A.D., when an Anglo-Saxon king, unfortunately named “Ethelred the Unready,” tasked an investigative body to perform “its duty by accusing no innocent person and sheltering no guilty one.”⁴

The State Constitution

According to the State Constitution, no one may be tried for a capital crime, a crime punishable by death, unless he or she is indicted by a grand jury.⁵ This is the only instance in which a grand jury indictment is required. For all other crimes, the state attorney may initiate criminal charges.

¹ *CA Florida Holdings, LLC v. Aronberg*, 360 So. 3d 1149, 1153 (Fla. 4th DCA 2023) (quoting *In re Petition of Craig*, 131 F.3d 99, 101 (2d Cir. 1997)).

² The Supreme Court Committee on Standard Jury Instructions in Criminal Cases, *Chapter 30 Florida Grand Jury Handbook*.

³ Gregg D. Thomas, Carol Jean LoCicero, and Linda R. Norbut, *The Florida Bar, The Reporters’ Handbook on Law-Related Topics: The Grand Jury* (Revised Aug. 1, 2020) <https://www.floridabar.org/news/resources/rpt-hbk/#1619193085264-69d9d83a-2799>.

⁴ The Supreme Court Committee on Standard Jury Instructions in Criminal Cases, *supra* note 2.

⁵ FLA. CONST. art. I, s. 15(a). The full text of section 15 is “No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts martial.”

Composition and Investigative Power

A grand jury is composed of at least 15 and no more than 21 citizens who have been summoned and empaneled by a circuit court judge.^{6,7} In order to return an indictment, at least 12 grand jurors must agree.⁸ Although the grand jury is considered an agency of the circuit court, it works separately and independently from the court.⁹

To aid a grand jury in its broad power of investigation, it is given the authority to subpoena witnesses through the state attorney.¹⁰ While grand juries primarily focus on capital cases, they may also be used to investigate controversies involving the alleged illegal acts of public officials.¹¹

The Work of the Grand Jury***Secrecy***

Grand jury evidence is rarely, if ever, disclosed to the public. By shielding the grand jury's work from public scrutiny, grand jurors can speak freely with one another, witnesses who appear may speak openly without fear of being identified, a potential defendant who is not aware of the proceedings is prevented from destroying evidence that could be damaging, and the reputation of a potential defendant who is not indicted is not damaged. The majority of a grand jury's work is focused on listening to witnesses and deciding whether the evidence presented justifies an indictment. For the proceedings to function as they are designed, it is essential that the proceedings are kept secret. Section 905.24, F.S., states:

Grand jury proceedings are secret, and a grand juror or an interpreter appointed pursuant to s. 90.6063(2) shall not disclose the nature or substance of the deliberations or vote of the grand jury.

Consistently and similarly applying the need for secrecy, s. 905.25, F.S., states:

A grand juror shall not be permitted to state or testify in any court how she or he or any other grand juror voted on any matter before them or what opinion was expressed by herself or himself or any other grand juror about the matter.

Who May Attend a Grand Jury Session

To underscore the importance of secrecy, the statutes provide the limited number and specific persons who may be present during a session. No person may be present at the grand jury sessions except:

- The witness under examination;
- One attorney who represents the witness and advises and consults the witness;

⁶ Section 905.01(1), F.S.

⁷ The Supreme Court Committee on Standard Jury Instructions in Criminal Cases, *supra* note 2.

⁸ Section 905.23, F.S.

⁹ The Supreme Court Committee on Standard Jury Instructions in Criminal Cases, *supra* note 2.

¹⁰ Section 905.185, F.S.

¹¹ Thomas, et al., *supra* at note 3.

- The state attorney and her or his assistant state attorneys;
- The court reporter or stenographer; and
- The interpreter.¹²

No one is allowed to be present while the grand jurors are deliberating or voting, except an interpreter who may be present after he or she swears to refrain from making any personal interjections and who also commits to uphold the secrecy of the proceeding.¹³

Confidential Nature of Notes and Transcripts

The notes, records, and transcripts of the stenographer or court reporter are filed with the clerk who is charged with keeping them in a sealed container that is not subject to public inspection. They are confidential and exempt from the disclosure requirements of the public records laws, and may be released by the clerk *only* upon the request by a grand jury for use by the grand jury or upon order of the court pursuant to s. 905.27, F.S.¹⁴

Grand Jury Testimony May Not Be Disclosed

Section 905.27(1), F.S., prohibits a grand juror, state attorney, assistant state attorney, reporter, stenographer, interpreter, or any other person who appears before the grand jury from disclosing the testimony of a witness who was examined before the grand jury or any other evidence received by it except when required by a court to disclose the testimony for the purpose of:

- Ascertaining whether it is consistent with the testimony given by the witness before the court;
- Determining whether the witness is guilty of perjury; or
- Furthering justice.¹⁵

Section 905.27(2), F.S., states that it is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause, or permit to be published, broadcast, disclosed, divulged, or communicated to any other person, in any manner whatsoever, any testimony of a witness examined before the grand jury, except when the testimony is or has been disclosed in a court proceeding.

When the court orders the disclosure of the grand jury testimony for use in a *criminal* case it may be disclosed:

- To the prosecuting attorney in the court where the case is pending.
- By the prosecuting attorney to his or her assistants, associates, and employees.
- To the defendant.
- To the defendant's attorney.
- To the defendant's attorney to his or her legal associates and employees.¹⁶

¹² Section 905.17(1), F.S.

¹³ Section 905.17(3), F.S.

¹⁴ Section 905.17(1), F.S.

¹⁵ Section 905.27(1), F.S.

¹⁶ Section 905.27(2)(a), F.S.

When the court orders the disclosure of the grand jury testimony for use in a *civil* case, it may be disclosed to all parties to the case and their attorneys, and by the attorneys to their legal associates and employees.¹⁷

The unlawful disclosure of grand jury testimony is a first degree misdemeanor and constitutes criminal contempt of court.¹⁸

Jeffrey Epstein Grand Jury Testimony, 2006

In 2006, Jeffrey Epstein was investigated by the Palm Beach Police Department for allegedly sexually abusing five young girls, all under the age of 16 years, at his mansion. In addition, several other young girls who were not yet 18 years old also alleged that they were sexually abused by Jeffrey Epstein at his mansion.¹⁹

The Palm Beach Police Department contacted State Attorney Barry Krischer and asked that he charge Mr. Epstein with four counts of unlawful sexual activity with a minor and one count of lewd and lascivious molestation. If convicted of those charges, Mr. Epstein would have been sent to prison for decades. Instead of charging Jeffrey Epstein as the police recommended, State Attorney Krischer chose an unusual legal maneuver and presented the case to a grand jury. The grand jury returned only one charge, that of soliciting a prostitute. Mr. Epstein was arrested after the indictment and charged with one felony count of soliciting a prostitute.²⁰

According to the Palm Beach Post, this was the first time a sex crime case was presented to a grand jury by State Attorney Krischer's office. Although 13 teenage girls gave virtually identical accounts of their interactions with Mr. Epstein, the state attorney's office called only one 14-year-old girl to testify before the grand jury.²¹

Litigation

Trial Court

In November 2019, The Palm Beach Post sued the then current State Attorney, who was no longer Mr. Krischer, and the Clerk and Comptroller of Court in an effort to obtain a court order to unseal the grand jury proceedings and reveal why the grand jury returned only minimal charges. Because the grand jury's proceedings are private, The Post relied on s. 905.27(1), F.S., which allows a judge to disclose testimony for the purpose of "furthering justice."

¹⁷ Section 905.27(2)(b), F.S.

¹⁸ Section 905.27 (4) and (5), F.S. This first degree misdemeanor is punishable by up to 1 year in the county jail and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁹ Holly Baltz, THE PALM BEACH POST, *Why Was Jeffrey Epstein in 2006 Charged Only with Picking Up a Prostitute? Where We Stand* (Feb. 9, 2023) <https://www.palmbeachpost.com/story/news/2023/02/09/palm-beach-post-lawsuit-to-unseal-jeffrey-epstein-grand-jury-records/69867241007/>.

²⁰ *Id.*

²¹ Jane Musgrave, John Pacenti, and Lulu Ramadan, THE PALM BEACH POST, *How the Epstein Saga Could've Been Ended Years Ago: To His First Prosecutors, Victims Were Prostitutes* (Nov. 20, 2019). <https://www.usatoday.com/story/news/2019/11/20/jeffrey-epstein-saga-couldve-been-ended-attorney-barry-krischer/4237757002/>.

The Palm Beach Post, through its attorney, argued in part:

Access to the grand jury materials will allow the public to determine whether the grand jury process, and the secrecy that comes with it, was used to further justice or, instead, operated to shield Epstein and his co-conspirators from the consequences of their criminal activities.²²

In December 2021, the circuit judge determined that the court’s “inherent authority” had its boundaries and its authority to release the records was constrained by s. 905.27, F.S. Accordingly, the publisher’s access to the grand jury materials was denied and the documents and records would not be released.

In the final order the trial judge said:

Perhaps the circumstances presented above will induce the Legislature to amend section 905.27 to grant the courts additional authority or leeway in ruling on unique cases such as this one.²³

The Palm Beach Post appealed the ruling to the Fourth District Court of Appeal.

Appellate Court

The Fourth District Court of Appeal issued a decision on May 10, 2023. The appellate court held that the trial court was required to determine whether the disclosure of the requested grand jury proceedings would have furthered justice. In support of its conclusion, and after citing related cases on point, the court stated:

We extract from these decisions the court’s inherent authority to disclose grand jury materials despite the traditional rule of secrecy. In fact, this is contemplated and supported by section 905.27’s language.²⁴

The appellate court reversed the case and remanded it for further proceedings. The trial court was directed to conduct an in-camera inspection of the materials and decide whether disclosure of the grand jury materials would further justice. The trial court was instructed to evaluate the materials guided by the following non-exhaustive criteria cited in an earlier federal decision dealing with the disclosure of materials reviewed by a federal grand jury:

- The identity of the party seeking disclosure;
- Whether the defendant to the grand jury proceeding or the government opposes the disclosure;
- Why disclosure is being sought in the particular case;

²² *CA Florida Holdings, LLC, Publisher of The Palm Beach Post, v. Dave Aronberg, as State Attorney of Palm Beach County, Florida; Sharon R. Bock, as Clerk and Comptroller of Palm Beach, County, Florida*, Motion of Plaintiff for Summary Judgment, p. 3 (April 22, 2021).

²³ *CA Florida Holdings, LLC, Publisher of The Palm Beach Post, v. Dave Aronberg, as State Attorney of Palm Beach County, Florida; Sharon R. Bock, as Clerk and Comptroller of Palm Beach, County, Florida*, Final Judgment, p. 12 (Dec. 20, 2021).

²⁴ *CA Florida Holdings, LLC v. Aronberg*, 360 So. 3d 1149, 1153 (Fla. 4th DCA 2023).

- What specific information is being sought for disclosure;
- How long ago the grand jury proceedings took place;
- The current status of the principals of the grand jury proceedings and that of their families;
- The extent to which the desired material – either permissibly or impermissibly – has been previously made public;
- Whether witnesses to the grand jury proceedings who might be affected by disclosure are still alive; and
- The additional need for maintaining secrecy in the particular case in question.²⁵

On June 9, 2023, the trial court ordered the Clerk of the Circuit Court in Palm Beach County to provide him the materials presented to the grand jury in the Jeffrey Epstein case.²⁶ When the materials were delivered, the court determined that the materials were audio recordings and needed to be transcribed. On June 29, 2023, the court ordered the transcripts with the costs being paid for by the plaintiff seeking the information.²⁷ To date, the court has not released any testimony from the Epstein grand jury.

III. Effect of Proposed Changes:

The bill amends s. 905.27, F.S., which generally prohibits the disclosure of testimony or evidence received by a grand jury. There are currently three exceptions to this general prohibition that allow certain persons to disclose such testimony or evidence when a court requires the disclosure for one or more of the following purposes: ascertaining whether the testimony is consistent with the testimony given by a witness before the court, determining whether a witness is guilty of perjury, or furthering justice.²⁸

The bill amends the third exception of “furthering justice”²⁹ by creating paragraph (c) of s. 905.27(2), F.S., to include furthering a public interest when the disclosure of testimony is requested by the media or an interested person regardless of whether the purpose of disclosure is for use in a criminal or civil case. The testimony may be disclosed if:

- The subject of the grand jury inquiry is deceased;
- The grand jury inquiry is related to criminal or sexual activity between a subject of the grand jury investigation and a person who was a minor at the time;
- The testimony was previously disclosed by a court order; and
- The state attorney is provided notice of the request.

The bill further provides that even if the listed requirements are met, the court may limit the disclosure of testimony, including redacting certain testimony.

²⁵ *Id.* (citing *In re Petition of Craig*, 131 F.3d 99, 106 (2d Cir. 1997)).

²⁶ *CA Florida Holdings, LLC, Publisher of The Palm Beach Post, v. Dave Aronberg, as State Attorney of Palm Beach County, Florida, and Joseph Abruzzo, as Clerk of the Circuit Court and Comptroller of Palm Beach, County, Florida*, Order Directing Clerk of Court To Deliver Grand Jury Materials for In Camera Inspection (June 9, 2023).

²⁷ *CA Florida Holdings, LLC, Publisher of The Palm Beach Post, v. Dave Aronberg, as State Attorney of Palm Beach County, Florida, and Joseph Abruzzo, as Clerk and Comptroller of Palm Beach, County, Florida*, Order Directing Transcription of the Testimony in The Grand Jury Proceeding (June 29, 2023).

²⁸ Section 905.27(1)(c), F.S.

²⁹ *Id.*

The bill further amends s. 905.27(2), F.S., by creating a new paragraph (a) limiting the use of grand jury testimony disclosed by the court for use in a criminal case. This amendment provides that the testimony may only be used for the prosecution or defense of the case.

Similarly, the bill creates s. 905.27(2)(b), F.S., to reflect the requirement that grand jury testimony disclosed by a court for use in a civil case may only be used for that purpose.

The bill also amends s. 905.27(1), F.S., to include the custodian of a grand jury record in the current list of persons who may not disclose the testimony of a witness examined before a grand jury or other evidence received by a grand jury.

Section 2 of the bill reenacts s. 905.17(1) and (2), F.S., which relates to who may be present during a session of a grand jury, to incorporate the amendments made to s. 905.27, F.S.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator expects a minimal fiscal impact to the State Court System from the bill.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Legislature may wish to consider whether it should incorporate into the bill all the interest-of-justice factors identified by the Fourth District Court of Appeal in *CA Florida Holdings, LLC v. Aronberg*, 360 So. 3d 1149 (2023).

VIII. Statutes Affected:

This bill substantially amends section 905.27 of the Florida Statutes.

This bill reenacts section 905.17 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Rules on February 8, 2024:

A technical amendment was adopted to make technical, clarifying changes to the underlying bill without changing the effect of the bill.

CS by Judiciary on December 13, 2023:

A technical amendment was adopted to add the omitted word “for” to the end of line 67 of the original bill.

B. Amendments:

None.

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

³⁰ Office of the State Courts Administrator, 2024 Judicial Impact Statement for SB 234, December 10, 2023 (on file with the Senate Criminal Justice Committee).



408730

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Polsky) recommended the following:

Senate Amendment

Delete lines 36 - 76
and insert:

(c) Furthering justice, which can encompass furthering a public interest when the disclosure is requested pursuant to paragraph (2) (c).

(2) It is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other



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person, in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof, except when such testimony is or has been disclosed in any of the following circumstances: a court proceeding.

(a) When a court orders the disclosure of such testimony pursuant to subsection (1) for use in a criminal case, it may be disclosed to the prosecuting attorney of the court in which such criminal case is pending, and by the prosecuting attorney to his or her assistants, legal associates, and employees, and to the defendant and the defendant's attorney, and by the latter to his or her legal associates and employees. However, the grand jury testimony afforded such persons by the court can only be used in the defense or prosecution of the criminal case and for no other purpose.

(b) When a court orders the ~~such~~ disclosure of such testimony ~~is ordered by a court~~ pursuant to subsection (1) for use in a civil case, it may be disclosed to all parties to the case and to their attorneys and by the latter to their legal associates and employees. However, the grand jury testimony afforded such persons by the court can only be used in the defense or prosecution of the civil ~~or criminal~~ case and for no other purpose ~~whatsoever~~.

(c) When a court orders the disclosure of such testimony pursuant to subsection (1) in response to a request by the media or an interested person, regardless of whether that purpose is for use in a criminal or civil case, it may be disclosed so long as the subject of the grand jury inquiry is deceased, the grand jury inquiry is related to criminal or sexual activity between the subject of the grand jury investigation and a person who was



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41 a minor at the time of the alleged criminal or sexual activity,
42 the testimony was previously disclosed by a court order, and the
43 state attorney is provided notice of the request. This paragraph
44 does not limit the court's ability to limit the disclosure of
45 testimony, including, but not limited to, redaction.

By the Committee on Judiciary; and Senators Polsky and Martin

590-01857-24

2024234c1

A bill to be entitled

An act relating to disclosure of grand jury testimony; amending s. 905.27, F.S.; revising the list of persons prohibited from disclosing the testimony of a witness examined before, or the evidence received by, a grand jury; creating an exception for a request by the media or an interested person to the prohibited publishing, broadcasting, disclosing, divulging, or communicating of any testimony of a witness examined before the grand jury, or the content, gist, or import thereof; providing criminal penalties; providing construction; making technical changes; reenacting s. 905.17(1) and (2), F.S., relating to who may be present during a session of a grand jury, to incorporate the amendment made to s. 905.27, F.S., in references thereto; providing an effective date.

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

Section 1. Section 905.27, Florida Statutes, is amended to read:

905.27 Testimony not to be disclosed; exceptions.—

(1) Persons present or appearing during a grand jury proceeding, including a grand juror, a state attorney, an assistant state attorney, a reporter, a stenographer, or an interpreter, as well as the custodian of a grand jury record, may not or any other person appearing before the grand jury shall not disclose the testimony of a witness examined before the grand jury or other evidence received by it except when

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

590-01857-24

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required by a court to disclose the testimony for the purpose of:

(a) Ascertaining whether it is consistent with the testimony given by the witness before the court;

(b) Determining whether the witness is guilty of perjury; or

(c) Furthering justice, which may encompass furthering a public interest when the disclosure is requested pursuant to paragraph (2)(c).

(2) It is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other person, in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof, except when such testimony is or has been disclosed in a court proceeding in any of the following circumstances:—

(a) When a court orders the disclosure of such testimony pursuant to subsection (1) for use in a criminal case, it may be disclosed to the prosecuting attorney of the court in which such criminal case is pending, and by the prosecuting attorney to his or her assistants, legal associates, and employees, and to the defendant and the defendant's attorney, and by the latter to his or her legal associates and employees. However, the grand jury testimony afforded such persons by the court may only be used in the defense or prosecution of the criminal case and for no other purpose.

(b) When a court orders the ~~such~~ disclosure of such testimony is ordered by a court pursuant to subsection (1) for

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use in a civil case, it may be disclosed to all parties to the case and to their attorneys and by the latter to their legal associates and employees. However, the grand jury testimony afforded such persons by the court ~~may~~ can only be used in the defense or prosecution of the civil ~~or criminal~~ case and for no other purpose ~~whatsoever~~.

(c) When a court orders the disclosure of such testimony pursuant to subsection (1) in response to a request by the media or an interested person, regardless of whether that purpose is for use of the testimony in a criminal or civil case, it may be disclosed if the subject of the grand jury inquiry is deceased, the grand jury inquiry is related to criminal or sexual activity between a subject of the grand jury investigation and a person who at the time was a minor, the testimony was previously disclosed by a court order, and the state attorney is provided notice of the request. This paragraph does not restrict the court's ability to limit the disclosure of testimony, including, but not limited to, by redaction.

~~(3) Nothing in~~ This section ~~does not shall~~ affect the attorney-client relationship. A client has ~~shall have~~ the right to communicate to his or her attorney any testimony given by the client to the grand jury, any matters involving the client discussed in the client's presence before the grand jury, and any evidence involving the client received by or proffered to the grand jury in the client's presence.

~~(4) A person who violates~~ Persons convicted of violating this section ~~commits shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.083, or by fine not exceeding \$5,000, or both.

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(5) A violation of this section constitutes ~~shall constitute~~ criminal contempt of court.

Section 2. For the purpose of incorporating the amendment made by this act to section 905.27, Florida Statutes, in references thereto, subsections (1) and (2) of section 905.17, Florida Statutes, are reenacted to read:

905.17 Who may be present during session of grand jury.—

(1) No person shall be present at the sessions of the grand jury except the witness under examination, one attorney representing the witness for the sole purpose of advising and consulting with the witness, the state attorney and her or his assistant state attorneys, designated assistants as provided for in s. 27.18, the court reporter or stenographer, and the interpreter. The stenographic records, notes, and transcriptions made by the court reporter or stenographer shall be filed with the clerk who shall keep them in a sealed container not subject to public inspection. The notes, records, and transcriptions are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall be released by the clerk only on request by a grand jury for use by the grand jury or on order of the court pursuant to s. 905.27.

(2) The witness may be represented before the grand jury by one attorney. This provision is permissive only and does not create a right to counsel for the grand jury witness. The attorney for the witness shall not be permitted to address the grand jurors, raise objections, make arguments, or otherwise disrupt proceedings before the grand jury. The attorney for the witness shall be permitted to advise and counsel the witness and shall be subject to the provisions of s. 905.27 in the same

590-01857-24

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117 manner as all who appear before the grand jury. An attorney or
118 law firm may not represent more than one person or entity in an
119 investigation before the same grand jury or successive grand
120 juries in the same investigation.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Committee on Agriculture, Environment,
and General Government
Criminal Justice
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR TINA SCOTT POLSKY

30th District

January 11, 2024

Chair Debbie Mayfield
Committee on Rules
402 Senate Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Mayfield,

I respectfully request that you place CS/SB 234, relating to Disclosure of Grand Jury Testimony on the agenda of the Committee on Rules, at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

A handwritten signature in dark ink, appearing to read "Tina S. Polsky", with a stylized flourish at the end.

Senator Tina S. Polsky
Florida Senate, District 30

cc: Philip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- ☐ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

February 8, 2024

Meeting Date

Rules

Committee

SB 234 Grand Jury Transcripts

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mat Forrest Phone 850-577-0444

Address 201 E. Park Ave. Email Mat@ballardpartners.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:

**Joseph Abruzzo, Palm Beach
County Clerk of the Circuit Court**

☐ 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 Rules

BILL: SB 258

INTRODUCER: Senator Perry

SUBJECT: Interstate Safety

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Shutes	Vickers	TR	Favorable
2. Parker	Stokes	CJ	Favorable
3. Shutes	Twogood	RC	Favorable

I. Summary:

SB 258 prohibits a driver from operating a motor vehicle in the furthestmost left-hand lane on a road, street, or highway having two or more lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour. A driver may drive in the furthestmost left-hand lane when overtaking and passing another vehicle, when preparing to exit the road, street, or highway, or when otherwise directed by an official traffic control device. This provision does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

A violation is a noncriminal traffic infraction punishable as a moving violation. The statutory base fine is \$60, but with additional fees and charges, the total penalty may be up to \$158.

The bill may have an indeterminate fiscal impact on state and local government.

The bill takes effect January 1, 2025.

II. Present Situation:

Under Florida law, a vehicle must be driven upon the right half of the roadway, except:

- When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- When an obstruction exists making it necessary to drive to the left of the center of the highway, provided any person so doing yields the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

- Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
- Upon a roadway designated and signposted for one-way traffic.¹

Upon all roadways, any vehicle proceeding at less than the normal speed of traffic must be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.²

On a road, street, or highway having two or more lanes allowing movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows or reasonably should know that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. This does not apply to drivers operating a vehicle that is overtaking another vehicle proceeding in the same direction, or is preparing for a left turn at an intersection.³

Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle may not be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted to drive around an obstruction. However, this may not be construed as prohibiting the crossing of the centerline in making a left turn.⁴

A violation of the above laws is a noncriminal traffic infraction, punishable as a moving violation.⁵ The statutory base fine is \$60,⁶ but with additional fees and surcharges, the total penalty may be up to \$158.⁷

There are at least eight states where traveling in the left lane on certain roads, streets, and highways is prohibited except for turning and passing.⁸ Most states, like Florida, require slower traffic to keep right.⁹

¹ Section 316.081(1), F.S.

² Section 316.081(2), F.S.

³ Section 316.081(3), F.S.

⁴ Section 316.081(4), F.S.

⁵ Section 316.081(5), F.S.

⁶ Section 318.18(3)(a), F.S.

⁷ Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording* (December 2022), at p. 42, available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098_attach_2_2022_dist.pdf (last visited January 18, 2024).

⁸ Bodine, Rachel and Walker, Daniel, *Is left lane driving allowed in your state?* (June 29, 2022), AutoInsurance.Org, <https://www.autoinsurance.org/keep-right-which-states-enforce-left-lane-passing-only/> and Massachusetts Institute of Technology, *State “keep right” laws*, <https://www.mit.edu/~jfc/right.html> (last visited January 18, 2024).

⁹ *Id.*

III. Effect of Proposed Changes:

The bill amends s. 316.081, F.S., to prohibit a driver from operating a motor vehicle in the furthestmost left-hand lane on a road, street, or highway having two or more lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour. The bill provides exceptions authorizing a driver to drive in the furthestmost left-hand lane when overtaking and passing another vehicle, when preparing to exit the road, street, or highway, or when otherwise directed by an official traffic control device. Additionally, this prohibition does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

For purposes of this provision, the term “furthestmost left-hand lane” excludes a high-occupancy-vehicle lane or a designated left turn lane. The furthestmost left-hand lane is considered the lane immediately to the right of such high-occupancy-vehicle lane or left turn lane in these instances.

A violation of this provision is a noncriminal traffic infraction punishable as a moving violation. The statutory base fine is \$60, but with additional fees and charges, the total penalty may be up to \$158.

The bill takes effect January 1, 2025.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill may have an indeterminate negative impact on individuals who violate this provision. An individual cited for violating this provision may be subject to a penalty of up to \$158.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the Department of Highway Safety and Motor Vehicles (DHSMV), which will need to update its driver handbook, driver license test question bank, driver improvement course curricula, and the Uniform Traffic Citation manual to reflect the change in law.¹⁰ Additionally, the DHSMV and local law enforcement may need to conduct training on the law change.

The bill may have an indeterminate positive fiscal impact on state and local government that receive revenue from the traffic fine.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.081 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.

¹⁰ DHSMV, *2024 Legislative Bill Analysis: SB 258* (November 1, 2023) at p. 3 (on file with the Senate Criminal Justice Committee).

By Senator Perry

9-00462-24

2024258__

A bill to be entitled

An act relating to interstate safety; amending s. 316.081, F.S.; defining the term "furthermost left-hand lane"; prohibiting a driver from operating a motor vehicle in the furthermost left-hand lane of certain roadways, except under certain circumstances; providing applicability; providing a penalty; providing an effective date.

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

Section 1. Present subsections (4) and (5) of section 316.081, Florida Statutes, are redesignated as subsections (5) and (6), respectively, a new subsection (4) is added to that section, and present subsection (5) of that section is republished, to read:

316.081 Driving on right side of roadway; exceptions.—

(4) (a) As used in this subsection, the term "furthermost left-hand lane" means the farthest, most left-hand lane, except that, if such left-hand lane is a high-occupancy-vehicle lane as defined in s. 316.0741, or is a designated left-turn lane, the furthermost left-hand lane is the lane immediately to the right of that high-occupancy-vehicle lane or left-turn lane.

(b) On a road, street, or highway with two or more lanes allowing movement in the same direction and a posted speed limit of at least 65 miles per hour, a driver may not operate a motor vehicle in the furthermost left-hand lane, except when overtaking and passing another vehicle; when preparing to exit the road, street, or highway; or when otherwise directed by an

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9-00462-24

2024258__

official traffic control device. This subsection does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

(6)-(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 2. This act shall take effect January 1, 2025.

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 24, 2024

I respectfully request that **Senate Bill #258**, relating to Interstate Safety, be placed on the:

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

W. Keith Perry

Senator Keith Perry
Florida Senate, District 9

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 Rules

BILL: CS/CS/SB 312

INTRODUCER: Judiciary Committee; Criminal Justice Committee; and Senator Collins and others

SUBJECT: Offenses Involving Children

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes	CJ	Fav/CS
2. Bond	Cibula	JU	Fav/CS
3. Parker	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 312 amends s. 90.803, F.S., to increase the age for application of the child hearsay exception from 16 years of age or less to 17 years of age or less. The hearsay rule is a rule of evidence which prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.

Under the child hearsay exception in current law, an out-of-court statement made by a child victim having a physical, mental, emotional, or developmental age of 16 or less describing any act of child abuse or neglect, any act of sexual abuse against a child, the offense of child abuse, the offense of aggravated child abuse, or any offense involving an unlawful sexual act, contact, intrusion, or penetration performed in the presence of, with, by, or on the declarant child, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if:

- The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
- The child either testifies or is unavailable as a witness and there is other corroborative evidence of abuse or offense.

The bill amends s. 775.21, F.S., to provide that commission of a human trafficking offense involving a minor under s. 787.06(3)(f) and (g), F.S., will require a sexual predator designation on a first offense. The bill also provides that any violation of s. 787.06(3)(f) and (g), F.S., will require registration as a sexual predator if the offender has another qualifying offense.

The bill may have an indeterminate fiscal impact on the courts. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Hearsay

The hearsay rule is a rule of evidence which generally prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.¹ There are numerous exceptions. Hearsay is a statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted.² Current law provides hearsay exceptions where, based on the circumstances surrounding the statement, the law finds sufficient reliability to warrant a hearsay exception. For example, out-of-court statements made by children who are 16 or less, are admissible in certain instances.³

Courts have noted that the questioning of hearsay in criminal cases is of particular importance based on the constitutional right of the accused to cross-examine all witnesses appearing against him or her.⁴

Although hearsay evidence is generally inadmissible as evidence in a court hearing or trial, courts permit the admission of hearsay if the statement falls under a firmly-rooted exception in law, or possesses a guarantee of trustworthiness.⁵

Florida's evidence code groups hearsay exceptions together as non-hearsay, hearsay exceptions where the availability of the declarant is immaterial, and hearsay exceptions where the declarant is unavailable.

Non-hearsay

A statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination and the statement is:

- Inconsistent with the declarant's testimony and given under oath subject to perjury at a trial, hearing, or other proceedings or in a deposition;
- Consistent with the declarant's testimony and offered to rebut an express or implied charge against the declarant of improper influence, motive, or recent fabrication; or

¹ Sections 90.801(1)(c) and 90.802, F.S.

² Section 90.801, F.S.

³ Section 90.803(23), F.S.

⁴ The Confrontation Clause of the Sixth Amendment of the U.S. Constitution provides, in part "that in all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him." Section 16, Art. I, of the State Constitution, provides, in part "In all criminal prosecutions the accused ... shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses" Indeed, "the right to confront one's accusers is a concept that dates back to Roman times." *Crawford v. Washington*, 541 U.S. 36, 43 (2004).

⁵ See *Crawford v. Washington*, 541 U.S. 36, 43 (2004).

- One of identification of a person made after perceiving the person.⁶

Hearsay Exceptions Where the Availability of the Declarant is Immaterial

Current law provides exceptions to the hearsay rule, even though the declarant is available.⁷ The following provides, in part, a list of exceptions which may be admissible even when the declarant is available as a witness:

- **SPONTANEOUS STATEMENT:** A spontaneous statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness.⁸
- **EXCITED UTTERANCE:** A statement or excited utterance relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.⁹
- **THEN-EXISTING MENTAL, EMOTIONAL, OR PHYSICAL CONDITION:** A statement of the declarant's then-existing state of mind, emotion, or physical sensation, including a statement of intent, plan, motive, design, mental feeling, pain, or bodily health, when such evidence is offered to: (1) Prove the declarant's state of mind, emotion, or physical sensation at that time or at any other time when such state is an issue in the action; (2) Prove or explain acts of subsequent conduct of the declarant.¹⁰
- **ADMISSIONS:** A statement that is offered against a party and is the party's own statement in either an individual or a representative capacity; a statement of which the party has manifested an adoption or belief in its truth; a statement by a person specifically authorized by the party to make a statement concerning the subject; a statement by the party's agent or servant concerning a matter within the scope of the agency or employment thereof, made during the existence of the relationships; or a statement by a person who was a coconspirator of the party during the course, and in furtherance, of the conspiracy. Upon request of counsel, the court shall instruct the jury that the conspiracy itself and each member's participation in it must be established by independent evidence, either before the introduction of any evidence or before evidence is admitted under this paragraph.¹¹
- **STATEMENT OF CHILD VICTIM:** Unless the source of information or the method or circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by a child victim with a physical, mental, emotional, or

⁶ Section 90.801(2), F.S.

⁷ Section 90.803(1)-(24), F.S., includes the following exceptions where the availability of the declarant is immaterial: spontaneous statement, excited utterance, then-existing mental, emotional, or physical condition, statement for purposes of medical diagnosis or treatment, recorded recollection, records of regularly conducted business activity, absence of entry in records of regularly conducted activity, public records and reports, records of vital statistics, absence of public record or entry, records of religious organizations, marriage, baptismal, and similar certificates, family records, records of documents affecting an interest in property, statements of documents affecting an interest in property, statements in ancient documents, marketing reports and commercial publications, admissions, reputation concerning personal or family history, reputation concerning boundaries or general history, reputation as to character, former testimony, statement of child victim, statement of elderly person or disabled adult.

⁸ Section 90.803(1), F.S.

⁹ Section 90.803(2), F.S.

¹⁰ Section 90.803(3), F.S., However, this subsection does not make admissible: (1) an after-the-fact statement of memory or belief to prove the fact remembered or believed, unless such statement relates to the execution, revocation, identification, or terms of the declarant's will; (2) a statement made under circumstances that indicate its lack of trustworthiness.

¹¹ Section 90.803(18), F.S.

developmental age of 16 or less describing any act of child abuse or neglect, any act of sexual abuse against a child, the offense of child abuse, the offense of aggravated child abuse, or any offense involving an unlawful sexual act, contact, intrusion, or penetration performed in the presence of, with, by, or on the declarant child, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if:

- The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
- The child either testifies or is unavailable¹² as a witness and there is other corroborative evidence of abuse or offense.¹³

Hearsay Exceptions Where the Declarant is Unavailable

Current law provides a list of hearsay exceptions that apply when the declarant is unavailable.^{14,15} The following provides, in part, a list of exceptions which may be admissible when the declarant is unavailable as a witness:

- **FORMER TESTIMONY:** Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.¹⁶
- **STATEMENT UNDER BELIEF OF IMPENDING DEATH:** In a civil or criminal trial, a statement made by a declarant while reasonably believing that his or her death was imminent, concerning the physical cause or instrumentalities of what the declarant believed to be impending death or the circumstances surrounding impending death.¹⁷
- **STATEMENT AGAINST INTEREST:** A statement which, at the time of its making, was so far contrary to the declarant's pecuniary or proprietary interest or tended to subject the declarant to liability or to render invalid a claim by the declarant against another, so that a person in the declarant's position would not have made the statement unless he or she believed it to be true. A statement tending to expose the declarant to criminal liability and

¹² Section 90.803(23)(a)2.b., F.S., provides that unavailability includes a finding by the court that the child's participation in the trial or proceeding would result in a substantial likelihood of severe emotional or mental harm, in addition to findings pursuant to s. 90.804(1), F.S.

¹³ Section 90.803(23), F.S.

¹⁴ Section 90.804(1), F.S., provides that "unavailability as a witness" means that the declarant: is exempted by a ruling of a court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; has suffered a lack of memory of the subject matter of his or her statement so as to destroy the declarant's effectiveness as a witness during the trial; is unable to be present or to testify at the hearing because of death or because of then-existing physical or mental illness or infirmity; or is absent from the hearing, and the proponent of a statement has been unable to procure the declarant's attendance or testimony by process or other reasonable means. However, a declarant is not unavailable as a witness if such exemption, refusal, claim of lack of memory, inability to be present, or absence is due to the procurement or wrongdoing of the party who is the proponent of his or her statement in preventing the witness from attending or testifying.

¹⁵ Section 90.804(2)(a)-(f), F.S., includes the following exceptions where the declarant is unavailable: Former testimony, statement under belief of impending death, statement against interest, statement of personal or family history, statement by deceased or ill declarant similar to one previously admitted, and statement offered against a party that wrongfully caused the declarant's unavailability.

¹⁶ Section 90.804(2)(a), F.S.

¹⁷ Section 90.804(2)(b), F.S.

offered to exculpate the accused is inadmissible unless corroborating circumstances show the trustworthiness of the statement.¹⁸

Hearsay within Hearsay

Hearsay within hearsay is not excluded under s. 90.802, F.S., provided each part of the combined statements conforms with an exception to the hearsay rule as provided in s. 90.803 or s. 90.804, F.S.¹⁹

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.²⁰ The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders.

Section 775.21, F.S., provides that a person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;^{21,22}
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense;²³ or
- Was found to be a sexually violent predator in a civil commitment proceeding.^{24,25}

Section 943.0435, F.S., provides that a person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;²⁶
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense;²⁷ or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.²⁸

¹⁸ Section 90.804(2)(c), F.S.

¹⁹ Section 90.805, F.S.

²⁰ Sections 775.21 and 943.0435, F.S.

²¹ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

²² Section 775.21(4)(a)1.a., F.S.

²³ Section 775.21(4)(a)1.b., F.S.

²⁴ Section 775.21(4)(d), F.S.

²⁵ Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

²⁶ Section 943.0435(1)(h)1.a., F.S.

²⁷ Section 943.0435(1)(h)1.b. and c., F.S.

²⁸ Section 943.0435(1)(h)1.d., F.S.

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.²⁹ Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the Department of Corrections (DOC) control or custody, under the DOC's or the Department of Juvenile Justice's (DJJ) supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The Florida Department of Law Enforcement (FDLE), through its agency website, provides a searchable database that includes some of this information.³⁰ Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

Human Trafficking

Human trafficking victims are young children, teenagers, and adults who are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.³¹ Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.³² Any minor who is younger than 18 years old and who is induced to perform a commercial sex act is a human trafficking victim even if there is no force, fraud, or coercion.³³ Increasingly, criminal organizations, such as gangs, are enticing local school children into commercial sexual exploitation or trafficking.³⁴ The average ages of youth who are trafficked are 11-14 years old.³⁵

²⁹ All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register per s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (on the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(b), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (on the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

³⁰ The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. See <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on December 8, 2023).

³¹ See s. 787.06(1)(a), F.S.

³² The Department of Education, *Healthy Schools – Human Trafficking*, available at <https://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited December 28, 2023).

³³ *Id.*

³⁴ *Id.*

³⁵ Blue Campaign, *Human Trafficking 101 for School Administrators and Staff*, available at <https://rems.ed.gov/docs/Human%20Trafficking%20101%20for%20School%20Administrators%20and%20Staff.pdf> (last visited December 28, 2023).

Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

- For labor³⁶ or services³⁷ of any child under the age of 18 or an adult believed by the person to be a child younger than the age of 18 commits a first degree felony;³⁸
- Using coercion for labor or services of an adult commits a first degree felony;³⁹
- Using coercion for commercial sexual activity of an adult commits a first degree felony;⁴⁰
- For labor or services of any child under the age of 18 or an adult believed by the person to be a child younger than the age of 18 who is an unauthorized alien commits a first degree felony;^{41,42}
- Using coercion for labor or services of an adult who is an unauthorized alien commits a first degree felony;⁴³
- Using coercion for commercial sexual activity of an adult who is an unauthorized alien commits a first degree felony;⁴⁴
- For labor or services who does so by the transfer or transport of any child under the age of 18 or an adult believed by the person to be a child younger than the age of 18 from outside the state of Florida to within the state of Florida commits a first degree felony;⁴⁵
- Using coercion for labor or services who does so by the transfer or transport of an adult from outside the state of Florida to within the state of Florida commits a first degree felony;⁴⁶
- For commercial sexual activity who does so by the transfer or transport of any child under the age of 18 or an adult believed by the person to be a child younger than the age of 18 from outside of the state of Florida to within the state of Florida commits a first degree felony punishable by imprisonment for a term of years not exceeding life;⁴⁷
- Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside the state of Florida to within the state of Florida commits a first degree felony;⁴⁸ or

³⁶ Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

³⁷ Section 787.06(2)(h), F.S., provides “services” means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

³⁸ Section 787.06(3)(a)1., F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Section 775.082, F.S.

³⁹ Section 787.06(3)(a)2., F.S.

⁴⁰ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

⁴¹ Section 787.06(3)(c)1., F.S.

⁴² Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

⁴³ Section 787.06(3)(c)2., F.S.

⁴⁴ Section 787.06(3)(d), F.S.

⁴⁵ Section 787.06(3)(e)1., F.S.

⁴⁶ Section 787.06(3)(e)2., F.S.

⁴⁷ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁴⁸ Section 787.06(3)(f)2., F.S.

- For commercial sexual activity in which any child under the age of 18 or an adult believed by the person to be a child younger than 18, or in which any person who is mentally defective⁴⁹ or mentally incapacitated⁵⁰ is involved commits a life felony.⁵¹

It is a life felony for any parent, legal guardian, or other person having custody or control of a minor to sell or otherwise transfer custody or control of such minor, or make such an offer, with knowledge or reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking.⁵²

III. Effect of Proposed Changes:

The bill amends s. 90.803, F.S., to increase the maximum age for application of the child hearsay exception from 16 years of age or less to 17 years of age or less. The hearsay rule is a rule of evidence which prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.

The bill amends s. 775.21, F.S., to provide that commission of human trafficking offense involving a minor under s. 787.06(3)(f) and (g), F.S., will require a sexual predator designation on a first offense. The bill provides that any violation of s. 787.06(3)(f) and (g), F.S., will require registration as a sexual predator if the offender has another qualifying offense.

The bill is effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁴⁹ Section 794.011(1)(b), F.S., defines “mentally defective” as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

⁵⁰ Section 794.011(1)(c), F.S., defines “mentally incapacitated” as temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

⁵¹ Section 787.06(3)(g), F.S. A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. Section 775.082, F.S.

⁵² Section 787.06(4)(a), F.S.

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 bill may have an indeterminate fiscal impact on the courts. The bill is increasing the age for the child hearsay exception which may lead to an increase in court proceedings and appeals.⁵³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 90.803 and 775.21.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Judiciary on January 29, 2024:

The committee substitute added sections to the bill republishing statutes without a change in policy or intent.

CS by Criminal Justice on January 10, 2024:

The committee substitute:

- Provides that only a person convicted of a specified human trafficking offense for commercial sexual activity, where the victim is a minor will automatically be designated as a sexual predator.

⁵³ Office of the State Courts Administrator *2024 Judicial Impact Statement* of CS/HB 305 (January 10, 2024), at 2 (on file with the Senate Judiciary Committee).

- Provides that a person's prior specified human trafficking conviction can still serve as a predicate offense for sexual predator designation should the person commit an additional sexual offense.

B. Amendments:

None.

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

By the Committees on Judiciary; and Criminal Justice; and
Senators Collins and Hooper

590-02625-24

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1 A bill to be entitled
2 An act relating to offenses involving children;
3 amending s. 90.803, F.S.; increasing the maximum age
4 of a child victim of specified acts whose out-of-court
5 statements may be admissible in certain circumstances;
6 amending s. 775.21, F.S.; providing that a first
7 offense of specified sex trafficking offenses
8 involving minors requires designation of the defendant
9 as a sexual predator; reenacting ss. 16.713(1)(c),
10 39.0139(3)(a), 39.509(6)(b), 39.806(1)(d) and (n),
11 61.13(9)(c), 63.089(4)(b), 63.092(3), 68.07(3)(i) and
12 (6), 92.55(1)(b), 320.02(4), 322.141(3), 322.19(1) and
13 (2), 397.487(10)(b), 455.213(3)(b), 489.553(7), and
14 507.07(9), F.S., relating to the Florida Gaming
15 Control Commission's appointment and employment
16 restrictions, child visitation or other contact,
17 grandparents' rights, grounds for termination of
18 parental rights, support of children, proceedings to
19 terminate parental rights pending adoption, report to
20 the court of intended placement by an adoption entity,
21 change of name, special protections in proceedings
22 involving a victim or witness under 18, a person with
23 intellectual disability, or a sexual offense victim,
24 change of address on motor vehicle registration
25 required, color or markings of certain licenses or
26 identification cards, change of address or name on
27 driver license or identification card, voluntary
28 certification of recovery residences, general
29 licensing provisions, administration of part III of

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30 ch. 489, F.S., and violations of ch. 507, F.S.,
31 respectively, to incorporate the amendments made to s.
32 775.21, F.S., in references thereto; providing an
33 effective date.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Paragraph (a) of subsection (23) of section
38 90.803, Florida Statutes, is amended to read:
39 90.803 Hearsay exceptions; availability of declarant
40 immaterial.—The provision of s. 90.802 to the contrary
41 notwithstanding, the following are not inadmissible as evidence,
42 even though the declarant is available as a witness:
43 (23) HEARSAY EXCEPTION; STATEMENT OF CHILD VICTIM.—
44 (a) Unless the source of information or the method or
45 circumstances by which the statement is reported indicates a
46 lack of trustworthiness, an out-of-court statement made by a
47 child victim with a physical, mental, emotional, or
48 developmental age of 17 ~~16~~ or less describing any act of child
49 abuse or neglect, any act of sexual abuse against a child, the
50 offense of child abuse, the offense of aggravated child abuse,
51 or any offense involving an unlawful sexual act, contact,
52 intrusion, or penetration performed in the presence of, with,
53 by, or on the declarant child, not otherwise admissible, is
54 admissible in evidence in any civil or criminal proceeding if:
55 1. The court finds in a hearing conducted outside the
56 presence of the jury that the time, content, and circumstances
57 of the statement provide sufficient safeguards of reliability.
58 In making its determination, the court may consider the mental

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and physical age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, the reliability of the assertion, the reliability of the child victim, and any other factor deemed appropriate; and

2. The child either:

a. Testifies; or

b. Is unavailable as a witness, provided that there is other corroborative evidence of the abuse or offense. Unavailability shall include a finding by the court that the child's participation in the trial or proceeding would result in a substantial likelihood of severe emotional or mental harm, in addition to findings pursuant to s. 90.804(1).

Section 2. Paragraph (a) of subsection (4) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor; or s. 787.06(3)(f) or (g), where the victim is a minor; or s. 794.011, s. 800.04, or s. 847.0145; or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s.

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393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another

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jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

Section 3. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 16.713, Florida Statutes, is reenacted to read:

16.713 Florida Gaming Control Commission; appointment and employment restrictions.—

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.— The following persons are ineligible for appointment to the commission:

(c) A person who has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a crime listed in s. 775.21(4)(a)1. or s. 776.08.

Section 4. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 39.0139, Florida Statutes, is reenacted to read:

39.0139 Visitation or other contact; restrictions.—

(3) PRESUMPTION OF DETRIMENT.—

(a) A rebuttable presumption of detriment to a child is created when:

1. A court of competent jurisdiction has found probable cause exists that a parent or caregiver has sexually abused a child as defined in s. 39.01;

2. A parent or caregiver has been found guilty of, regardless of adjudication, or has entered a plea of guilty or nolo contendere to, charges under the following statutes or substantially similar statutes of other jurisdictions:

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a. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order;

b. Section 794.011, relating to sexual battery;

c. Section 798.02, relating to lewd and lascivious behavior;

d. Chapter 800, relating to lewdness and indecent exposure;

e. Section 826.04, relating to incest; or

f. Chapter 827, relating to the abuse of children; or

3. A court of competent jurisdiction has determined a parent or caregiver to be a sexual predator as defined in s. 775.21 or a parent or caregiver has received a substantially similar designation under laws of another jurisdiction.

Section 5. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (6) of section 39.509, Florida Statutes, is reenacted to read:

39.509 Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of the parent unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

(6) In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the

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175 following:

176 (b) The designation by a court as a sexual predator as
177 defined in s. 775.21 or a substantially similar designation
178 under laws of another jurisdiction.

179 Section 6. For the purpose of incorporating the amendment
180 made by this act to section 775.21, Florida Statutes, in
181 references thereto, paragraphs (d) and (n) of subsection (1) of
182 section 39.806, Florida Statutes, are reenacted to read:

183 39.806 Grounds for termination of parental rights.—

184 (1) Grounds for the termination of parental rights may be
185 established under any of the following circumstances:

186 (d) When the parent of a child is incarcerated and either:

187 1. The period of time for which the parent is expected to
188 be incarcerated will constitute a significant portion of the
189 child's minority. When determining whether the period of time is
190 significant, the court shall consider the child's age and the
191 child's need for a permanent and stable home. The period of time
192 begins on the date that the parent enters into incarceration;

193 2. The incarcerated parent has been determined by the court
194 to be a violent career criminal as defined in s. 775.084, a
195 habitual violent felony offender as defined in s. 775.084, or a
196 sexual predator as defined in s. 775.21; has been convicted of
197 first degree or second degree murder in violation of s. 782.04
198 or a sexual battery that constitutes a capital, life, or first
199 degree felony violation of s. 794.011; or has been convicted of
200 an offense in another jurisdiction which is substantially
201 similar to one of the offenses listed in this paragraph. As used
202 in this section, the term "substantially similar offense" means
203 any offense that is substantially similar in elements and

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204 penalties to one of those listed in this subparagraph, and that
205 is in violation of a law of any other jurisdiction, whether that
206 of another state, the District of Columbia, the United States or
207 any possession or territory thereof, or any foreign
208 jurisdiction; or

209 3. The court determines by clear and convincing evidence
210 that continuing the parental relationship with the incarcerated
211 parent would be harmful to the child and, for this reason, that
212 termination of the parental rights of the incarcerated parent is
213 in the best interest of the child. When determining harm, the
214 court shall consider the following factors:

215 a. The age of the child.

216 b. The relationship between the child and the parent.

217 c. The nature of the parent's current and past provision
218 for the child's developmental, cognitive, psychological, and
219 physical needs.

220 d. The parent's history of criminal behavior, which may
221 include the frequency of incarceration and the unavailability of
222 the parent to the child due to incarceration.

223 e. Any other factor the court deems relevant.

224 (n) The parent is convicted of an offense that requires the
225 parent to register as a sexual predator under s. 775.21.

226 Section 7. For the purpose of incorporating the amendment
227 made by this act to section 775.21, Florida Statutes, in a
228 reference thereto, paragraph (c) of subsection (9) of section
229 61.13, Florida Statutes, is reenacted to read:

230 61.13 Support of children; parenting and time-sharing;
231 powers of court.—

232 (9)

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(c) A court may not order visitation at a recovery residence if any resident of the recovery residence is currently required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435.

Section 8. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 63.089, Florida Statutes, is reenacted to read:

63.089 Proceeding to terminate parental rights pending adoption; hearing; grounds; dismissal of petition; judgment.—

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence that a parent or person having legal custody has abandoned the child in accordance with the definition contained in s. 63.032. A finding of abandonment may also be based upon emotional abuse or a refusal to provide reasonable financial support, when able, to a birth mother during her pregnancy or on whether the person alleged to have abandoned the child, while being able, failed to establish contact with the child or accept responsibility for the child's welfare.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 2001, in a federal, state, or county correctional institution and:

1. The period of time for which the parent has been or is expected to be incarcerated will constitute a significant portion of the child's minority. In determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable

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home. The period of time begins on the date that the parent enters into incarceration;

2. The incarcerated parent has been determined by a court of competent jurisdiction to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, convicted of child abuse as defined in s. 827.03, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of a substantially similar offense in another jurisdiction. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, termination of the parental rights of the incarcerated parent is in the best interests of the child.

Section 9. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (3) of section 63.092, Florida Statutes, is reenacted to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.—

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291 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
 292 intended adoptive home, a preliminary home study must be
 293 performed by a licensed child-placing agency, a child-caring
 294 agency registered under s. 409.176, a licensed professional, or
 295 an agency described in s. 61.20(2), unless the adoptee is an
 296 adult or the petitioner is a stepparent or a relative. If the
 297 adoptee is an adult or the petitioner is a stepparent or a
 298 relative, a preliminary home study may be required by the court
 299 for good cause shown. The department is required to perform the
 300 preliminary home study only if there is no licensed child-
 301 placing agency, child-caring agency registered under s. 409.176,
 302 licensed professional, or agency described in s. 61.20(2), in
 303 the county where the prospective adoptive parents reside. The
 304 preliminary home study must be made to determine the suitability
 305 of the intended adoptive parents and may be completed before
 306 identification of a prospective adoptive minor. If the
 307 identified prospective adoptive minor is in the custody of the
 308 department, a preliminary home study must be completed within 30
 309 days after it is initiated. A favorable preliminary home study
 310 is valid for 1 year after the date of its completion. Upon its
 311 completion, a signed copy of the home study must be provided to
 312 the intended adoptive parents who were the subject of the home
 313 study. A minor may not be placed in an intended adoptive home
 314 before a favorable preliminary home study is completed unless
 315 the adoptive home is also a licensed foster home under s.
 316 409.175. The preliminary home study must include, at a minimum:
 317 (a) An interview with the intended adoptive parents.
 318 (b) Records checks of the department's central abuse
 319 registry, which the department shall provide to the entity

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320 conducting the preliminary home study, and criminal records
 321 correspondence checks under s. 39.0138 through the Department of
 322 Law Enforcement on the intended adoptive parents.
 323 (c) An assessment of the physical environment of the home.
 324 (d) A determination of the financial security of the
 325 intended adoptive parents.
 326 (e) Documentation of counseling and education of the
 327 intended adoptive parents on adoptive parenting, as determined
 328 by the entity conducting the preliminary home study. The
 329 training specified in s. 409.175(14) shall only be required for
 330 persons who adopt children from the department.
 331 (f) Documentation that information on adoption and the
 332 adoption process has been provided to the intended adoptive
 333 parents.
 334 (g) Documentation that information on support services
 335 available in the community has been provided to the intended
 336 adoptive parents.
 337 (h) A copy of each signed acknowledgment of receipt of
 338 disclosure required by s. 63.085.
 339
 340 If the preliminary home study is favorable, a minor may be
 341 placed in the home pending entry of the judgment of adoption. A
 342 minor may not be placed in the home if the preliminary home
 343 study is unfavorable. If the preliminary home study is
 344 unfavorable, the adoption entity may, within 20 days after
 345 receipt of a copy of the written recommendation, petition the
 346 court to determine the suitability of the intended adoptive
 347 home. A determination as to suitability under this subsection
 348 does not act as a presumption of suitability at the final

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349 hearing. In determining the suitability of the intended adoptive
 350 home, the court must consider the totality of the circumstances
 351 in the home. A minor may not be placed in a home in which there
 352 resides any person determined by the court to be a sexual
 353 predator as defined in s. 775.21 or to have been convicted of an
 354 offense listed in s. 63.089(4)(b)2.

355 Section 10. For the purpose of incorporating the amendment
 356 made by this act to section 775.21, Florida Statutes, in
 357 references thereto, paragraph (i) of subsection (3) and
 358 subsection (6) of section 68.07, Florida Statutes, are reenacted
 359 to read:

360 68.07 Change of name.—

361 (3) Each petition shall be verified and show:

362 (i) Whether the petitioner has ever been required to
 363 register as a sexual predator under s. 775.21 or as a sexual
 364 offender under s. 943.0435.

365 (6) The clerk of the court must, within 5 business days
 366 after the filing of the final judgment, send a report of the
 367 judgment to the Department of Law Enforcement on a form to be
 368 furnished by that department. If the petitioner is required to
 369 register as a sexual predator or a sexual offender pursuant to
 370 s. 775.21 or s. 943.0435, the clerk of court shall
 371 electronically notify the Department of Law Enforcement of the
 372 name change, in a manner prescribed by that department, within 2
 373 business days after the filing of the final judgment. The
 374 Department of Law Enforcement must send a copy of the report to
 375 the Department of Highway Safety and Motor Vehicles, which may
 376 be delivered by electronic transmission. The report must contain
 377 sufficient information to identify the petitioner, including the

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378 results of the criminal history records check if applicable, the
 379 new name of the petitioner, and the file number of the judgment.
 380 The Department of Highway Safety and Motor Vehicles shall
 381 monitor the records of any sexual predator or sexual offender
 382 whose name has been provided to it by the Department of Law
 383 Enforcement. If the sexual predator or sexual offender does not
 384 obtain a replacement driver license or identification card
 385 within the required time as specified in s. 775.21 or s.
 386 943.0435, the Department of Highway Safety and Motor Vehicles
 387 shall notify the Department of Law Enforcement. The Department
 388 of Law Enforcement shall notify applicable law enforcement
 389 agencies of the predator's or offender's failure to comply with
 390 registration requirements. Any information retained by the
 391 Department of Law Enforcement and the Department of Highway
 392 Safety and Motor Vehicles may be revised or supplemented by said
 393 departments to reflect changes made by the final judgment. With
 394 respect to a person convicted of a felony in another state or of
 395 a federal offense, the Department of Law Enforcement must send
 396 the report to the respective state's office of law enforcement
 397 records or to the office of the Federal Bureau of Investigation.
 398 The Department of Law Enforcement may forward the report to any
 399 other law enforcement agency it believes may retain information
 400 related to the petitioner.

401 Section 11. For the purpose of incorporating the amendment
 402 made by this act to section 775.21, Florida Statutes, in a
 403 reference thereto, paragraph (b) of subsection (1) of section
 404 92.55, Florida Statutes, is reenacted to read:

405 92.55 Special protections in proceedings involving victim
 406 or witness under 18, person with intellectual disability, or

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sexual offense victim.—

(1) For purposes of this section, the term:

(b) "Sexual offense" means any offense specified in s.

775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

Section 12. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (4) of section 320.02, Florida Statutes, is reenacted to read:

320.02 Registration required; application for registration; forms.—

(4) Except as provided in ss. 775.21, 775.261, 943.0435, 944.607, and 985.4815, the owner of any motor vehicle registered in the state shall notify the department in writing of any change of address within 30 days of such change. The notification shall include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner's full name.

Section 13. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in references thereto, subsection (3) of section 322.141, Florida Statutes, is reenacted to read:

322.141 Color or markings of certain licenses or identification cards.—

(3) All licenses for the operation of motor vehicles or identification cards originally issued or reissued by the department to persons who are designated as sexual predators under s. 775.21 or subject to registration as sexual offenders under s. 943.0435 or s. 944.607, or who have a similar

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designation or are subject to a similar registration under the laws of another jurisdiction, shall have on the front of the license or identification card the following:

(a) For a person designated as a sexual predator under s. 775.21 or who has a similar designation under the laws of another jurisdiction, the marking "SEXUAL PREDATOR."

(b) For a person subject to registration as a sexual offender under s. 943.0435 or s. 944.607, or subject to a similar registration under the laws of another jurisdiction, the marking "943.0435, F.S."

Section 14. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in references thereto, subsections (1) and (2) of section 322.19, Florida Statutes, are reenacted to read:

322.19 Change of address or name.—

(1) Except as provided in ss. 775.21, 775.261, 943.0435, 944.607, and 985.4815, whenever any person, after applying for or receiving a driver license or identification card, changes his or her legal name, that person must within 30 days thereafter obtain a replacement license or card that reflects the change.

(2) If a person, after applying for or receiving a driver license or identification card, changes the legal residence or mailing address in the application, license, or card, the person must, within 30 calendar days after making the change, obtain a replacement license or card that reflects the change. A written request to the department must include the old and new addresses and the driver license or identification card number. Any person who has a valid, current student identification card issued by

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an educational institution in this state is presumed not to have changed his or her legal residence or mailing address. This subsection does not affect any person required to register a permanent or temporary address change pursuant to s. 775.13, s. 775.21, s. 775.25, or s. 943.0435.

Section 15. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (10) of section 397.487, Florida Statutes, is reenacted to read:

397.487 Voluntary certification of recovery residences.—
(10)

(b) A certified recovery residence may not allow a minor child to visit a parent who is a resident of the recovery residence at any time if any resident of the recovery residence is currently required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435.

Section 16. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 455.213, Florida Statutes, is reenacted to read:

455.213 General licensing provisions.—

(3)

(b)1. A conviction, or any other adjudication, for a crime more than 5 years before the date the application is received by the applicable board may not be grounds for denial of a license specified in paragraph (a). For purposes of this paragraph, the term "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. This paragraph does not limit the applicable board

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from considering an applicant's criminal history that includes a crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but only if such criminal history has been found to relate to the practice of the applicable profession.

2. The applicable board may consider the criminal history of an applicant for licensure under subparagraph (a)3. if such criminal history has been found to relate to good moral character.

Section 17. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (7) of section 489.553, Florida Statutes, is reenacted to read:

489.553 Administration of part; registration
qualifications; examination.—

(7) Notwithstanding any other law, a conviction, or any other adjudication, for a crime more than 5 years before the date the application is received by the department or other applicable authority may not be grounds for denial of registration. For purposes of this subsection, the term "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. This subsection does not limit a board from considering an applicant's criminal history that includes any crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but only if such criminal history has been found to relate to the practice of the applicable profession, or any crime if it has been found to relate to good moral character.

Section 18. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a

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reference thereto, subsection (9) of section 507.07, Florida
Statutes, is reenacted to read:

507.07 Violations.—It is a violation of this chapter:

(9) For a mover or a moving broker to knowingly refuse or
fail to disclose in writing to a customer before a household
move that the mover, or an employee or subcontractor of the
mover or moving broker, who has access to the dwelling or
property of the customer, including access to give a quote for
the move, has been convicted of a felony listed in s.
775.21(4)(a)1. or convicted of a similar offense of another
jurisdiction, regardless of when such felony offense was
committed.

Section 19. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

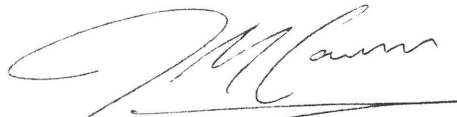
To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 29, 2024

I respectfully request that **Senate Bill # 312**, relating to Offenses Involving Children, be placed on the:

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



Senator Jay Collins
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

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

2/8/2024

Meeting Date

SB 312

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Shauntel Smith

Phone 407-855-7604

Address 1747 Orlando Central Parkway
Street

Email legislation@floridapta.org

Orlando
City

FL
State

32809
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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 Rules

BILL: SB 534

INTRODUCER: Senator Grall

SUBJECT: Equitable Distribution of Marital Assets and Liabilities

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Cibula	JU	Favorable
2. Hall	Tuszynski	CF	Favorable
3. Collazo	Twogood	RC	Favorable

I. Summary:

SB 534 amends s. 61.075, F.S., which governs the equitable distribution of marital assets and liabilities in dissolution of marriage actions, to establish consistency regarding what qualifies as good cause for an interim partial distribution and to clarify and expand upon existing lists of marital and non-marital assets and liabilities identified in the statute.

Specifically, the bill provides that when determining whether extraordinary circumstances, and therefore good cause, exist for an interim partial distribution, the court must consider the need to:

- Prevent the loss of important assets or defaults on marital debts.
- Pay for dependent child-related expenses.
- Pay for dissolution of marriage proceeding-related expenses, including attorney fees.
- Address any other circumstances justifying entry of an order for interim partial distribution.

With respect to the statutory list of marital assets and liabilities, the bill:

- Clarifies that interspousal gifts of real property must be made consistent with statutory real estate conveyance requirements.
- Provides that joinder of a spouse in the execution of a deed conveying homestead real property to a third party does not change the property's character, or proceeds from its sale, to marital property.
- Includes marital interests in a closely held business as marital assets, and prescribes a method for establishing the value of those interests.

With respect to the statutory list of non-marital assets and liabilities, the bill includes real property acquired separately by either spouse by non-interspousal gift, bequest, devise, or descent, for which legal title has not been transferred to the parties as tenants by the entireties.

The bill takes effect on July 1, 2024.

II. Present Situation:

Dissolution of Marriage

In Florida, a divorce is called a “dissolution of marriage.”¹ Fault has been abolished as a ground for a dissolution of marriage;² the person seeking dissolution only needs to show either that the marriage is “irretrievably broken,” or that the other spouse has been adjudged mentally incapacitated under state law for a period of at least three years.³

Either spouse can file for a dissolution of marriage.⁴ The spouse seeking the dissolution must demonstrate that a marriage exists, one party has been a state resident for at least six months immediately preceding the filing of the petition,⁵ and the marriage is irretrievably broken.⁶ The reason for the irretrievable breakdown may be considered under certain limited circumstances in the determination of alimony, equitable distribution of marital assets and liabilities, and the development of a parenting plan.⁷

Equitable Distribution

Like in most states,⁸ Florida has enacted a statute, s. 61.075, F.S., which requires the equitable distribution of marital assets in dissolution of marriage proceedings. The court is required to conduct a hearing and make certain written findings regarding any contested property, including its value and status as a marital or non-marital asset, after which it can equitably distribute the marital property.⁹

In distributing the marital assets and liabilities between the parties, the court must begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all relevant factors,¹⁰ including:

- The contribution to the marriage by each spouse, including contributions to the care and education of the children, and services as homemaker.
- The economic circumstances of the parties.
- The duration of the marriage.
- Any interruption of personal careers or educational opportunities of either party.
- The contribution of one spouse to the personal career or educational opportunity of the other spouse.

¹ The Florida Bar, *Consumer Pamphlet: Divorce in Florida*, available at <https://www.floridabar.org/public/consumer/pamphlet010/> (last visited Jan. 18, 2024).

² *Id.*

³ Section 61.052(1), F.S.

⁴ See s. 61.043, F.S. (noting that proceedings are commenced when one party files a petition in circuit court and serves a copy of same with a copy of the summons upon the other party to the marriage).

⁵ Section 61.021, F.S.

⁶ Section 61.052(2), F.S.

⁷ The Florida Bar, *Consumer Pamphlet: Divorce in Florida*, <https://www.floridabar.org/public/consumer/pamphlet010/> (last visited Jan. 18, 2024).

⁸ 25A FLA. JUR. 2D, *Family Law* s. 844.

⁹ *Lord v. Lord*, 220 So. 3d 575, 576 (Fla. 4th DCA 2017).

¹⁰ The equitable distribution of marital assets is based on fairness. *Weimer v. Weimer*, 677 So. 2d 86, 88 (Fla. 4th DCA 1996).

- The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference by the other party.
- The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities to, both the marital assets and the non-marital assets of the parties.
- The desirability of retaining the marital home as a residence for any dependent child of the marriage, or any other party, when:
 - It would be equitable to do so;
 - It is in the best interest of the child or that party; and
 - It is financially feasible for the parties to maintain the residence until the child is emancipated or until exclusive possession is otherwise terminated by a court of competent jurisdiction.
- The intentional dissipation, waste, depletion, or destruction of marital assets after the filing of the petition or within two years prior to the filing of the petition.
- Any other factors necessary to do equity and justice between the parties.¹¹

Marital and Non-Marital Assets and Liabilities

Generally, “marital assets” are assets acquired by the parties during their marriage from their work efforts, services, and earnings.¹² The equitable distribution statute includes a list of what, for purposes of the statute, are deemed marital assets and liabilities:

- Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them.
- The enhancement in value and appreciation of non-marital assets resulting from the efforts of either party during the marriage, or from the contribution to or expenditure thereon, of marital funds or other forms of marital assets, or both.
- The paydown of principal of a note and mortgage secured by non-marital real property, and a portion of any passive appreciation in the property pursuant to a statutory formula, if the note and mortgage secured by the property are paid down from marital funds during the marriage.
- Interspousal gifts during the marriage.
- All vested and non-vested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.¹³

Certain other assets are statutorily presumed to be marital assets unless demonstrated otherwise. Specifically, all real property held by the parties as tenants by the entirety, and personal property titled jointly by the parties as tenants by the entirety – whether acquired prior to or during the marriage – are presumed to be marital assets. If a party makes a claim to the contrary, the burden of proof is on the party asserting that some or all of the property is non-marital.¹⁴

The equitable distribution statute also includes a list of what, for purposes of the statute, are deemed non-marital assets and liabilities:

¹¹ Section 61.075(1)(a)-(j), F.S.

¹² *Hooker v. Hooker*, 220 So. 3d 397, 402 (Fla. 2017). In this context, it does not matter which party holds title to the asset. *Id.*

¹³ Section 61.075(6)(a)1., F.S.

¹⁴ Section 61.075(6)(a)2.-3., F.S.

- Assets acquired and liabilities incurred by either party prior to the marriage, and assets acquired and liabilities incurred in exchange for such assets and liabilities.
- Assets acquired separately by either party by non-interspousal gift, bequest, devise, or descent, and assets acquired in exchange for such assets.
- All income derived from non-marital assets during the marriage unless the income was treated, used, or relied upon by the parties as a marital asset.
- Assets and liabilities excluded from marital assets and liabilities by valid written agreement of the parties, and assets acquired and liabilities incurred in exchange for such assets and liabilities.
- Any liability incurred by forgery or unauthorized signature of one spouse signing the name of the other spouse. Any such liability is a non-marital liability only of the party having committed the forgery or having affixed the unauthorized signature.¹⁵

All assets acquired and liabilities incurred by either spouse subsequent to the date of the marriage, and not specifically established as non-marital assets or liabilities, are presumed to be marital assets and liabilities. Such presumption may be overcome by a showing that the assets and liabilities are non-marital assets and liabilities.¹⁶

Notable in this context is the 2017 Florida Supreme Court decision, *Hooker v. Hooker*.¹⁷ The *Hooker* decision upheld a trial court decision concluding that a property owner's spouse had gifted certain non-marital real property to the other spouse by the owner spouse's actions, even though the real property was originally non-marital and there was no written instrument conveying the property to the other spouse.¹⁸

Another notable issue is how goodwill should be categorized in connection with the valuation of business interests in dissolution of marriage proceedings. While not explicitly identified in statute, business interests in a closely held business acquired by a spouse during a marriage are marital assets, which must be valued and distributed pursuant to state law. The Fair Market Value standard is used to value the business or business interest; in this context, Fair Market Value is the price at which property would change hands between a willing and able buyer and a willing and able seller with neither party under compulsion to buy or sell, and when both parties have reasonable knowledge of the relevant facts.¹⁹ The value of a business in excess of the value of its assets less its liabilities is its goodwill. There are two kinds of goodwill – enterprise goodwill, which is a marital asset, and personal or professional goodwill, which is not a marital asset.²⁰

¹⁵ Section 61.075(6)(b), F.S.

¹⁶ Section 61.075(8), F.S.

¹⁷ 220 So. 3d 397 (Fla. 2017).

¹⁸ See *id.*; see also Family Law Section of the Florida Bar, *Untitled White Paper regarding Florida Statute s. 61.075, Equitable Distribution of Marital Assets and Liabilities*, undated (on file with the Senate Committee on Judiciary) (emphasizing that no written instrument comporting with s. 689.01, F.S., which regulates how real estate may be conveyed, has been executed).

¹⁹ See Large Business and International Division NRC Industry, Engineering Program, and the Small Business/Self-Employed Division, Estate and Gift Tax Program, *Valuation of Non-Controlling Interests in Electing S Corporations – A Job Aid for IRS Valuation Analysts*, Oct. 29, 2014, available at <https://www.irs.gov/businesses/valuation-of-assets> (attaching IRS Rev. Ruling 59-60 as Appendix A).

²⁰ See generally *Thompson v. Thompson*, 576 So. 2d 267 (Fla. 1991); *Schmidt v. Schmidt*, 120 So. 3d 31 (Fla. 4th DCA 2013).

In a 2013 Fourth District Court of Appeal decision, *Schmidt v. Schmidt*,²¹ the court concluded that if a potential buyer of a business requires a non-compete or non-solicitation agreement from a seller, then the goodwill involved is personal and not a marital asset, and therefore should not be included in the equitable distribution.²²

Interim Partial Distributions

If, during the pendency of a dissolution of marriage action, the court finds good cause that there should be an interim partial distribution, the court is authorized to enter an interim order identifying and valuing the marital and non-marital assets and liabilities, setting apart the non-marital assets and liabilities, and providing for a partial distribution of the marital assets and liabilities.²³

The interim order may be entered any time after the date the dissolution of marriage is filed and served, and before the final distribution of marital and non-marital assets and marital and non-marital liabilities.²⁴ It may only be entered upon good cause shown and upon a sworn motion establishing the specific factual bases for the motion. Either party may file the motion and must demonstrate why the matter should not be deferred until the final hearing.²⁵ In this context, “good cause” means extraordinary circumstances that require an interim partial distribution.²⁶ According to the Family Law Section of The Florida Bar, courts have inconsistently construed this “extraordinary circumstances” standard.²⁷

The court must specifically take into account and give appropriate credit for any partial distribution of marital assets or liabilities in its final allocation of marital assets or liabilities. It must also make specific findings in its interim order that any partial distribution will not cause inequity or prejudice to either party as to either party’s claims for support or attorney’s fees.²⁸ Any interim order partially distributing marital assets or liabilities must be pursuant to, and be consistent with, the factors in the statute²⁹ to the extent they relate to the assets or liabilities identified in the sworn motion.³⁰

III. Effect of Proposed Changes:

The bill amends s. 61.075, F.S., which governs the equitable distribution of marital assets and liabilities in dissolution of marriage actions, to establish consistency regarding what qualifies as good cause for an interim partial distribution, and to clarify and expand upon existing lists of marital and non-marital assets and liabilities identified in the statute.

²¹ 120 So. 3d 31 (Fla. 4th DCA 2013).

²² *Id.* at 33.

²³ Section 61.075(5), F.S.

²⁴ *Id.*

²⁵ Section 61.075(5)(a), F.S.

²⁶ Section 61.075(5)(d), F.S.

²⁷ Family Law Section of the Florida Bar, *Untitled White Paper regarding Florida Statute s. 61.075, Equitable Distribution of Marital Assets and Liabilities*, undated (on file with the Senate Committee on Judiciary).

²⁸ Section 61.075(5)(b), F.S.

²⁹ Specifically, ss. 61.075(1) and (3), F.S.

³⁰ Section 61.075(5)(c), F.S.

Interim Partial Distributions

Under existing law, in order to make an interim partial distribution during the pendency of a dissolution action, the court must find that there is good cause for the interim partial distribution. Good cause means that extraordinary circumstances must exist that require the interim partial distribution. However, there has been a lack of consistency in state courts regarding what constitutes “extraordinary circumstances.”

To address this problem, the bill directs the court to consider the following criteria when determining whether extraordinary circumstances exist for purposes of the statute:

- Whether there is a need for funds in order to avoid or prevent the loss of an asset through repossession or foreclosure, the loss of housing, the default by either party of a marital debt, or the levy of a tax lien.
- Whether there is a need for funds to pay an expense for a dependent child if nonpayment of the expense would be detrimental to the child.
- Whether one or both parties have a need to access funds in order to pay a reasonable amount of the attorney fees, court costs, or other suit money for maintaining or defending a proceeding under the dissolution of marriage statute.
- Any other circumstances that justify the entry of an order granting an interim partial equitable distribution.

Marital Assets and Liabilities

In order to address some of the issues raised by the *Hooker* and *Schmidt* decisions, the bill amends the list of marital assets and liabilities in the statute to:

- Clarify that an interspousal gift of real property may not be made in the absence of a writing that complies with certain statutory real estate conveyance requirements.³¹ The joinder of a spouse in the execution of a deed with the sole purpose of the conveyance of homestead real property to any person or entity other than the other spouse, or both spouses jointly, does not change the character of the real property being conveyed, or any proceeds from the sale thereof, to marital property.
- Include the marital interests in a closely held business. The court must determine the value of the marital interests in a closely held business as follows:
 - The standard of value of a closely held business is fair market value. The term “fair market value” means the price at which property would change hands between a willing and able buyer and a willing and able seller, with neither party under compulsion to buy or sell, and when both parties have reasonable knowledge of the relevant facts.
 - If there is goodwill separate and distinct from the continued presence and reputation of the owner spouse, it is considered enterprise goodwill, which is a marital asset that must be valued by the court.
 - The court must consider evidence that a covenant not to compete or a similar restrictive covenant may be required upon the sale of the closely held business, but such evidence alone does not preclude the court from finding enterprise goodwill.

³¹ Specifically, the requirements of s. 689.01, F.S.

Non-Marital Assets and Liabilities

The bill also amends the list of nonmarital assets and liabilities in the statute to include real property acquired separately by either party by noninterspousal gift, bequest, devise, or descent for which legal title has not been transferred to the parties as tenants by the entireties in accordance with the statute.³²

Effective Date

The bill takes effect on July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The bill will reduce litigation costs to the private parties involved in dissolution of marriage proceedings by clarifying the extraordinary circumstances standard in connection with interim partial distribution requests; clarifying the circumstances under which non-marital real property becomes marital real property; and expressly identifying business interests in closely-held businesses as marital assets and providing for a proper valuation of the goodwill associated with them.

³² Section 61.075, F.S.

C. Government Sector Impact:

The bill will reduce litigation and improve judicial economy by amending state law to clarify the extraordinary circumstances standard in connection with interim partial distribution requests; clarifying the circumstances under which non-marital real property becomes marital real property; and expressly identifying business interests in closely-held businesses as marital assets, and providing for a proper valuation of the goodwill associated with them.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.075 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.

By Senator Grall

29-01012-24

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A bill to be entitled

An act relating to equitable distribution of marital assets and liabilities; amending s. 61.075, F.S.; revising the definition of the term "good cause"; requiring a court to consider certain factors when determining if extraordinary circumstances exist; prohibiting certain interspousal gifts unless certain requirements are met; providing that certain actions do not change whether certain real property is marital property; providing that business interest in a closely held business is a marital asset; requiring a court to consider certain factors when determining the value of such interest; revising and providing definitions; providing an effective date.

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

Section 1. Paragraph (d) of subsection (5) and subsection (6) of section 61.075, Florida Statutes, are amended to read:

61.075 Equitable distribution of marital assets and liabilities.—

(5) If the court finds good cause that there should be an interim partial distribution during the pendency of a dissolution action, the court may enter an interim order that shall identify and value the marital and nonmarital assets and liabilities made the subject of the sworn motion, set apart those nonmarital assets and liabilities, and provide for a partial distribution of those marital assets and liabilities. An interim order may be entered at any time after the date the

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dissolution of marriage is filed and served and before the final distribution of marital and nonmarital assets and marital and nonmarital liabilities.

(d) As used in this subsection, the term "good cause" means extraordinary circumstances that justify ~~require~~ an interim partial distribution. In determining if extraordinary circumstances exist for purposes of this subsection, the court must consider the following:

1. Whether there is a need for funds in order to avoid or prevent the loss of an asset through repossession or foreclosure, the loss of housing, the default by either party of a marital debt, or the levy of a tax lien.

2. Whether there is a need for funds to pay an expense for a dependent child if nonpayment of the expense would be detrimental to the child.

3. Whether one or both parties have a need to access funds in order to pay a reasonable amount of the attorney fees, court costs, or other suit money for maintaining or defending a proceeding under this chapter.

4. Any other circumstances that justify the entry of an order granting an interim partial equitable distribution.

(6) As used in this section:

(a)1. "Marital assets and liabilities" include all of the following:

a. Assets acquired and liabilities incurred during the marriage, individually by either spouse or jointly by them.

b. The enhancement in value and appreciation of nonmarital assets resulting from the efforts of either party during the marriage or from the contribution to or expenditure thereon of

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marital funds or other forms of marital assets, or both.

c. The paydown of principal of a note and mortgage secured by nonmarital real property and a portion of any passive appreciation in the property, if the note and mortgage secured by the property are paid down from marital funds during the marriage. The portion of passive appreciation in the property characterized as marital and subject to equitable distribution is determined by multiplying a coverture fraction by the passive appreciation in the property during the marriage.

(I) The passive appreciation is determined by subtracting the value of the property on the date of the marriage or the date of acquisition of the property, whichever is later, from the value of the property on the valuation date in the dissolution action, less any active appreciation of the property during the marriage as described in sub-subparagraph b., and less any additional encumbrances secured by the property during the marriage in excess of the first note and mortgage on which principal is paid from marital funds.

(II) The coverture fraction must consist of a numerator, defined as the total payment of principal from marital funds of all notes and mortgages secured by the property during the marriage, and a denominator, defined as the value of the subject real property on the date of the marriage, the date of acquisition of the property, or the date the property was encumbered by the first note and mortgage on which principal was paid from marital funds, whichever is later.

(III) The passive appreciation must be multiplied by the coverture fraction to determine the marital portion of the passive appreciation of the property.

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(IV) The total marital portion of the property consists of the marital portion of the passive appreciation, the mortgage principal paid during the marriage from marital funds, and any active appreciation of the property during the marriage as described in sub-subparagraph b., not to exceed the total net equity in the property at the date of valuation.

(V) The court shall apply the formula specified in this subparagraph unless a party shows circumstances sufficient to establish that application of the formula would be inequitable under the facts presented.

d. Interspousal gifts during the marriage. An interspousal gift of real property may not be made in the absence of a writing that complies with the requirements of s. 689.01. The joinder of a spouse in the execution of a deed with the sole purpose of the conveyance of homestead real property to any person or entity other than the other spouse or both spouses jointly does not change the character of the real property being conveyed, or any proceeds from the sale thereof, to marital property.

e. All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs.

f. The marital interests in a closely held business. The court shall determine the value of the marital interests in a closely held business as follows:

(I) The standard of value of a closely held business is fair market value. The term "fair market value" means the price at which property would change hands between a willing and able

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117 buyer and a willing and able seller, with neither party under
 118 compulsion to buy or sell, and when both parties have reasonable
 119 knowledge of the relevant facts.

120 (II) If there is goodwill separate and distinct from the
 121 continued presence and reputation of the owner spouse, it is
 122 considered enterprise goodwill, which is a marital asset that
 123 must be valued by the court.

124 (III) The court must consider evidence that a covenant not
 125 to compete or a similar restrictive covenant may be required
 126 upon the sale of the closely held business, but such evidence
 127 alone does not preclude the court from finding enterprise
 128 goodwill.

129 2. All real property held by the parties as tenants by the
 130 entireties, whether acquired before ~~prior to~~ or during the
 131 marriage, ~~is shall be~~ presumed to be a marital asset. If, in any
 132 case, a party makes a claim to the contrary, the burden of proof
 133 ~~is shall be~~ on the party asserting the claim that the subject
 134 property, or some portion thereof, is nonmarital.

135 3. All personal property titled jointly by the parties as
 136 tenants by the entireties, whether acquired before ~~prior to~~ or
 137 during the marriage, ~~is shall be~~ presumed to be a marital asset.
 138 In the event a party makes a claim to the contrary, the burden
 139 of proof ~~is shall be~~ on the party asserting the claim that the
 140 subject property, or some portion thereof, is nonmarital.

141 4. The burden of proof to overcome the gift presumption is
 142 ~~shall be~~ by clear and convincing evidence.

143 (b) "Nonmarital assets and liabilities" include all of the
 144 following:

145 1. Assets acquired and liabilities incurred by either party

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146 prior to the marriage, and assets acquired and liabilities
 147 incurred in exchange for such assets and liabilities.~~†~~

148 2. Assets acquired separately by either party by
 149 noninterspousal gift, bequest, devise, or descent, and assets
 150 acquired in exchange for such assets.~~†~~

151 3. All income derived from nonmarital assets during the
 152 marriage unless the income was treated, used, or relied upon by
 153 the parties as a marital asset.~~†~~

154 4. Assets and liabilities excluded from marital assets and
 155 liabilities by valid written agreement of the parties, and
 156 assets acquired and liabilities incurred in exchange for such
 157 assets and liabilities.~~† and~~

158 5. Any liability incurred by forgery or unauthorized
 159 signature of one spouse signing the name of the other spouse.
 160 Any such liability ~~is shall be~~ a nonmarital liability only of
 161 the party having committed the forgery or having affixed the
 162 unauthorized signature. In determining an award of attorney
 163 ~~attorney's~~ fees and costs pursuant to s. 61.16, the court may
 164 consider forgery or an unauthorized signature by a party and may
 165 make a separate award for attorney ~~attorney's~~ fees and costs
 166 occasioned by the forgery or unauthorized signature. This
 167 subparagraph does not apply to any forged or unauthorized
 168 signature that was subsequently ratified by the other spouse.

169 6. Real property acquired separately by either party by
 170 noninterspousal gift, bequest, devise, or descent for which
 171 legal title has not been transferred to the parties as tenants
 172 by the entireties in accordance with this section.

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 24, 2024

I respectfully request that **Senate Bill #534**, relating to Equitable Distribution of Marital Assets and Liabilities, be placed on the:

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

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

The Florida Senate

APPEARANCE RECORD

2-8-24

Meeting Date

SB 534

Bill Number or Topic

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

Committee

Novey

Amendment Barcode (if applicable)

Name

Shannon Novey - Florida Bar Family Law Section

Phone

Address

851 E Park Ave

Email

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 Rules

BILL: CS/SB 554

INTRODUCER: Rules Committee and Senator Bradley

SUBJECT: Hot Car Death Prevention

DATE: February 9, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woodruff</u>	<u>Tuszynski</u>	<u>CF</u>	Favorable
2.	<u>Tuszynski</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Heatstroke is exposure to high temperatures for an extended period of time. Vehicular heatstroke involves being trapped in a vehicle under these circumstances. Young children, pets, and the elderly are at a high risk of vehicular heatstroke, usually because they are more likely to be left or become trapped in vehicles. The national average of child heatstroke deaths per year since 1998 is 38. Since 1998, Florida has had the second largest number of child heatstroke deaths in vehicles (110), second only to Texas (143). This year, seven children have died in Florida due to heatstroke in vehicles.

CS/SB 554 designates April as “Hot Car Prevention Month” to raise awareness of the dangers of leaving children unattended in motor vehicles and educate the public on how to prevent hot car deaths. The bill encourages the Florida Department of Children and Families, Florida Department of Health, Florida Department of Highway Safety and Motor Vehicles, local governments, and other agencies to sponsor events on specific topics that promote public awareness and education on the dangers of leaving children unattended in motor vehicles and how to prevent hot car deaths.

The bill may be cited as “Ariya’s Act” in memoriam of a 10-month-old infant that died of heatstroke after being left in a vehicle.

There is no anticipated fiscal impact on state or local governments.

The bill is effective upon becoming law.

II. Present Situation:

Child Heatstroke Deaths in Vehicles

Heatstroke is the most serious heat-related illness and occurs when a person is exposed to high temperatures for an extended period of time.¹ In this condition, the body can no longer control its temperature: the body's temperature rises rapidly, the sweating mechanism fails, and the body is unable to cool down.² When heat stroke occurs, the body temperature can rise to 106 degrees F or higher within 10 to 15 minutes causing permanent disability or death if the person does not receive emergency treatment.³ Vehicular heatstroke involves being trapped in a vehicle under these conditions. Vehicular heatstroke can become fatal when the internal body core temperature reaches 107 degrees F at which point the body is unable to cool itself down through normal processes such as perspiration.⁴ Young children, pets, and the elderly are at a higher risk of vehicular heatstroke, usually because they are more likely to be left or become trapped in vehicles.⁵

Since 1998, 968 children have died nationwide due to vehicular heatstroke.⁶ The national average of child heatstroke deaths per year since 1998 is 38 and have ranged in age from 5 days old to 14 years.⁷ More than half the deaths (55 percent) are children under two years of age.⁸ Since 1998, Florida has had the largest number of child heatstroke deaths in vehicles (110), second only to Texas (143).⁹

¹ The Centers for Disease Control and Prevention, The National Institute for Occupational Safety and Health, *Heat Stress – Heat Related Illness*, available at: <https://www.cdc.gov/niosh/topics/heatstress/heatrelillness.html> (last visited Jan. 5, 2024).

² *Id.*

³ *Id.*

⁴ Seattle Children's Hospital Research Foundation, *Hot Cars and Kids – a Deadly Combination*, available at <https://pulse.seattlechildrens.org/hot-cars-and-kids-a-deadly-combination/> (last visited Jan. 5, 2024).

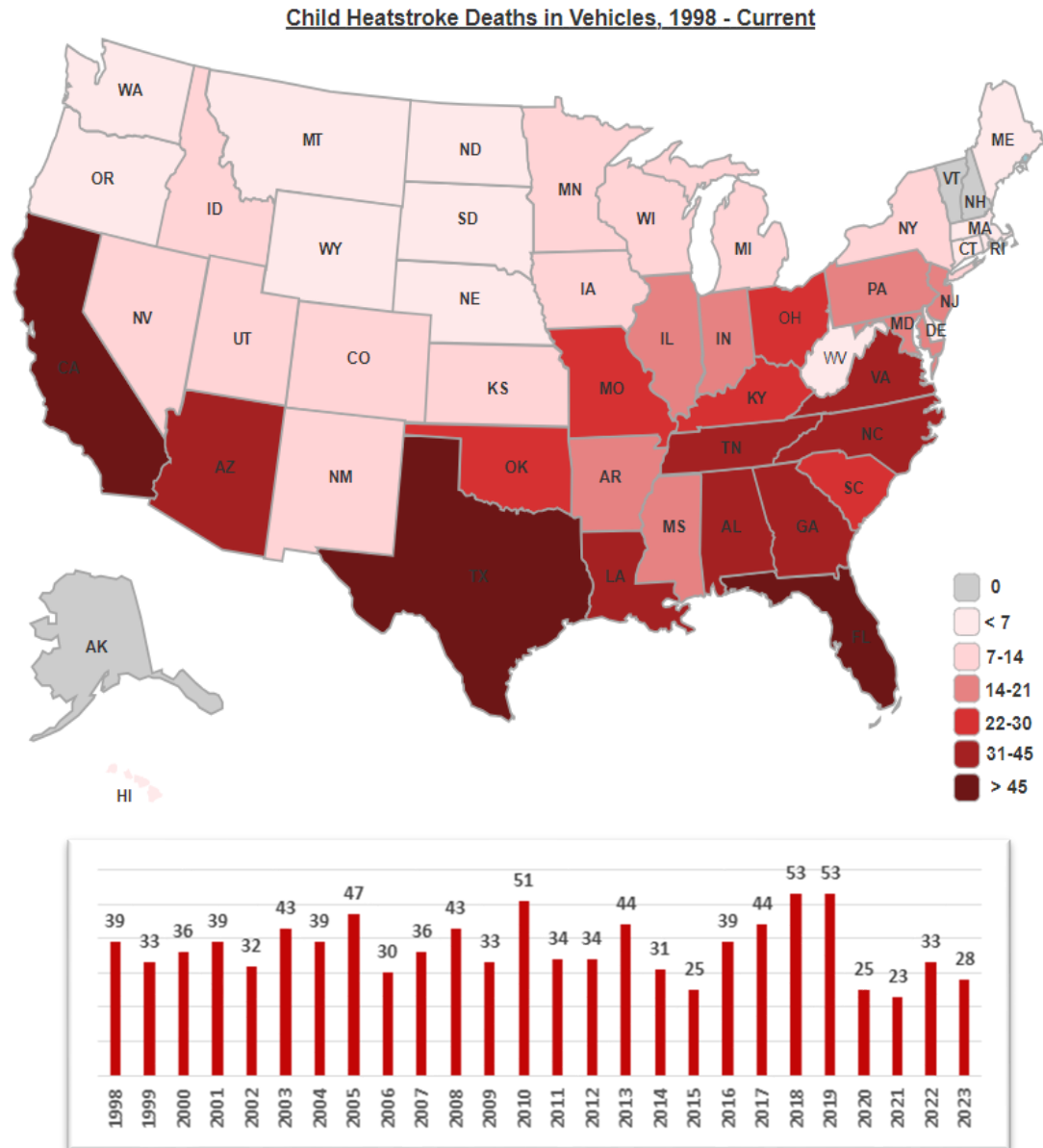
⁵ *Id.*

⁶ U.S. Department of Transportation, Traffic Safety marketing, *Child Safety: Heatstroke Prevention*, available at: https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?_ga=2.56158690.870054613.1615229487-1650636428.1615229487 (last visited Jan. 5, 2024).

⁷ U.S. Department of Transportation, Traffic Safety Marketing, *Heatstroke Deaths of Children in Vehicles*, available at: <https://www.noheatstroke.org/index.htm> (last visited Jan. 5, 2024).

⁸ *Id.*

⁹ National Safety Council, *Hot Car Deaths*, available at: <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/data-details/> (last visited Jan. 5, 20234).



In 2023, seven children died in Florida due to vehicular heatstroke.¹⁰ In July 2023, a 10-month-old in Baker County died after her babysitter left her in a car for five hours during 95-degree weather.¹¹ The Baker County Sheriff's Office subsequently arrested the babysitter and charged her with aggravated manslaughter of a child in violation of s. 782.07, F.S.¹²

¹⁰ *Id.*

¹¹ Baker County Sheriff's Office, Arrest Report Number BCSO023CR00421S, available at: <https://s3.documentcloud.org/documents/23883703/23-1585-arrest-jewell.pdf> (last visited Jan. 4, 2024).

¹² *Id.*

State Laws Protecting Children in Motor Vehicles

Section 316.6135, F.S., prohibits a caregiver¹³ from leaving a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the health of the child is in danger, or the child appears to be in distress. Each of these violations has its own penalties:

- Pursuant to s. 316.6135(2), F.S., a caregiver who leaves a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes commits a second-degree misdemeanor punishable up to 60 days in jail and a \$500 maximum fine.
- Pursuant s. 316.6135(3), F.S., a caregiver who leaves a child younger than six years of age unattended or unsupervised in a motor vehicle for any period of time while the vehicle is running, the health of the child is in danger, or the child appears to be in distress is guilty of a noncriminal traffic infraction punishable by a fine not less than \$50 and not more than \$500.

If the caregiver leaves a child younger than six years of age unattended or unsupervised in a vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the child's health is in danger, or the child appears to be in distress, and that action causes great bodily harm, permanent disability, or permanent disfigurement to a child, then the person commits a third degree felony punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the child and remove the child from the motor vehicle.¹⁴ If the law enforcement officer is unable to locate a caregiver, the child must be placed in the custody of the Florida Department of Children and Families.¹⁵

Additionally, s. 768.136, F.S., removes civil liability for damages to a vehicle if a person has a good faith and reasonable belief that entry into a locked vehicle is necessary to prevent harm to a vulnerable person.

Statewide Educational and Prevention Efforts

Department of Children and Families

The Department of Children and Families (DCF) is responsible for providing services that support child and family well-being. The DCF contracts with the Ounce of Prevention Fund of Florida, Inc. (Ounce)¹⁶ for the development and completion of an annual statewide Child Abuse Prevention Public Awareness Campaign with the goal of preventing child maltreatment and fatalities.¹⁷ The Ounce hosts annual events in March and April as part of the public awareness campaign that includes developing and distributing tool kits and parent resource packets.¹⁸

¹³ A caregiver includes a parent, legal guardian, or other person responsible for the child.

¹⁴ Section 316.6135(5), F.S.

¹⁵ Section 316.6135(7), F.S.

¹⁶ The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families, and communities. See The Ounce of Prevention of Florida, available at: <http://www.ounce.org> (last visited Jan. 5, 2024).

¹⁷ Contract No. LJ976

¹⁸ *Id.*

Department of Health

Safe Kids Florida within the Florida Department of Health (DOH) promotes children’s safety and prevention of unintentional childhood injuries, including heatstroke prevention.¹⁹ The DOH’s Injury Prevention Section is the lead organization for Safe Kids Florida.²⁰ There are currently 15 local Safe Kids coalitions covering 42 counties throughout Florida.²¹ Safe Kids Florida, through its local coalitions, promote prevention efforts by hosting educational events for parents and caregivers.²²

III. Effect of Proposed Changes:

Section 1 of the bill allows the act to be cited as “Ariya’s Act” in memoriam of a 10-month-old infant that died of a heatstroke after being left in a vehicle.

Section 2 of the bill creates s. 683.336, F.S., to designate April as “Hot Car Death Prevention Month” to raise awareness of the dangers of leaving children unattended in motor vehicles and educate the public on how to prevent hot car deaths.

The bill encourages the DCF, the DOH, the Department of Highway Safety and Motor Vehicles, local governments, and other agencies to sponsor events that promote public awareness and education on the dangers of leaving children unattended in motor vehicles and how to prevent hot car deaths, including, but not limited to:

- Motor vehicle safety for children.
- Criminal penalties associated with leaving a child unattended or unsupervised in a motor vehicle.
- Steps a bystander can take to rescue a child who is unattended in a motor vehicle and vulnerable or in imminent danger of suffering harm, as provided in s. 768.139(2), F.S.

Section 3 of the bill provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁹ Florida Department of Health, *Safe Kids Florida*, available at <https://www.floridahealth.gov/programs-and-services/safe-kids-florida/index.html> (last visited Jan. 5, 2024).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

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:

The bill creates s. 683.336 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 Rules February 8, 2024:

The committee substitute adds the Department of Highway Safety and Motor Vehicles to the list of entities encouraged to sponsor events that promote public awareness and education on the dangers of leaving children unattended in motor vehicles.

B. Amendments:

None.



365202

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Bradley) recommended the following:

Senate Amendment

Delete line 20
and insert:
of Health, the Department of Highway Safety and Motor Vehicles,
local governments, and other agencies are encouraged

By Senator Bradley

6-00986-24

2024554__

A bill to be entitled

An act relating to hot car death prevention; providing a short title; creating s. 683.336, F.S.; designating the month of April as "Hot Car Death Prevention Month"; providing that certain agencies and local governments are encouraged to sponsor events for a specified purpose; providing an effective date.

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

Section 1. This act may be cited as "Ariya's Act."

Section 2. Section 683.336, Florida Statutes, is created to read:

683.336 Hot Car Death Prevention Month.—

(1) The month of April is designated as "Hot Car Death Prevention Month" to raise awareness of the dangers of leaving children unattended in motor vehicles and how to prevent hot car deaths from occurring.

(2) The Department of Children and Families, the Department of Health, local governments, and other agencies are encouraged to sponsor events that promote public awareness and education on the dangers of leaving children unattended in motor vehicles and how to prevent hot car deaths, including, but not limited to, all of the following:

(a) Motor vehicle safety for children.

(b) Criminal penalties associated with leaving a child unattended or unsupervised in a motor vehicle.

(c) Steps a bystander can take to rescue a child who is unattended in a motor vehicle and vulnerable or in imminent

Page 1 of 2

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6-00986-24

2024554__

danger of suffering harm, as provided in s. 768.139(2).

Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JENNIFER BRADLEY
6th District

January 10, 2024

Senator Debbie Mayfield, Chair
Senate Committee on Rules
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Mayfield:

I respectfully request that Senate Bill 554 be placed on the committee's agenda at your earliest convenience. This bill relates to hot car death prevention.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Bradley". The signature is fluid and cursive, with the first name "Jennifer" written in a larger, more prominent script than the last name "Bradley".

Jennifer Bradley

cc: Philip Twogood, Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
- ☐ 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

Bill Number or Topic

#554

Meeting Date

2/8/2024

Committee

Ruler

Amendment Barcode (if applicable)

Name

James and Pamela Paige

Phone

904 635 9698

Address

583 Independence Dr

Email

paige.family@aol.com

Street

Macclesney

State

FL

Zip

32063

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/8/2024

Meeting Date

SB 554

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Shauntel Smith

Phone 407-855-7604

Address 1747 Orlando Central Parkway

Email legislation@floridapta.org

Orlando

City

FL

State

32809

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

Deliver both copies of this form to
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2/8/24

Meeting Date

Rules

Committee

554

Bill Number or Topic

Amendment Barcode (if applicable)

Name Wayne "Bernie" Bernoska

Phone 850-224-7333

Address 343 W Madison St

Email Bernie@tpfp.org

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:
Florida Professional
Firefighters

☐ 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 Rules

BILL: SB 648

INTRODUCER: Senator DiCeglie

SUBJECT: License or Permit to Operate a Vehicle for Hire

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	Favorable
2.	Hunter	Ryon	CA	Favorable
3.	Johnson	Twogood	RC	Favorable

I. Summary:

SB 648 relates to the licensing or permitting of a vehicle-for-hire. Specifically, the bill:

- Prohibits a county or municipality from requiring a person to obtain an additional license from such county or municipality when that person holds a valid, active license or permit to operate a vehicle for-hire in any other county or municipality if the person:
 - Holds a valid, active license or permit to operate a vehicle-for-hire in the county or municipality in which the person permanently resides.
 - Has not had a license or permit to operate a vehicle for hire suspended or revoked within the preceding five years.
- Exempts public-use airports from the requirements of the bill.
- Provides that certain persons who hold a valid, active license or permit to operate a vehicle-for-hire are exempted from the bill when such person provides transportation of persons:
 - While on stretchers or wheelchairs, or
 - Whose handicap, illness, other incapacitation makes it impractical to be transported by a regular common carrier such as a bus, taxi, non-taxi, limousine, or other vehicle-for-hire.

The bill takes effect July 1, 2024.

II. Present Situation:

Local Licensing of For-Hire Vehicles

With specified exceptions,¹ offering for lease or rent any motor vehicle or offering passenger transportation in exchange for compensation qualifies the vehicle as a “for-hire vehicle.”² A for-

¹ Section 320.01(15)(b), F.S.

² Section 320.01(15)(a), F.S.

hire vehicle does not include transportation network companies like Uber or Lyft, the regulation of which is expressly preempted to the state.³

Counties are specifically authorized to license and regulate taxis, jitneys, limousines, rental cars, and other passenger vehicles for-hire operating in the unincorporated areas of the county.⁴

Municipalities have broad home rule powers authorizing them to enact legislation concerning any subject matter upon which the Legislature may act, except:

- The subjects of annexation, merger, and exercise of extraterritorial power, which require a general or special law;
- Any subject expressly prohibited by the constitution;
- Any subject expressly preempted to state or county government by the constitution or by general law; or
- Any subject preempted to a county pursuant to a county charter.⁵

A municipality may impose reasonable regulatory fees, proportionate with the cost of the regulatory activity.⁶

Various counties and municipalities differ on if and when vehicles-for-hire are regulated and their specific regulations. For example, Miami-Dade County's Passenger Transportation Regulatory Division regulates for-hire chauffeurs and vehicles such as taxicabs, limousines, passenger motor carriers, including jitneys and tour vans. The county charges various inspection fees, an annual license fee, and licensees are subject to the Local Business Tax Receipt.⁷

As another example, Hillsborough County requires any person engaged in the business of operating vehicles for-hire in the County to obtain a public vehicle driver's license from the Hillsborough County Tax Collector, in addition to a valid certificate for the operator and a valid permit for the vehicle after passing a safety and mechanical inspection. Vehicles 10 years of age or older require additional inspections.⁸

Preemption

Section 163.211, F.S., expressly preempts to the state the licensing of occupations and s. 163.211, F.S., supersedes any local government licensing requirement for occupations, with the exception of:

- Any local government that imposed licenses on occupations before January 1, 2021. However, any such local government licensing of occupations expires on July 1, 2024.
- Any local government licensing of occupations authorized by general law.⁹

³ See Section 627.748(17)(a), F.S.

⁴ Section 125.01(1)(n), F.S.

⁵ Section 166.021(3), F.S.

⁶ Section 166.221, F.S.

⁷ Miami-Dade County, Transportation and Public Work, *For-Hire Transportation*, https://www.miamidade.gov/global/service.page?Mduid_service=ser1498077559199786 (last visited Dec. 13, 2023.)

⁸ Hillsborough County Tax Collectors Office, Ordinance 17-22 –Vehicle for Hire Ordinance, <https://www.hillstax.org/other-services/vehicle-for-hire/ordinance-information/> (Last visited Jan. 24, 2024).

⁹ Section 163.211(2), F.S.

Airports

Section 332.004(14), F.S., defines the term “public-use airport” to mean any publicly owned airport which is used or to be used for public purposes.

Some airports or airport authorities require vehicles-for-hire to obtain a permit to operate, which may be issued by the county, municipality, or airport authority. For example, Orlando International Airport requires vehicles for hire to have:

- A valid, current driver’s permit issued by the City of Orlando,
- A vehicle permit decal issued by the Orlando International Airport displayed on the vehicle at all times, and
- A vehicle-for-hire permit decal issued by the City of Orlando displayed on the vehicle at all times.¹⁰

The Fort Lauderdale-Hollywood International Airport requires persons that operate a vehicle for hire to first register with and obtain a permit from the Environmental and Consumer Protection Division of Broward County. Then, persons with a permit to operate a vehicle for hire must apply for a decal permit from the Broward County Aviation Department.¹¹

On the other hand, some airport authorities issue a separate permit for vehicles-for-hire for transporting passengers at the airport. For example, the Orlando Sanford International Airport requires a vehicle for hire to obtain an airport-issued ground transportation prearranged permit. This includes a ground transportation agreement, which excludes taxicabs.¹²

III. Effect of Proposed Changes:

The bill creates s. 320.0603, F.S., providing an exception from certain local licensing requirements to a person who holds a valid, active license or permit issued by a county or municipality to operate a vehicle for-hire. Such person may operate a vehicle-for-hire without being subject to additional licensing or permitting requirements and without paying additional fees if the person:

- Holds a valid, active license or permit to operate a vehicle-for-hire in the county or municipality in which the person is domiciled.
- Has not had a license or permit to operate a vehicle-for-hire suspended or revoked within the preceding five years.

The above provisions do not apply to transportation services to or from an airport. The bill defines the term “airport” to include an airport, airport authority, aviation authority, or other entity, including a county, municipality, or special district that operates a public-use airport.

¹⁰ Greater Orlando Aviation Authority, Vehicle-For-Hire (VFH): V-Permit Holders and Drivers Handbook p. 5, Orlando International Airport, <https://orlandoairports.net/site/uploads/VFH-Handbook.pdf> (last visited Jan. 24, 2024).

¹¹ *Operational Guidelines for Ground Transportation at Fort Lauderdale-Hollywood International Airport*, p. 5, Broward County Board of County Commissioners (Aug. 17, 2021), <https://www.broward.org/Airport/Business/about/Documents/Operationalguidelinesforgroundtransportationservices01.pdf> (last visited Jan. 24, 2024).

¹² Orlando-Sanford International Airport, *2023 Ground Transportation Pre-Arranged Permit*, <https://web1.osaa.net/GTX/docs/GT-Permit-2023-for-Website.pdf> (last visited Jan. 24, 2024).

The bill stipulates that it does not grant specific authority to counties, municipalities, or special districts to regulate or license vehicles-for-hire which is required by s. 163.211, F.S.

Furthermore, the bill provides that the reciprocity under certain circumstances *does not apply* to a person who holds a valid, active license or permit to operate a vehicle when such person provides transportation of persons:

- While on stretchers or wheelchairs, or
- Whose handicap, illness, other incapacitation makes it impractical to be transported by a regular common carrier such as a bus, taxi, non-taxi, limousine, or other vehicle-for-hire.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be an indeterminate positive economic impact on the vehicle-for-hire industry due to not being required to obtain multiple licenses or permits to operate a vehicle-for-hire in multiple jurisdictions.

C. Government Sector Impact:

Counties and municipalities may experience a reduction in revenue associated with vehicles-for-hire operating in multiple municipalities or counties only being subject to licensing or permitting in one jurisdiction. However, the impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.0603 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.

By Senator DiCeglie

18-00703A-24

2024648__

A bill to be entitled

An act relating to a license or permit to operate a vehicle for hire; creating s. 320.0603, F.S.; providing that a person who holds a license or permit issued by a county or municipality to operate a vehicle for hire may operate a vehicle for hire in any other county or municipality without being subject to certain requirements or fees under certain circumstances; providing an exception for transportation services to and from an airport; defining the term "airport"; providing construction and applicability; providing an effective date.

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

Section 1. Section 320.0603, Florida Statutes, is created to read:

320.0603 Vehicle-for-hire license or permit; reciprocity.-

(1) A person who holds a valid, active license or permit issued by a county or municipality to operate a vehicle for hire may operate a vehicle for hire in any other county or municipality without being subject to additional licensing or permitting requirements and without paying additional license or permit fees if the following conditions are met:

(a) The person holds a valid, active license or permit to operate a vehicle for hire in the county or municipality in which the person is domiciled.

(b) The person has not had a license or permit to operate a vehicle for hire suspended or revoked within the preceding 5

Page 1 of 2

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18-00703A-24

2024648__

years.

(2) Notwithstanding subsection (1) or subsection (3), this section does not apply to transportation services to and from an airport. For purposes of this subsection, the term "airport" includes an airport, airport authority, aviation authority, or other entity, including a county, municipality, or special district that operates a public-use airport as defined in s. 332.004.

(3) This section does not grant specific authority to counties, municipalities, or special districts to regulate or license vehicles for hire which is required by s. 163.211.

(4) This section does not apply to a person who holds a valid, active license or permit to operate a vehicle for hire when such person provides transportation of persons while on stretchers or wheelchairs, or transportation of persons whose disability, illness, injury, or other incapacitation makes it impractical to be transported by a regular common carrier such as a bus, taxi, non-taxi, limousine, or other vehicle for hire.

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

Page 2 of 2

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THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 31, 2024

Dear Chair Mayfield,

I respectfully request that **SB 648: License or Permit to Operate a Vehicle for Hire** be placed on the agenda of the Committee on Rules at your earliest convenience.

- This bill provides that a person who holds a license or permit issued by a county or municipality to operate a vehicle for hire may operate a vehicle for hire in any other county or municipality without being subject to certain requirements or fees.
- Exempts public-use airports from the requirements of the bill.

If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

The Florida Senate

APPEARANCE RECORD

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

2/8/2024

Meeting Date

ROLES

Committee

SB 648

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CHRISTIAN CHAUDER

Phone

(305) 608-4300

Address

PO Box 122

Email

CHRISTIAN@CHAUDERCONSULTANTSFL.COM

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:

INSTITUTE FOR JUSTICE

☐

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 Rules

BILL: SB 660

INTRODUCER: Senator DiCeglie

SUBJECT: Public Records/Animal Shelter or Animal Control Agency

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.	Hunter	Ryon	CA	Favorable
3.	Burse	Twogood	RC	Favorable

I. Summary:

SB 660 provides an exemption from public records requirements for records containing certain information pertaining to persons with legal custody of an animal from an animal shelter or animal control agency operated by a local government. The bill provides a statement of public necessity.

The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

This act shall take effect July 1, 2024.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy 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 acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

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

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.01(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.01(12), F.S., defines “public record” to mean “all 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 connection with the transaction of official business by any agency.”

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

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.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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 it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

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

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are 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.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

- 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?

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

Public or Private Animal Agencies Public Records

Currently, the records of a public animal shelter, humane organization, or animal control agency operated by a humane society must be made available to the public pursuant to provisions in chapter 119, F.S.²⁷ Certain information must be made available on a monthly basis, including information on the disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:

- Adoption;
- Reclamation by owner;
- Death in kennel;
- Euthanasia at the owner's request;
- Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision;
- Euthanasia;
- Released in field/Trapped, Neutered, Released (TNR);
- Lost in care/missing animals or records; and

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S.

²⁵ See *generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 823.15(2)(b), F.S.

- Ending inventory/shelter count at end of the last day of the month.²⁸

III. Effect of Proposed Changes:

Section 1 amends s. 823.15, F.S., to revise requirement language related to the adoption of animals and public records. The bill creates a public record exemption for the personal information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency. The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

Section 2 provides a statement of public necessity which is to shield those seeking to adopt and foster animals from the potential stalking, harassment and intimidation from the animals' previous owners. The bill also provides that the need to protect the personal information of those seeking to adopt and foster animals overrides the state's public policy of open government.

Section 3 provides that this act shall take effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 creates an exemption, thus, the bill requires 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. The bill includes a public necessity statement related to the exemption created in the bill.

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.

²⁸ Section 823.15(2)(a)2., F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 823.15 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.

By Senator DiCeglie

18-00276A-24

2024660__

A bill to be entitled

An act relating to public records; amending s. 823.15, F.S.; providing an exemption from public records requirements for records held by an animal shelter or animal control agency operated by a local government which contain certain information pertaining to persons with legal custody of an animal; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (7) is added to section 823.15, Florida Statutes, to read:

823.15 Public or private animal agencies; sterilization required for dogs and cats released; recordkeeping requirements; microchipping; public records exemption.—

(7) The personal identifying information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision in any record relating to the animal and held by the shelter or agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Page 1 of 3

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

18-00276A-24

2024660__

Section 2. The Legislature finds that it is a public necessity that the personal identifying information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision in any record relating to the animal and held by the shelter or agency be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that, as reflected in s. 823.15(1), Florida Statutes, it is an important public policy of the state to encourage the fostering, adoption, and transfer of animals and to reduce euthanasia rates for animals in animal shelters and animal control agencies. Although such shelters and agencies are motivated to find new homes or placements for animals in their custody, potential fosterers and adopters and other persons considering receiving legal custody of animals may become discouraged from fostering, adopting, or receiving legal custody of the animals if the prior owners who lost or surrendered legal custody of the animals, or who did not reclaim the animals within the applicable time periods, can obtain their personal identifying information and attempt to regain legal custody of the animals from such persons. The Legislature finds that the stalking, harassment, and intimidation of animal fosterers, adopters, and other persons receiving legal custody of animals by prior animal owners, as well as prior animal owners' theft of animals from such persons, are threats to public safety and welfare and to the sanctity of private property, the family, and the home. The Legislature further finds that the need to protect the personal identifying information of animal fosterers,

Page 2 of 3

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

18-00276A-24

2024660

59 adopters, and other persons receiving legal custody of animals
60 is sufficiently compelling to override the state's public policy
61 of open government and that the protection of such information
62 cannot be accomplished without this exemption.

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



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 31, 2024

Dear Chair Mayfield,

I respectfully request that **SB 660: Public Records/Animal Shelter or Animal Control Agency** be placed on the agenda of the Committee on Rules at your earliest convenience.

- This bill provides an exemption from public records requirements for records held by an animal shelter or animal control agency operated by a local government which contain certain information pertaining to persons with legal custody of an animal.

If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

Rules

Committee

SB 660

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Macie Codina

Phone

913-269-7173

Address

4370 Old Saint Augustine Rd.

Street

Email

mjcodina5@gmail.com

Tallahassee

City

FL

State

32311

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 Animal Law Section
of the Florida Bar

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

Rules

Committee

660

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Diana Ferguson

Phone

850-681-6788

Address

119 S Monroe St Ste 202

Street

Email

dferguson@utahel-ecm.com

Tampa

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL Animal Control Association

☐

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

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

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 Rules

BILL: SB 682

INTRODUCER: Senator Martin

SUBJECT: Lost or Abandoned Property

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. <u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
3. <u>Carroll</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 682 revises the timeframe during which a law enforcement officer must mail a copy of the notice posted on an article of lost or abandoned property, a derelict vessel, or a public nuisance vessel, so that the notice may be mailed to the owner after the date of posting.

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

II. Present Situation:

Lost or Abandoned Property

Lost property includes all tangible personal property that does not have an identifiable owner and that has been mislaid on public property,¹ on a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.²

Abandoned property includes all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition, or has no apparent intrinsic value to the rightful owner.³ Derelict vessel and vessels declared a public nuisance are abandoned property.⁴

¹ Public property means lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property. Section 705.101(5), F.S.

² Section 705.101(4), F.S.

³ Section 705.101(1), F.S.

⁴ *Id.*

Derelict Vessels

A derelict vessel is a vessel that is in a wrecked,⁵ junked,⁶ or substantially dismantled⁷ condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without their consent.⁸ It is unlawful to leave any derelict vessel on waters of this state.⁹ Further, a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.¹⁰

A vessel is declared at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion;
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice; or
- The vessel is tied to an unlawful or unpermitted structure or mooring.¹¹

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.¹² A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by Florida Fish and Wildlife Conservation Commission or other law enforcement.¹³

⁵ A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire. Section 823.11(1)(b), F.S.

⁶ A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁷ A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁸ Section 823.11(1)(b), F.S.

⁹ Section 823.11(2), F.S. The term “leave” means to allow a vessel to remain occupied or unoccupied on waters of this state for more than 24 hours.

¹⁰ Section 327.4107(1), F.S.

¹¹ Section 327.4107(2), F.S.

¹² *Id.*; Section 327.73(1)(aa), F.S.

¹³ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

Procedure for Lost or Abandoned Property

When a law enforcement officer¹⁴ ascertains that an article of lost or abandoned property, other than a derelict vessel or a vessel declared a public nuisance, is present on public property and is unable to be easily removed, the officer must place a notice on the property which states that the property must be removed within five days or it will be removed and disposed of at the expense of the owner.¹⁵

When a derelict vessel or a vessel declared to be a public nuisance is located on the waters of the state, a law enforcement officer must place a notice on the vessel which states that the vessel must be removed within 21 days or it will be removed and disposed of.¹⁶ The owner and other interested parties have the right to a hearing to challenge the determination that the vessel is derelict or a public nuisance. If the vessel is not removed by the owner, the owner or the party determined to be legally responsible for the vessel's presence on waters of the state will be liable for the costs of removal, destruction, and disposal.

In addition to posting a notice on the lost or abandoned property, the law enforcement officer must make a reasonable effort to ascertain the name and address of the owner. If it is reasonably available to the officer, he or she must mail a copy of the notice to the owner on or before the date of posting.

If the property is a motor vehicle or a vessel, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel. Upon receipt of the information, the law enforcement agency must mail a copy of the notice to the owner and to any lienholder.¹⁷ If the property is a derelict vessel or a vessel declared a public nuisance, the mailed notice must inform the owner or responsible party that he or she has the right to a hearing.

If, at the end of five days after posting a notice on an article of lost or abandoned property, or at the end of 21 days after posting and mailing the notice on a derelict vessel or vessel declared a public nuisance, the owner has not removed the property or shown reasonable cause for failure to do so, or has not requested a hearing if applicable, the law enforcement agency may retain or dispose of the property as directed by statute.¹⁸

¹⁴ "Law enforcement officer" means any person who is elected, appointed, or employed full-time by any sheriff, any municipality, or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency. Section 705.101(2), F.S.

¹⁵ Section 705.103(2), F.S.

¹⁶ Section 705.103(2), F.S.

¹⁷ *Id.* A law enforcement officer who has issued a citation for a violation of the derelict vessel law to the owner of a derelict vessel is not required to mail a copy of the notice to the owner.

¹⁸ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 705.103, F.S., to revise the timeframe during which a law enforcement officer must mail a copy of the applicable notice posted on an article of lost or abandoned property, a derelict vessel, or a vessel declared a public nuisance if the name and address of the owner of the property or vessel is reasonably available to the officer. The revision removes the requirement that the notice must be mailed to the owner on or before the date of posting, allowing the notice to be mailed following the date of posting.

Sections 2 through 11 reenact s. 327.4107(7)(a), F.S., relating to vessels at risk of becoming derelict on waters of this state; s. 327.4108(6)(d), F.S., relating to anchoring vessels in anchoring limitation areas; s. 327.60(5), F.S., relating to local regulations; s. 327.66(2)(a), F.S., relating to carriage of gasoline on vessels; s. 327.73(1)(aa), F.S., relating to noncriminal infractions; s. 379.338(1), F.S., relating to confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish; s. 705.104(1), F.S., relating to the title to lost or abandoned property; s. 705.105(1)(a), F.S., relating to procedure regarding unclaimed evidence; s. 713.585(8), F.S., relating to the enforcement of a lien by sale of a motor vehicle; and s. 823.11(2)(d), F.S., relating to derelict vessels, their relocation or removal, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 12 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive fiscal impact on local governments and on the Florida Fish and Wildlife Conservation Commission by reducing the number of required trips by law enforcement to a derelict or public nuisance vessel.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 705.103 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.4107, 327.4108, 327.60, 327.66, 327.73, 379.338, 705.104, 705.105, 713.585, and 823.11.

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.

¹⁹ Florida Fish and Wildlife Conservation Commission, *2024 Agency Legislative Bill Analysis: SB 682*, 3-4 (on file with the Senate Committee on Environment and Natural Resources).

By Senator Martin

18-00753-24

2024682__

1 A bill to be entitled
 2 An act relating to lost or abandoned property;
 3 amending s. 705.103, F.S.; revising the timeframe
 4 after which a law enforcement agency may take certain
 5 actions relating to abandoned property or specified
 6 vessels if the owner has not taken specified actions;
 7 making technical changes; reenacting ss.
 8 327.4107(7)(a), 327.4108(6)(d), 327.60(5),
 9 327.66(2)(a), 327.73(1)(aa), 379.338(1), 705.104(1),
 10 705.105(1)(a), 713.585(8), and 823.11(2)(d), F.S.,
 11 relating to a program to remove, relocate, or destroy
 12 vessels at risk of becoming derelict on waters of this
 13 state, the anchoring of vessels with more than three
 14 violations within a 12-month period in anchoring
 15 limitation areas, local regulations for procedures to
 16 remove abandoned or lost vessels affixed to a public
 17 dock or mooring, the removal of specified gasoline and
 18 gasoline containers on vessels and the removal of such
 19 vessels by a law enforcement agency, civil penalties
 20 for violations of specified laws relating to certain
 21 vessels, confiscation and disposition of illegally
 22 taken wildlife, freshwater fish, and saltwater fish,
 23 title to lost or abandoned property, the procedure
 24 regarding certain unclaimed evidence, the proceeds and
 25 disposition from the sale of certain motor vehicles,
 26 and the removal and destruction of specified derelict
 27 vessels, respectively, to incorporate the amendment
 28 made to s. 705.103, F.S., in references thereto;
 29 providing an effective date.

Page 1 of 13

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

18-00753-24

2024682__

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Paragraph (a) of subsection (2) of section
 34 705.103, Florida Statutes, is amended to read:
 35 705.103 Procedure for abandoned or lost property.—
 36 (2)(a)1. Whenever a law enforcement officer ascertains
 37 that:
 38 a. An article of lost or abandoned property other than a
 39 derelict vessel or a vessel declared a public nuisance pursuant
 40 to s. 327.73(1)(aa) is present on public property and is of such
 41 nature that it cannot be easily removed, the officer shall cause
 42 a notice to be placed upon such article in substantially the
 43 following form:
 44
 45 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 46 PROPERTY. This property, to wit: ...(setting forth brief
 47 description)... is unlawfully upon public property known as
 48 ...(setting forth brief description of location)... and must be
 49 removed within 5 days; otherwise, it will be removed and
 50 disposed of pursuant to chapter 705, Florida Statutes. The owner
 51 will be liable for the costs of removal, storage, and
 52 publication of notice. Dated this: ...(setting forth the date of
 53 posting of notice)..., signed: ...(setting forth name, title,
 54 address, and telephone number of law enforcement officer)....
 55
 56 b. A derelict vessel or a vessel declared a public nuisance
 57 pursuant to s. 327.73(1)(aa) is present on the waters of this
 58 state, the officer shall cause a notice to be placed upon such

Page 2 of 13

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

18-00753-24

2024682__

vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description of location)... has been determined to be ...(derelict or a public nuisance)... and is unlawfully upon the waters of this state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ...(contact information for person who can arrange for a hearing in accordance with this section).... The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

2. The notices required under subparagraph 1. may not be less than 8 inches by 10 inches and must be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner, and, if such is reasonably available to the officer, she or he or she must ~~shall~~ mail a copy of the applicable ~~such~~

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notice to the owner ~~on or before the date of posting~~. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency must ~~shall~~ contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15. On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency must ~~shall~~ follow the processes as set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after the posting or mailing of the notice, if required, whichever occurs later, ~~posting the notice~~ in sub-subparagraph 1.b., ~~and mailing such notice, if required~~, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or

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articles from public property or shown reasonable cause for failure to do so, and, in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following applies ~~shall apply~~:

a. For abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

b. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency or its designee may:

(I) Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

(II) Authorize the vessel's use as an artificial reef in accordance with s. 379.249 if all necessary federal, state, and local authorizations are received.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order

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has been entered or the case is otherwise closed.

Section 2. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (7) of section 327.4107, Florida Statutes, is reenacted to read:

327.4107 Vessels at risk of becoming derelict on waters of this state.—

(7) The commission may establish a derelict vessel prevention program to address vessels at risk of becoming derelict. Such program may, but is not required to, include:

(a) Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with s. 327.53(7), s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).

The commission may adopt rules to implement this subsection. Implementation of the derelict vessel prevention program shall be subject to appropriation by the Legislature and shall be funded by the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

Section 3. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (6) of section 327.4108, Florida Statutes, is reenacted to read:

327.4108 Anchoring of vessels in anchoring limitation areas.—

(6)

(d) A vessel that is the subject of more than three violations within 12 months which result in dispositions other

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than acquittal or dismissal shall be declared to be a public nuisance and subject to s. 705.103 or, for a derelict vessel, subject to s. 823.11.

Section 4. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (5) of section 327.60, Florida Statutes, is reenacted to read:

327.60 Local regulations; limitations.—

(5) A local government may enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock or mooring within its jurisdiction that is abandoned or lost property pursuant to s. 705.103(1). Such regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

Section 5. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 327.66, Florida Statutes, is reenacted to read:

327.66 Carriage of gasoline on vessels.—

(2) (a) Gasoline possessed or transported in violation of this section and all containers holding such gasoline are declared to be a public nuisance. A law enforcement agency discovering gasoline possessed or transported in violation of paragraph (1)(a) shall abate the nuisance by removing the gasoline and containers from the vessel and from the waters of this state. A law enforcement agency that removes gasoline or containers pursuant to this subsection may elect to:

1. Retain the property for the agency's own use;

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2. Transfer the property to another unit of state or local government;

3. Donate the property to a charitable organization; or

4. Sell the property at public sale pursuant to s. 705.103.

Section 6. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (aa) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(aa) Section 327.4107, relating to vessels at risk of becoming derelict on waters of this state, for which the civil penalty is:

1. For a first offense, \$100.

2. For a second offense occurring 30 days or more after a first offense, \$250.

3. For a third or subsequent offense occurring 30 days or more after a previous offense, \$500.

A vessel that is the subject of three or more violations issued pursuant to the same paragraph of s. 327.4107(2) within an 18-month period which result in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to ss. 705.103(2) and (4) and 823.11(3). The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, or cause to be relocated or removed such public nuisance vessels from waters of this state. The commission, an officer of the commission, or

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a law enforcement agency or officer acting pursuant to this paragraph upon waters of this state shall be held harmless for all damages to the vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 7. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (1) of section 379.338, Florida Statutes, is reenacted to read:

379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.—

(1) All wildlife, freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court

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so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

Section 8. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in references thereto, subsection (1) of section 705.104, Florida Statutes, is reenacted to read:

705.104 Title to lost or abandoned property.—

(1) Title to lost or abandoned property is hereby vested in the finder upon the expiration of the 90-day custodial time period specified in s. 705.103(2)(b), provided the notice requirements of s. 705.103 have been met, unless the rightful owner or a lienholder claims the property within that time.

Section 9. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section

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705.105, Florida Statutes, is reenacted to read:

705.105 Procedure regarding unclaimed evidence.—

(1) Title to unclaimed evidence or unclaimed tangible personal property lawfully seized pursuant to a lawful investigation in the custody of the court or clerk of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency shall vest permanently in the law enforcement agency 60 days after the conclusion of the proceeding.

(a) If the property is of appreciable value, the agency may elect to:

1. Retain the property for the agency's own use;

2. Transfer the property to another unit of state or local government;

3. Donate the property to a charitable organization;

4. Sell the property at public sale, pursuant to the provisions of s. 705.103.

Section 10. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (8) of section 713.585, Florida Statutes, is reenacted to read:

713.585 Enforcement of lien by sale of motor vehicle.—A person claiming a lien under s. 713.58 for performing labor or services on a motor vehicle may enforce such lien by sale of the vehicle in accordance with the following procedures:

(8) A vehicle subject to lien enforcement pursuant to this section must be sold by the lienor at public sale. Immediately upon the sale of the vehicle and payment in cash of the purchase price, the lienor shall deposit with the clerk of the circuit

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court the proceeds of the sale less the amount claimed by the lienor for work done and storage, if any, and all reasonable costs and expenses incurred in conducting the sale, including any attorney's fees and costs ordered by the court. Simultaneously with depositing the proceeds of sale remaining after payment to the lienor, the lienor shall file with the clerk a verified report of the sale stating a description of the vehicle sold, including the vehicle identification number; the name and address of the purchaser; the date of the sale; and the selling price. The report shall also itemize the amount retained by the lienor pursuant to this section and shall indicate whether a hearing was demanded and held. All proceeds held by the court shall be held for the benefit of the owner of the vehicle or any lienholder whose lien is discharged by the sale and shall be disbursed only upon order of the court. Unless a proceeding is initiated to validate a claim to such proceeds within 1 year and a day from the date of the sale, the proceeds shall be deemed abandoned property and disposition thereof shall be governed by s. 705.103. The clerk shall receive 5 percent of the proceeds deposited with her or him, not to exceed \$25, for her or his services under this section.

Section 11. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (2) of section 823.11, Florida Statutes, is reenacted to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(2)

(d) Notwithstanding the additional 45 days provided in subparagraph (b)2.b. during which an owner or a responsible

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349 party may not be charged for a violation of this section, the
350 commission, an officer of the commission, a law enforcement
351 agency or officer specified in s. 327.70, or, during a state of
352 emergency declared by the Governor, the Division of Emergency
353 Management or its designee, may immediately begin the process
354 set forth in s. 705.103(2)(a) and, once that process has been
355 completed and the 45 days provided herein have passed, any
356 vessel that has not been removed or repaired such that it is no
357 longer derelict upon the waters of this state may be removed and
358 destroyed as provided therein.

359 Section 12. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations
Appropriations Committee on Criminal and Civil
Justice
Appropriations Committee on Health and
Human Services
Community Affairs
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JONATHAN MARTIN

33rd District

February 2, 2024

The Honorable Debbie Mayfield
Senate Committee on Rules, Chair
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 682 - An act relating to Lost or Abandoned Property

Dear Chair Mayfield:

Please allow this letter to serve as my respectful request to place SB 682, relating to Lost or Abandoned Property, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin
Senate District 33

Cc: Philip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

SB 682

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Jess Melkun

Phone

850-363-9072

Address

Street

Email

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:

FWC

☐

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 Rules

BILL: CS/CS/SB 756

INTRODUCER: Rules Committee; Judiciary Committee; and Senator Perry

SUBJECT: Timeshare Properties

DATE: February 8, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3. <u>Oxamendi</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 756 authorizes the board of administration for a condominium or cooperative association operating a timeshare to delete facilities without the approval of the members of the association if the deletion is approved by a two-thirds vote of the board of administration and the deletion is consistent with the fiduciary duties of the managing entity to the purchasers of the timeshare plan set forth in s. 721.13(2), F.S. However, the bill maintains the requirement in current law that, if the timeshare condominium or timeshare cooperative contains any residential units that are not subject to the timeshare plan, the board of administration for the condominium or cooperative must obtain the approval of a majority of the owners of such residential units before it can make any material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative.

The bill also provides that the board of administration for a condominium or cooperative may make material alterations or substantial additions to the accommodations or facilities of a timeshare condominium or timeshare cooperative without the approval of the owners' association if the board of administration of any owners' association operates a timeshare plan including a timeshare condominium. Current law references the board's operation of a timeshare condominium, not the board's operation of a timeshare plan including a timeshare condominium.

The bill provides that the managing entity of a timeshare project has all of the rights and remedies of an operator of any public lodging establishment or public food service establishment as set forth in several provisions in ch. 509, F.S., which authorizes the operator of public lodging

establishments or public food service establishments to remove a person from their establishments, including the right to have a law enforcement officer remove a person from the establishments, if the person engages in certain activities, including the possession and use of controlled substances and engaging in disorderly conduct.

The bill requires the managing entity of a timeshare condominium or timeshare cooperative to provide the assessment certificate required under s. 721.15(7), F.S., in lieu of the estoppel certificate required by s. 718.116(8), F.S., or s. 719.108(6), F.S., relating to condominium and cooperative associations, respectively. The assessment certificate states the amount of moneys owed or due within 90 days to the managing entity on a consumer resale of a timeshare interest.

The bill also changes the appointing authority for appointment of a commissioner of deeds from the Governor to the Secretary of State. A commissioner of deeds is a person appointed to act in a foreign state or country to acknowledge that a person executing a real property instrument is the person named in the instrument. A real property instrument must be acknowledged as a condition of recording.

The bill takes effect July 1, 2024.

II. Present Situation:

A timeshare interest is a form of ownership of real and personal property.¹ In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property.

The Florida Vacation Plan and Timesharing Act, ch. 721, F.S., establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.² Chapter 721, F.S., applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least 3 years when the accommodations and facilities are located or offered within this state.³ Part I of ch. 721, F.S., relates to vacation plans and timesharing, and part II of ch. 721, F.S., relates to multisite vacation and timeshare plans that are also known as vacation clubs.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) of the Department of Business and Professional Regulation (DBPR) administers ch. 721, F.S.

Definitions

The term “timeshare plan” means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, where a purchaser, for consideration, receives ownership rights in or a right to use accommodations and facilities, if any, for a period of time less than a full year during any given year, but not

¹ See s. 721.05(36), F.S.

² Section 721.02(2) and (3), F.S.

³ Section 721.03, F.S.

necessarily for consecutive years.⁴ The term includes both personal property timeshare and real property timeshare plans.⁵

A “timeshare unit” is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.⁶

A “timeshare estate” is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.⁷ The term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary’s spouse or other dependent.

A “timeshare license” is the right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate.⁸ A “timeshare interest” is a timeshare estate, a personal property timeshare interest, or a timeshare license.⁹

Managing Entity

Section 721.13(1), F.S., requires the developer to provide a managing entity for each timeshare plan. The managing entity operates or maintains the timeshare plan.¹⁰ Section 721.13, F.S., provides the duties of a managing entity. The managing entity may be the developer, a separate manager or management firm, or an owners’ association.¹¹

⁴ Section 721.05(39), F.S.

⁵ Section 721.05(39)(a), F.S., defines a “personal property timeshare plan,” as a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property. Section 721.05(39)(b), F.S., defines a “real property timeshare plan,” as a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.

⁶ See ss. 721.05(41) and 718.103(26), F.S.

⁷ Section 721.05(34), F.S.

⁸ Section 721.05(37), F.S.

⁹ Section 721.05(36), F.S.

¹⁰ See s. 721.05(22), F.S., defining the term “managing entity.”

¹¹ Section 721.13(1)(a), F.S.

Material Alterations or Substantial Additions to Accommodations or Facilities

Section 721.13(8), F.S., provides that, notwithstanding anything to the contrary in s. 718.110, F.S.,¹² s. 718.113, F.S.,¹³ s. 718.114, F.S.,¹⁴ or s. 719.1055, F.S.,¹⁵ the board of administration of any owners' association that operates a timeshare condominium pursuant to s. 718.111, F.S., or a timeshare cooperative pursuant to s. 719.104, F.S., has the power to make material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative without the approval of the owners' association. Current law does not reference the deletion of accommodations or facilities.

Section 721.13(8), F.S., also provides that, if the timeshare condominium or timeshare cooperative contains any residential units that are not subject to the timeshare plan, the board of administration for the condominium or cooperative must obtain the approval of a majority of the owners of such residential units before it can make any material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative. However, unless otherwise provided in the timeshare instrument as originally recorded, an amendment may not change the configuration or size of any accommodation in any material fashion, or change the proportion or percentage by which a member of the owners' association shares the common expenses, unless the record owners of the affected units or timeshare interests and all record owners of liens on the affected units or timeshare interests join in the execution of the amendment.

Assessment Certificates

Condominiums and Cooperatives

An assessment is a unit or parcel owner's share of the funds required for the payment of the association's common expenses.¹⁶ A special assessment is any assessment levied against a unit or parcel owner other than the assessment adopted in the annual budget.¹⁷

¹² Section 718.110, F.S., provides for the amending of a declaration of condominium and, in part, prohibits any amendment that materially alters or substantially adds to the condominium property, unless all recorded unit owners and all record owners of liens join in and approve the execution of the amendment.

¹³ Section 718.113, F.S., sets forth the responsibility of a condominium association to maintain the common elements of the condominium and, in relevant part, prohibits any material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration as originally recorded or as amended under the procedures provided in the declaration. However, if the declaration as originally recorded or as amended does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions before the material alterations or substantial additions are commenced.

¹⁴ Section 718.114, F.S., authorizes condominium associations, with specified conditions, to "enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities, regardless of whether the lands or facilities are contiguous to the lands of the condominium, if such lands and facilities are intended to provide enjoyment, recreation, or other use or benefit to the unit owners."

¹⁵ Section 719.1055, F.S., provides for the amendment of cooperative documents and, in part, prohibits any amendment that materially alters or substantially adds to the cooperative property, unless all recorded unit owners and all record owners of liens join in and approve the execution of the amendment.

¹⁶ Sections 718.103(1) and 719.103(1), F.S., relating to condominium and cooperative associations, respectively.

¹⁷ Sections 718.103(24) and 719.103(23), F.S., relating to condominium and cooperative associations, respectively.

Assessments that are unpaid may become a lien on the unit or parcel.¹⁸ An owner is jointly and severally liable with the previous owner for all unpaid assessments that come due up to the time of transfer of title.¹⁹ This liability is without prejudice to an owner's right to recover from the previous owner the amounts paid that were assessed during the time that the previous owner owned the property.²⁰

To protect against undisclosed financial obligations and to obtain title to the property free of any lien or encumbrance in favor of the association, purchasers may request that the seller provide an estoppel certificate, also known as an assessment certificate, from the condominium or cooperative association. An estoppel certificate certifies the amount of any total debt owed to the association for unpaid monetary obligations by a unit or parcel owner as of a specified date.²¹

Within 10 days after receiving a written request for an estoppel certificate, the association must provide an estoppel certificate signed by an officer or agent of the association stating all assessments and other moneys owed to the association by the owner with respect to the unit or parcel. In addition to specifying the amount of any debt owed to the association, an estoppel certificate must also include specific information about the association and the property to be purchased, including the amount of any regular periodic assessments or other fees.²²

Timeshares

A purchaser timeshare estate or timeshare license is personally liable for all assessments for common expenses which come due while the purchaser is the owner of such interest.²³ A successor in interest of timeshare estate or timeshare license is also jointly and severally liable with her or his predecessor in interest for all unpaid assessments against such predecessor up to the time of transfer of the timeshare interest to such successor without prejudice to any right a successor in interest may have to recover from her or his predecessor in interest any amounts assessed against such predecessor and paid by such successor.²⁴

The managing entity of a timeshare plan must provide an assessment certificate within 30 days after receiving a written request from a timeshare interest owner, an agent designated in writing by the timeshare interest owner, or a person providing resale transfer services for a consumer timeshare reseller. The assessment certificate must be signed by an officer or agent of the managing entity, to the person requesting the certificate, state the amount of any assessment, transfer fee, or other moneys currently owed to the managing entity, and of any assessment, transfer fee, or other moneys approved by the managing entity that will be due within the next 90 days, with respect to the designated consumer resale timeshare interest, as well as any information contained in the books and records of the timeshare plan regarding the legal description and use plan related to the designated consumer resale timeshare interest.²⁵

¹⁸ Sections 718.116(5) and 719.108(4), F.S., relating to condominium and cooperative associations, respectively.

¹⁹ Sections 718.116(1)(a) and 719.108(1), F.S., relating to condominium and cooperative associations, respectively.

²⁰ *Id.* The term "without prejudice" means "without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party." BLACK'S LAW DICTIONARY 770 (10th ed. 2014).

²¹ Sections 718.116(8) and 719.108(6), F.S., relating to condominium and cooperative associations, respectively.

²² *Id.*

²³ Section 721.15(7), F.S.

²⁴ *Id.*

²⁵ *Id.*

The managing entity may charge a fee not to exceed \$150 for the preparation and delivery of the certificate, and the amount of the fee must be included on the certificate.²⁶

Public Lodging Establishments and Public Food Service Establishments

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

Section 509.242(1), F.S., classifies public lodging establishments as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental.²⁷

Section 509.242(1)(g), F.S., defines the term “timeshare project” to mean “a timeshare property, as defined in [ch. 721, F.S.,] that is located in this state and that is also a transient public lodging establishment.”

The term “public lodging establishments” includes transient and non-transient public lodging establishments.²⁸ The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

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

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

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

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

The following provisions in ch. 509, F.S., authorizes the operator of any public lodging establishment or public food service establishment to remove persons from their establishments, including the right to have a law enforcement officer remove a person from the establishments:

- Section 509.141, F.S., providing the right to remove or cause to be removed a person for specified causes, including any guest of the establishment who, while on the premises of the

²⁶ *Id.*

²⁷ See s. 509.013(4)(b), F.S., which exempts the several types of establishments from the definition of “public lodging establishment.”

²⁸ Section 509.013(4)(a), F.S.

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

- Section 509.142, F.S., providing the right to refuse accommodations or service to any person whose conduct on the premises of the establishment displays intoxication, profanity, lewdness, or brawling; who indulges in language or conduct such as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; who illegally possesses or deals in controlled substances as defined in ch. 893, F.S.; or whose conduct constitutes a nuisance.
- Section 509.143, F.S., permitting an operator to take a person into custody and detain that person in a reasonable manner and for a reasonable time if the operator has probable cause to believe that the person was engaging in disorderly conduct in violation of s. 877.03, F.S.,²⁹ on the premises of the licensed establishment and that such conduct was creating a threat to the life or safety of the person or others.
- Section 509.162, F.S., permitting any law enforcement officer or operator to take a person into custody on the premises and detain such person in a reasonable manner and for a reasonable period of time if the officer has probable cause to believe that theft of personal property belonging to such establishment has been committed by a person and that the officer or operator can recover such property or the reasonable value thereof by taking the person into custody for the purpose of attempting to effect such recovery or for prosecution.

Commissioner of Deeds

Instruments affecting title to real property must be recorded to be effective.³⁰ One primary requirement of recording is that a signature of the person transferring the real property interest must be acknowledged and proved.³¹ Within the state, this is typically done by notarization of the signature. Outside of the state, the statutes allow for several alternative means for acknowledgment. One is acknowledgment by a commissioner of deeds, a person appointed by the Governor to take acknowledgments in a particular foreign state or country.³² Similarly, commissioners of deeds for timeshare transactions may be appointed by the Governor.³³

²⁹ Section 877, F.S., provides that a person is guilty of a misdemeanor of the second degree if they commit “such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct.”

³⁰ Section 695.01(1), F.S.

³¹ Section 695.03, F.S.

³² Sections 695.03(2) and (3), F.S.

³³ Section 721.97, F.S.

III. Effect of Proposed Changes:

Material Alterations, Additions, and Deletions to Accommodations or Facilities

The bill amends s. 721.13(8), F.S., to authorize the board of administration for a condominium or cooperative association operating a timeshare to delete facilities without the approval of the members of the association. Under the bill, a deletion to the facilities of a timeshare plan must be approved by a two-thirds vote of the board of administration and the deletion must be consistent with the fiduciary duties of the managing entity to the purchasers of the timeshare plan set forth in s. 721.13(2), F.S.

The bill maintains the requirement in current law that, if the timeshare condominium or timeshare cooperative contains any residential units that are not subject to the timeshare plan, the board of administration for the condominium or cooperative must obtain the approval of a majority of the owners of such residential units before it can make any material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative.

The bill also amends s. 721.13(8), F.S., to clarify that the board of administration for a condominium or cooperative may make material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative without the approval of the owners' association if the board of administration of any owners' association operates a timeshare plan including a timeshare condominium. Current law references the board's operation of a timeshare condominium, not the board's operation of a timeshare plan including a timeshare condominium.

Public Lodging Establishments and Public Food Service Establishments

The bill creates s. 721.13(14), F.S., to provide that the managing entity of a timeshare project as defined in s. 509.242(1)(g), F.S., has all of the rights and remedies of an operator of any public lodging establishment or public food service establishment as set forth in ss. 509.141, 509.142, 509.143, and 509.162, F.S., and is entitled to have a law enforcement officer take any action, including arrest or removal from the timeshare property, against any purchaser, including a deeded owner, or guest or invitee of such purchaser or owner who engages in conduct described in those sections or conduct in violation of the timeshare instrument.³⁴

Assessment Certificates

The bill amends s. 721.15(7)(b), F.S., to provide that the managing entity of a timeshare condominium or timeshare cooperative must provide the assessment certificate required under this section in lieu of the estoppel certificate required by s. 718.116(8), F.S., or s. 719.108(6), F.S., relating to condominium and cooperative associations, respectively. The certificate states the amount of moneys owed or due within 90 days to the managing entity on a consumer resale of a timeshare interest.

³⁴ Section 721.05(35), F.S., defines the term "timeshare instrument" to mean one or more of the documents, by whatever name denominated, creating or governing the operation of a timeshare plan.

Appointment of a Commissioner of Deeds

The bill amends ss. 695.03 and 721.97, F.S., to change the appointing authority for a commissioner of deeds from the Governor to the Secretary of State.

Effective Date

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 695.03, 721.13, 721.15, and 721.97.

IX. Additional Information:

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

CS/CS by Rules on February 8, 2024:

The committee substitute requires deletions to the facilities of a timeshare plan to be approved by a two-thirds vote of the board of administration and the deletion to be consistent with the fiduciary duties of the managing entity to the purchasers of the timeshare plan set forth in s. 721.13(2), F.S.

CS by Judiciary on January 29, 2024:

The committee substitute added two sections to the bill that changed the appointing authority for a commissioner of deeds from the Governor to the Secretary of State.

- B. **Amendments:**

None.



214912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 90 - 92
and insert:
additions to the accommodations or facilities of such timeshare
plan, and deletions to the facilities of such timeshare plan,
condominium or timeshare cooperative without the approval of the
members of the owners' association, provided that the deletion
to any facility is approved by a two-thirds vote of the board of
administration and the deletion is consistent with the fiduciary
duties set forth in subsection (2).



214912

12

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

14 And the title is amended as follows:

15 Delete line 12

16 and insert:

17 association, under certain circumstances; providing

18 that the managing entity of any

By the Committee on Judiciary; and Senator Perry

590-02633-24

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A bill to be entitled

An act relating to timeshare properties; amending s. 695.03, F.S.; revising that a commissioner of deeds is appointed by the Secretary of State, rather than by the Governor, for a certain acknowledgement or proof taken, administered, or made outside this state but within the United States or within a foreign country; amending s. 721.13, F.S.; providing that the board of any timeshare condominium has certain powers regarding the accommodations or facilities of a timeshare plan without the approval of the members of the owners' association; providing that the managing entity of any timeshare project has all the rights and remedies of an operator of any public lodging establishment or public food service establishment for certain purposes; authorizing such managing entities to have law enforcement take certain actions; amending s. 721.15, F.S.; requiring the managing entity of certain timeshares to provide a specific certificate in lieu of an estoppel certificate; amending s. 721.97, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 695.03, Florida Statutes, are amended to read:
695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign

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

590-02633-24

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officials.—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

(2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.—An acknowledgment or a proof taken, administered, or made outside of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Secretary of State ~~Governor of this state~~; by a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made by or before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of ...(state)..., and my commission expires on ...(date)...."

(3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.—An acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside the United States or in a foreign country may be taken, administered, or made by or before a commissioner of deeds appointed by the Secretary of State ~~Governor of this state~~ to act in such country; before a notary public of such foreign

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

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country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military or naval officer authorized by 10 U.S.C. s. 1044a to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

Section 2. Subsection (8) of section 721.13, Florida Statutes, is amended, and subsection (14) is added to that section, to read:

721.13 Management.—

(8) Notwithstanding anything to the contrary in s. 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of administration of any owners' association that operates a timeshare plan, including a timeshare condominium pursuant to s.

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718.111, or a timeshare cooperative pursuant to s. 719.104, shall have the power to make material alterations or substantial additions, or any deletion, to the accommodations or facilities of such timeshare ~~plan condominium or timeshare cooperative~~ without the approval of the ~~members of the~~ owners' association. However, if the timeshare condominium or timeshare cooperative contains any residential units that are not subject to the timeshare plan, such action by the board of administration must be approved by a majority of the owners of such residential units. Unless otherwise provided in the timeshare instrument as originally recorded, no such amendment may change the configuration or size of any accommodation in any material fashion, or change the proportion or percentage by which a member of the owners' association shares the common expenses, unless the record owners of the affected units or timeshare interests and all record owners of liens on the affected units or timeshare interests join in the execution of the amendment.

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

Section 3. Paragraph (b) of subsection (7) of section

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721.15, Florida Statutes, is amended to read:

721.15 Assessments for common expenses.—

(7)

(b) Within 30 days after receiving a written request from a timeshare interest owner, an agent designated in writing by the timeshare interest owner, or a person providing resale transfer services for a consumer timeshare reseller pursuant to s.

721.17(3), a managing entity must provide a certificate, signed by an officer or agent of the managing entity, to the person requesting the certificate, that states the amount of any assessment, transfer fee, or other moneys currently owed to the managing entity, and of any assessment, transfer fee, or other moneys approved by the managing entity that will be due within the next 90 days, with respect to the designated consumer resale timeshare interest, as well as any information contained in the books and records of the timeshare plan regarding the legal description and use plan related to the designated consumer resale timeshare interest. The managing entity of a timeshare condominium or timeshare cooperative must provide such a certificate in lieu of the estoppel certificate required by s. 718.116(8) or s. 719.108(6).

1. A person who relies upon such certificate shall be protected thereby.

2. A summary proceeding pursuant to s. 51.011 may be brought to compel compliance with this paragraph, and in such an action the prevailing party may recover reasonable attorney fees and court costs.

3. The managing entity may charge a fee not to exceed \$150 for the preparation and delivery of the certificate. The amount

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of the fee must be included on the certificate.

Section 4. Subsection (1) of section 721.97, Florida Statutes, is amended to read:

721.97 Timeshare commissioner of deeds.—

(1) The ~~Secretary of State Governor~~ may appoint commissioners of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country, in international waters, or in any possession, territory, or commonwealth of the United States outside the 50 states. The term of office is 4 years. Commissioners of deeds shall have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken or made in the manner directed by the laws of this state, including, but not limited to, s. 117.05(4), (5)(a), and (6), Florida Statutes 1997, and certified by a commissioner of deeds. The certification must be endorsed on or annexed to the instrument or writing aforesaid and has the same effect as if made or taken by a notary public licensed in this state.

Section 5. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 30, 2024

I respectfully request that **Senate Bill #756**, relating to Timeshare Properties, be placed on the:

- ☒ Committee agenda at your earliest possible convenience.
- ☐ Next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 9

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

756

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Gary Hunter

Phone 850-567-5763

Address 119 S. Monroe St Suite 500

Email ghunter@holtzmanvogel.com

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:

American Resort Development Assoc.

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

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

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 Rules

BILL: CS/SB 758

INTRODUCER: Judiciary Committee and Senator Martin

SUBJECT: Tracking Devices and Applications

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes	CJ	Favorable
2. Bond	Cibula	JU	Fav/CS
3. Parker	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 758 amends s. 934.425, F.S., to prohibit a person from knowingly:

- Placing a tracking device or tracking application on another person's property without that person's consent; or
- Using a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

The bill expands the scope of prohibited conduct to capture those persons who do not install a tracking device or tracking application on another person's property themselves, but who place or use such a device or application to determine the location or movement of another person or another person's property without that person's consent.

The bill increases the penalty for a violation of this section from a second degree misdemeanor to a third degree felony.¹

The bill expands the exceptions in s. 934.425, F.S., to include an exception for placement or use of a tracking device or tracking application by:

- Law enforcement officers, or any local, state, federal, or military law enforcement agency;
- A parent or legal guardian of a minor;

¹ A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

- A caregiver of an elderly person or disabled adult; and
- An owner or lessee of a motor vehicle.

The bill amends s. 493.6118, F.S., to provide that use of a tracking device or tracking application is grounds for which disciplinary action may be taken by the Department of Agriculture and Consumer Services (DACS) against any licensee, agency, or applicant regulated by ch. 493, F.S., or any unlicensed person engaged in activities regulated by ch. 493, F.S. Chapter 493, F.S., relating to private investigative, private security, and repossession services.

The bill may have a positive indeterminate impact on jail and prison beds by expanding the scope of prohibited conduct under s. 934.425, F.S., and increasing the penalty for a violation from a second degree misdemeanor² to a third degree felony, which may result in longer jail sentences and new prison admissions.

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

II. Present Situation:

Tracking devices and tracking applications can be used to follow the location or movement of another person, potentially without that person's knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user's consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.³

Unless exempted, s. 934.425, F.S., prohibits a person from knowingly installing a tracking device or tracking application on another person's property without the other person's consent. A violation of the prohibition is punishable as a second degree misdemeanor.⁴

Current law does not specifically prohibit the placement of a tracking device.

Global Positioning System

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and

² A misdemeanor of the second degree is punishable by a definite term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

³ New York Times, *I Used Apple AirTags, Tiles and a GPS Tracker to Watch My Husband's Every Move*, Kashmir Hill, February 11, 2022, available at <https://www.nytimes.com/2022/02/11/technology/airtags-gps-surveillance.html> (last visited on December 28, 2023).

⁴ Section 934.425, F.S.

- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.⁵

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of services: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.⁶

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.⁷

Wi-Fi Positioning

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things devices, routers, and more, and can be used to transmit data between devices using radio waves.⁸ Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi-enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.⁹ Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

Department of Agricultural and Consumer Services

The Department of Agricultural and Consumer Services (DACS) is a cabinet-level agency with the elected Commissioner of Agriculture as the agency head. The department has broad duties,

⁵ NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at <https://www.nasa.gov/directorates/somd/space-communicationsnavigation-program/gps/> (last visited on December 28, 2023).

⁶ *Id.*

⁷ Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps, (last visited on December 28, 2023).

⁸ Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at <https://www.inpixon.com/technology/standards/wifi> (last visited on December 28, 2023).

⁹ *Id.*

including safeguarding the public from unsafe or defective products and deceptive business practices, providing environmental protection, and supporting Florida’s agricultural economy.¹⁰

Division of Licensing

The Division of Licensing within the DACS is responsible for investigating and issuing licenses to conduct private security, private investigative, and recovery services pursuant to ch. 493, F.S. Chapter 493, F.S., regulates the licensing of private security, investigative, and recovery industries.¹¹ As of April 30, 2023, the division has a total of 2,890,879 issued licenses amongst 26 different types, including: 797 recovery agents, 7,317 private investigators, 149,061 security officers, and 2,677,967 concealed weapon or firearms.¹²

Grounds for Disciplinary Action against Licensee, Agencies, or Applicants

Section 493.6118, F.S., allows the DACS to pursue disciplinary administrative action against a current ch. 493, F.S., licensee, agency, or applicant, or any unlicensed person engaged in activities regulated under ch. 493, F.S., based on a finding that he or she has committed any of the acts prohibited in s. 493.6118, F.S., including the installation of a tracking device or tracking application in violation of s. 934.425, F.S.¹³

Unlawful Installation of a Tracking Device or Application

Section 934.425, F.S., provides that it is a second degree misdemeanor¹⁴ to knowingly install a tracking device¹⁵ or tracking application¹⁶ on another person’s property without the other person’s consent.

A person’s consent to be tracked is presumed to be revoked if:

- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;¹⁷ or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.¹⁸

The prohibition against installing a tracking device or tracking application does not apply to:

¹⁰ Florida Department of Agricultural and Consumer Services, *About Us*, at <https://www.fdacs.gov/About-Us> (last visited January 5, 2024).

¹¹ Section 493.6100, F.S.

¹² Office of Program Policy Analysis and Government Accountability, *Department of Agriculture and Consumer Services Licensing* at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101> (last visited January 5, 2024).

¹³ Section 493.6118(1)(y), F.S.

¹⁴ Section 934.425(5), F.S.

¹⁵ Section 934.425(1)(c), F.S., provides that a “tracking device” means any device whose primary purpose is to track or identify the location or movement of the individual.

¹⁶ Section 934.425(1)(b), F.S., provides that a “tracking application” means any software program whose primary purpose is to track or identify the location or movement of an individual.

¹⁷ Section 934.425(3)(a), F.S.

¹⁸ Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;¹⁹
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
 - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;²⁰
 - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;²¹
 - The parent or legal guardian has sole custody of the minor child;²² or
 - The parents or legal guardians are divorced, separated, or otherwise living apart, and both consent to the installation of the tracking device or tracking application.²³
- A caregiver of an elderly person²⁴ or disabled adult,²⁵ if the elderly person or disabled adult's treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;²⁶
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;²⁷ or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:²⁸
 - The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;²⁹
 - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;³⁰ or
 - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.³¹

¹⁹ Section 934.425(4)(a), F.S.

²⁰ Section 934.425(4)(b)1., F.S.

²¹ Section 934.425(4)(b)2., F.S.

²² Section 934.425(4)(b)3., F.S.

²³ Section 934.425(4)(b)4., F.S.

²⁴ Section 825.101(4), F.S., defines "Elderly person" to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.

²⁵ Section 825.101(3), F.S., defines "disabled adult" to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.

²⁶ Section 934.425(4)(c), F.S.

²⁷ Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

²⁸ Section 934.425(4)(e), F.S.

²⁹ Section 934.425(4)(e)1., F.S.

³⁰ Section 934.425(4)(e)2., F.S.

³¹ Section 934.425(4)(e)3., F.S.

III. Effect of Proposed Changes:

The bill amends s. 934.425, F.S., to prohibit a person from knowingly:

- Placing a tracking device or tracking application on another person's property without that person's consent; or
- Using a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

The bill expands the scope of prohibited conduct to capture those persons who do not install a tracking device or tracking application on another person's property themselves, but who place or use such a device or application to determine the location or movement of another person or another person's property without that person's consent. By prohibiting the placement, in addition to the installation, of a tracking device or application, the bill clarifies that a person may commit a violation by simply placing such a device on or into another person's property.

The bill increases the penalty for a violation of s. 934.425, F.S., from a second degree misdemeanor to a third degree felony, punishable by up to 5 years imprisonment and a \$5,000 fine. However, the bill does not rank the offense on the Offense Severity Ranking Chart, and as such, under s. 921.0023, F.S., the offense defaults to a level 1 offense.

The bill expands the exceptions in s. 934.425, F.S., to include an exception for placement of a tracking device or tracking application by:

- Law enforcement officers, or any local, state, federal, or military law enforcement agency;
- A parent or legal guardian of a minor;
- A caregiver of an elderly person or disabled adult; and
- An owner or lessee of a motor vehicle. The bill adds a requirement that a seller of an automobile disclose to the buyer the existence of a tracking device and how to remove it.

The bill amends s. 493.6118, F.S., to provide that use of a tracking device or tracking application is grounds for which disciplinary action may be taken by the DACS against any licensee, agency, or applicant regulated by ch. 493, F.S., or any unlicensed person engaged in activities regulated by ch. 493, F.S. Chapter 493, F.S., relating to private investigative, private security, and repossession services.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact. It is unlikely that the bill will lead to a substantial increase in judicial workload; however, increasing the penalty for violations of s. 934.425, F.S., from a misdemeanor to a felony will shift workload from the county courts to the circuit courts.

The precise fiscal impact of this legislation is indeterminate due to the unavailability of data needed to quantifiably establish the effect on judicial workload. However, this legislation is anticipated to have a minimal fiscal impact on expenditures of the State Courts System, if any.

As to the potential shift of workload from the county courts to the circuit courts. Trial court judicial workload is measured using a case weighting system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of this bill may impact the case weighting system.

The number of case filings using the case weighting system is used to determine the need for additional judicial resources each year. Any judicial workload changes from county to circuit jurisdiction in the future as a result of this bill will be reflected in the Supreme Court's annual opinion, *In re: Certification of Need for Additional Judges*.³²

The bill may have an indeterminate impact on jail and prison beds by expanding the scope of prohibited conduct under s. 934.425, F.S., and increasing the penalty for a

³² Office of the State Courts Administrator 2024 *Judicial Impact Statement* (November 30, 2023), at 1 (on file with the Senate Committee on Criminal Justice).

violation from a second degree misdemeanor to a third degree felony, which may result in longer jail sentences and new prison admissions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 934.425 and 493.6118.

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 Judiciary on January 29, 2024:

The committee substitute clarified the statutory exceptions by adding “use” to the exceptions to conform to the addition of “use” to the offense. The committee substitute also added a requirement that a seller of an automobile disclose to a buyer the existence of a tracking device and how to remove the device.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Martin

590-02626-24

2024758c1

A bill to be entitled

An act relating to tracking devices and applications; amending s. 934.425, F.S.; prohibiting the placement or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent; revising exceptions; providing criminal penalties; conforming provisions to changes made by the act; amending s. 493.6118, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Section 934.425, Florida Statutes, is amended to read:

934.425 Installation or use of tracking devices or tracking applications; exceptions; penalties.—

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

(a) "Business entity" means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.

(b) "Tracking application" means any software program whose primary purpose is to track or identify the location or movement of an individual.

(c) "Tracking device" means any device whose primary purpose is to reveal its location or movement by the transmission of electronic signals.

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(d) "Person" means an individual but does not include a business entity.

(2) Except as provided in subsection (4), a person may not knowingly:

(a) Install or place a tracking device or tracking application on another person's property without ~~that the other~~ person's consent; or

(b) Use a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

(3) For purposes of this section, a person's consent is presumed to be revoked if:

(a) The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other; or

(b) The consenting person or the person to whom consent was given files an injunction for protection against the other person pursuant to s. 741.30, s. 741.315, s. 784.046, or s. 784.0485.

(4) This section does not apply to:

(a) A law enforcement officer as defined in s. 943.10, or any local, state, federal, or military law enforcement agency, that lawfully installs, places, or uses a tracking device or tracking application on another person's property as part of a criminal investigation.

(b) A parent or legal guardian of a minor child who installs, places, or uses a tracking device or tracking application on the minor child's property if:

1. The parents or legal guardians are lawfully married to

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each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation, placement, or use of the tracking device or tracking application;

2. The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;

3. The parent or legal guardian has sole custody of the minor child; or

4. The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation, placement, or use of the tracking device or tracking application.

(c) A caregiver of an elderly person or disabled adult, as those terms are defined in s. 825.101, if the elderly person's or disabled adult's treating physician certifies that the installation or placement of a tracking device or tracking application onto the elderly person's or disabled adult's property or the use of a tracking device or tracking application to determine the location or movement of the elderly person or disabled person or his or her property is necessary to ensure the safety of the elderly person or disabled adult.

(d) A person acting in good faith on behalf of a business entity for a legitimate business purpose. This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

(e) An owner or lessee of a motor vehicle that installs, places, or uses, or directs the installation, placement, or use

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of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:

1. The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;

2. The new owner of the vehicle, in the case of a sale, or the lessor of the vehicle, in the case of an expired lease, consents in writing to the nonremoval of the tracking device or tracking application; or

3. The owner of the vehicle at the time of the installation or placement of the tracking device or tracking application was the original manufacturer of the vehicle and the next owner of the vehicle was informed of the location and how to remove the device before the vehicle title is transferred.

(5) A person who violates this section commits a felony ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 2. Paragraph (y) of subsection (1) of section 493.6118, Florida Statutes, is amended to read:

493.6118 Grounds for disciplinary action.—

(1) The following constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any licensee, agency, or applicant regulated by this chapter, or any unlicensed person engaged in activities regulated under this chapter:

(y) Installation, placement, or use of a tracking device or tracking application in violation of s. 934.425.

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

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 Rules

BILL: SB 790

INTRODUCER: Senator Yarborough

SUBJECT: Surrendered Infants

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Morgan	Brown	HP	Favorable
2.	Rao	Tuszynski	CF	Favorable
3.	Morgan	Twogood	RC	Favorable

I. Summary:

SB 790 modifies statutory provisions relating to surrendered newborn infants, changing the term “newborn infant” to “infant.” The age of an infant who may be lawfully surrendered is increased by the bill from up to approximately seven days old to approximately 30 days old.

The bill provides an additional method of lawful surrender by allowing the parent of an infant to dial 911 to request that an emergency medical service (EMS) provider meet at a specified location for surrender of the infant directly to the EMS provider. The bill also clarifies the manner in which a parent may relinquish an infant at a hospital following delivery.

The bill extends immunity from criminal investigation solely because an infant is left with eligible EMS station personnel or at an EMS station or a fire station. The bill also extends immunity from criminal or civil liability to medical staff of a hospital for acting in good faith when accepting a surrendered infant at a hospital in accordance with statutory provisions.

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

II. Present Situation:

Infant Safe Haven Laws

Every state legislature has enacted laws to address infant abandonment and endangerment in response to a reported increase in the abandonment of infants in unsafe locations, such as public restrooms or trash receptacles. Beginning with Texas in 1999, states have enacted these safe haven laws as an incentive for mothers in crisis to safely relinquish their babies at designated

locations where the babies are protected and provided with care until a permanent home is found.¹

While there is great variability in the laws across states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from criminal liability and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.² Most states designate hospitals, EMS providers, health care facilities, and fire stations as a safe haven. In ten states, emergency medical personnel responding to 911 calls may accept an infant.³

The age in which a baby may be lawfully surrendered also varies significantly from state to state. Approximately 23 states accept infants up to 30 days old.⁴ Ages in other states range from up to 72 hours to one year.⁵

According to the nonprofit organization known as the National Safe Haven Alliance (NSHA), nearly 5,000 safe haven relinquishments occurred during 1999-2022 nationwide,⁶ and 4,706 nationally as of this writing.⁷ Illegal abandonments have also occurred during that time span, with some newborns found alive and others deceased. These statistics are unofficial estimates, as there is no federally mandated safe haven report requirement.

Surrender of Newborn Infants in Florida

The Florida Legislature enacted Florida's initial abandoned newborn infant law in 2000.⁸ The law created s. 383.50, F.S., and authorized the abandonment of a newborn infant, up to three days old or younger, at a hospital or a fire station and addressed presumption of relinquishment of parental rights, implied consent to treatment, anonymity, and physical custody of the infant.⁹

In 2001, s. 383.50, F.S., was amended to authorize EMS stations, in addition to hospitals and fire stations, as optional locations for the lawful relinquishment of a newborn infant.¹⁰

In 2008, multiple provisions of the section were modified to refer to "surrendered newborn infant" rather than "abandoned newborn infant."¹¹ The three-day age limit for surrender of a newborn infant was increased to a seven-day age limit. Additionally, a provision was added to

¹ U.S. Department of Health and Human Services Administration for Families, Children's Bureau, Child Welfare Information Gateway, *Infant Safe Haven Laws*, 2022 (Current through September 2021), available at <https://www.childwelfare.gov/resources/infant-safe-haven-laws/> (last visited Jan. 24, 2024).

² *Id.*

³ *Id.* Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin.

⁴ *Id.* Arizona, Arkansas, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, and West Virginia.

⁵ *Id.*

⁶ National Safe Haven Alliance, *2022 Impact Report*, available at https://www.nationalsafehavenalliance.org/files/ugd/da9676_2c6d678cd51e44528e73b6b0a64ebf49.pdf (last visited Jan. 24, 2024).

⁷ National Safe Haven Alliance, available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Jan. 24, 2024).

⁸ Chapter 2000-188, L.O.F.

⁹ Section 383.50, F.S.

¹⁰ Chapter 2001-53, s. 15, L.O.F.

¹¹ Chapter 2008-90, s. 4, L.O.F.

indicate that when an infant is born in a hospital and the mother expresses intent to leave the infant and not return, the hospital or registrar is directed, upon her request, to complete the infant's birth certificate without naming the mother.

Under current law, a firefighter, emergency medical technician, or paramedic at a fire station or EMS station that accepts a surrendered newborn infant must arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services.¹² Upon admitting a surrendered newborn infant, each hospital in this state with emergency services must provide all necessary emergency services and care for the surrendered newborn infant and immediately contact a local licensed child-placing agency (CPA) or the Department of Children and Families' (DCF) statewide abuse hotline for the name of a CPA and transfer custody of the surrendered newborn infant.¹³

A Safe Haven for Newborns¹⁴ reports that over the past 24 years, approximately 443 newborns have been surrendered or abandoned in Florida.¹⁵ Since 2000, 379 newborns have been surrendered in a safe haven hospital, EMS station, or a fire station, and approximately 64 newborns have been abandoned in unsafe places.¹⁶ In 2023, 18 newborns were surrendered to a safe haven and two were abandoned in an unsafe place.¹⁷

III. Effect of Proposed Changes:

SB 790 amends s. 383.50, F.S., to change the term "newborn infant" to "infant," as well as revise the definition to increase the allowable age of a surrendered infant from approximately seven days old or younger to approximately 30 days old or younger.

The bill clarifies the manner in which a parent may surrender an infant at a hospital. The infant may be left with medical staff or a licensed health care professional after the delivery of the infant in a hospital, if the parent notifies medical staff or a licensed health care professional that the parent is voluntarily surrendering the infant and does not intend to return.

The bill provides another avenue for lawfully surrendering an infant. If the parent is unable to surrender the infant to the appropriate persons at a hospital, EMS station, or fire station, the parent may dial 911 to request that an EMS provider meet the surrendering parent at a specified location. The surrendering parent must stay with the infant until the EMS provider arrives to take custody of the infant.

The bill further provides that a criminal investigation may not be initiated solely because an infant is left with eligible EMS station personnel, or at an EMS station or a fire station in accordance with this section of statute unless there is actual or suspected child abuse or neglect.

¹² Sections 383.50(3) and 395.1041, F.S.

¹³ Sections 395.50(4) and 395.50(7), F.S.

¹⁴ A Safe Haven for Newborns is a program of The Florida M. Silverio Foundation, a 501(c)(3) organization located in Miami, Florida.

¹⁵ A Safe Haven for Newborns, *Safe Haven Statistics*, (last updated Jan. 1, 2024), available at <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited Jan. 24, 2024).

¹⁶ *Id.*

¹⁷ *Id.*

This provision currently applies only to an infant left at a hospital. The bill also extends immunity from criminal or civil liability to medical staff of a hospital for acting in good faith when accepting a surrendered infant at a hospital in accordance with statutory provisions.

The bill makes conforming and technical changes related to the revised terminology, immunity extension, and termination of parental rights procedures with respect to surrendered infants.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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 the following sections of the Florida Statutes: 383.50, 39.01, 39.201, 63.0423, 63.167, 383.51, 827.035, and 827.10.

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

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

None.

B. Amendments:

None.

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

By Senator Yarborough

4-00535A-24

2024790__

A bill to be entitled

An act relating to surrendered infants; amending s. 383.50, F.S.; changing the term "newborn infant" to "infant"; increasing the age at which a child is considered an infant; authorizing a parent to leave an infant with medical staff or a licensed health care professional at a hospital after the delivery of the infant, upon the parent giving a certain notification; authorizing a parent to surrender an infant by calling 911 to request that an emergency medical services provider meet the surrendering parent at a specified location; requiring the surrendering parent to stay with the infant until the emergency medical services provider arrives to take custody of the infant; amending ss. 39.01, 39.201, 63.0423, 63.167, 383.51, 827.035, and 827.10, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 383.50, Florida Statutes, is amended to read:

383.50 Treatment of surrendered ~~newborn~~ infant.—

(1) As used in this section, the term "~~newborn~~ infant" means a child who a licensed physician reasonably believes is approximately 30 7 days old or younger at the time the child is left at a hospital, an emergency medical services station, or a fire station.

(2) There is a presumption that the parent who leaves the

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~~newborn~~ infant in accordance with this section intended to leave the ~~newborn~~ infant and consented to termination of parental rights.

(3) Each emergency medical services station or fire station that is staffed with full-time firefighters, emergency medical technicians, or paramedics shall accept any ~~newborn~~ infant left with a firefighter, an emergency medical technician, or a paramedic. The firefighter, emergency medical technician, or paramedic shall consider these actions as implied consent to and shall:

(a) Provide emergency medical services to the ~~newborn~~ infant to the extent that he or she is trained to provide those services; ~~and~~

(b) Arrange for the immediate transportation of the ~~newborn~~ infant to the nearest hospital having emergency services.

A licensee as defined in s. 401.23, a fire department, or an employee or agent of a licensee or fire department may treat and transport an a ~~newborn~~ infant pursuant to this section. If an a ~~newborn~~ infant is placed in the physical custody of an employee or agent of a licensee or fire department, such placement is ~~shall be~~ considered implied consent for treatment and transport. A licensee, a fire department, or an employee or agent of a licensee or fire department is immune from criminal or civil liability for acting in good faith pursuant to this section. ~~Nothing in~~ This subsection does not limit ~~limits~~ liability for negligence.

(4) (a) After the delivery of an infant in a hospital, a parent of the infant may leave the infant with medical staff or

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a licensed health care professional at the hospital if the parent notifies such medical staff or licensed health care professional that the parent is voluntarily surrendering the infant and does not intend to return.

(b) Each hospital of this state subject to s. 395.1041 shall, and any other hospital may, admit and provide all necessary emergency services and care, as defined in s. 395.002(9), to any ~~newborn~~ infant left with the hospital in accordance with this section. The hospital or any of its medical staff or licensed health care professionals shall consider these actions as implied consent for treatment, and a hospital accepting physical custody of an a-newborn infant has implied consent to perform all necessary emergency services and care. The hospital or any of its medical staff or licensed health care professionals are ~~is~~ immune from criminal or civil liability for acting in good faith in accordance with this section. ~~Nothing in~~ This subsection does not limit ~~limits~~ liability for negligence.

(5) Except when there is actual or suspected child abuse or neglect, any parent who leaves an a-newborn infant with a firefighter, an emergency medical technician, or a paramedic at a fire station or an emergency medical services station, or brings an a-newborn infant to an emergency room of a hospital and expresses an intent to leave the ~~newborn~~ infant and not return, has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed unless the parent seeks to reclaim the ~~newborn~~ infant. When an infant is born in a hospital and the mother expresses intent to leave the infant and not return, upon the mother's request, the hospital or registrar shall complete the infant's birth certificate without naming the

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mother thereon.

(6) A parent of an a-newborn infant left at a hospital, an emergency medical services station, or a fire station under this section may claim his or her ~~newborn~~ infant up until the court enters a judgment terminating his or her parental rights. A claim to the ~~newborn~~ infant must be made to the entity having physical or legal custody of the ~~newborn~~ infant or to the circuit court before whom proceedings involving the ~~newborn~~ infant are pending.

(7) Upon admitting an a-newborn infant under this section, the hospital shall immediately contact a local licensed child-placing agency or alternatively contact the statewide central abuse hotline for the name of a licensed child-placing agency for purposes of transferring physical custody of the ~~newborn~~ infant. The hospital shall notify the licensed child-placing agency that an a-newborn infant has been left with the hospital and approximately when the licensed child-placing agency can take physical custody of the infant child. In cases where there is actual or suspected child abuse or neglect, the hospital or any of its medical staff or licensed health care professionals shall report the actual or suspected child abuse or neglect in accordance with ss. 39.201 and 395.1023 in lieu of contacting a licensed child-placing agency.

(8) An ~~Any newborn~~ infant admitted to a hospital in accordance with this section is presumed eligible for coverage under Medicaid, subject to federal rules.

(9) An a-newborn infant left at a hospital, an emergency medical services station, or a fire station in accordance with this section may ~~shall~~ not be deemed abandoned and subject to

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reporting and investigation requirements under s. 39.201 unless there is actual or suspected child abuse or until the Department of Health takes physical custody of the infant child.

(10) If the parent of an infant is unable to surrender the infant in accordance with this section, the parent may call 911 to request that an emergency medical services provider meet the surrendering parent at a specified location. The surrendering parent must stay with the infant until the emergency medical services provider arrives to take custody of the infant.

(11) A criminal investigation may ~~shall~~ not be initiated solely because an a newborn ~~an a newborn~~ infant is surrendered in accordance with left at a hospital under this section unless there is actual or suspected child abuse or neglect.

Section 2. Subsection (1) and paragraph (e) of subsection (34) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(1) “Abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or

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communications are not sufficient to establish or maintain a substantial and positive relationship with a child. A man’s acknowledgment of paternity of the child does not limit the period of time considered in determining whether the child was abandoned. The term does not include a surrendered ~~newborn~~ infant as described in s. 383.50, a “child in need of services” as defined in chapter 984, or a “family in need of services” as defined in chapter 984. The absence of a parent, legal custodian, or caregiver responsible for a child’s welfare, who is a servicemember, by reason of deployment or anticipated deployment as defined in 50 U.S.C. s. 3938(e), may not be considered or used as a factor in determining abandonment. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.

(34) “Harm” to a child’s health or welfare can occur when any person:

(e) Abandons the child. Within the context of the definition of “harm,” the term “abandoned the child” or “abandonment of the child” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this paragraph, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the

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child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term "abandoned" does not include a surrendered ~~newborn~~ infant as described in s. 383.50, a child in need of services as defined in chapter 984, or a family in need of services as defined in chapter 984. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

Section 3. Paragraph (e) of subsection (3) of section 39.201, Florida Statutes, is amended to read:

39.201 Required reports of child abuse, abandonment, or neglect, sexual abuse of a child, and juvenile sexual abuse; required reports of death; reports involving a child who has exhibited inappropriate sexual behavior.—

(3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

(e) *Surrendered newborn infants.*—

1. The central abuse hotline must receive reports involving surrendered ~~newborn~~ infants as described in s. 383.50.

2.a. A report may not be considered a report of child abuse, abandonment, or neglect solely because the infant has been surrendered in accordance with ~~left at a hospital, emergency medical services station, or fire station under~~ s. 383.50.

b. If the report involving a surrendered ~~newborn~~ infant does not include indications of child abuse, abandonment, or neglect other than that necessarily entailed in the infant

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having been ~~surrendered left at a hospital, emergency medical services station, or fire station~~, the central abuse hotline must provide to the person making the report the name of an eligible licensed child-placing agency that is required to accept physical custody of and to place surrendered ~~newborn~~ infants. The department shall provide names of eligible licensed child-placing agencies on a rotating basis.

3. If the report includes indications of child abuse, abandonment, or neglect beyond that necessarily entailed in the infant having been surrendered ~~left at a hospital, emergency medical services station, or fire station~~, the report must be considered as a report of child abuse, abandonment, or neglect and, notwithstanding chapter 383, is subject to s. 39.395 and all other relevant provisions of this chapter.

Section 4. Subsections (1) and (4), paragraph (c) of subsection (7), and subsection (10) of section 63.0423, Florida Statutes, are amended to read:

63.0423 Procedures with respect to surrendered infants.—

(1) Upon entry of final judgment terminating parental rights, a licensed child-placing agency that takes physical custody of an infant surrendered in accordance with ~~at a hospital, emergency medical services station, or fire station pursuant to~~ s. 383.50 assumes responsibility for the medical and other costs associated with the emergency services and care of the surrendered infant from the time the licensed child-placing agency takes physical custody of the surrendered infant.

(4) The parent who surrenders the infant in accordance with s. 383.50 is presumed to have consented to termination of parental rights, and express consent is not required. Except

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when there is actual or suspected child abuse or neglect, the licensed child-placing agency ~~may shall~~ not attempt to pursue, search for, or notify that parent as provided in s. 63.088 and chapter 49. For purposes of s. 383.50 and this section, a surrendered ~~an~~ infant who tests positive for illegal drugs, narcotic prescription drugs, alcohol, or other substances, but shows no other signs of child abuse or neglect, shall be placed in the custody of a licensed child-placing agency. Such a placement does not eliminate the reporting requirement under s. 383.50(7). When the department is contacted regarding an infant properly surrendered under this section and s. 383.50, the department shall provide instruction to contact a licensed child-placing agency and may not take custody of the infant unless reasonable efforts to contact a licensed child-placing agency to accept the infant have not been successful.

(7) If a claim of parental rights of a surrendered infant is made before the judgment to terminate parental rights is entered, the circuit court may hold the action for termination of parental rights in abeyance for a period of time not to exceed 60 days.

(c) The court may not terminate parental rights solely on the basis that the parent surrendered ~~left~~ the infant ~~at a hospital, emergency medical services station, or fire station~~ in accordance with s. 383.50.

(10) Except to the extent expressly provided in this section, proceedings initiated by a licensed child-placing agency for the termination of parental rights and subsequent adoption of an infant surrendered ~~a newborn left at a hospital, emergency medical services station, or fire station~~ in

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accordance with s. 383.50 shall be conducted pursuant to this chapter.

Section 5. Paragraph (f) of subsection (2) of section 63.167, Florida Statutes, is amended to read:

63.167 State adoption information center.—

(2) The functions of the state adoption information center shall include:

(f) Maintaining a list of licensed child-placing agencies eligible and willing to take custody of and place ~~newborn~~ infants surrendered in accordance with ~~left at a hospital, pursuant to~~ s. 383.50. The names and contact information for the licensed child-placing agencies on the list shall be provided on a rotating basis to the statewide central abuse hotline.

Section 6. Section 383.51, Florida Statutes, is amended to read:

383.51 Confidentiality; identification of parent surrendering ~~leaving newborn~~ infant ~~at hospital, emergency medical services station, or fire station.~~—The identity of a parent who surrenders an ~~leaves a newborn~~ infant ~~at a hospital, emergency medical services station, or fire station~~ in accordance with s. 383.50 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The identity of a parent surrendering an infant ~~leaving a child~~ shall be disclosed to a person claiming to be a parent of the ~~newborn~~ infant.

Section 7. Section 827.035, Florida Statutes, is amended to read:

827.035 ~~Newborn~~ Infants.—It does ~~shall~~ not constitute neglect of a child pursuant to s. 827.03 or contributing to the

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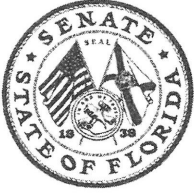
291 dependency of a child pursuant to s. 827.04, if a parent
292 surrenders an ~~leaves a newborn~~ infant in accordance ~~at a~~
293 ~~hospital, emergency medical services station, or fire station or~~
294 ~~brings a newborn infant to an emergency room and expresses an~~
295 ~~intent to leave the infant and not return, in compliance~~ with s.
296 383.50.

297 Section 8. Subsection (3) of section 827.10, Florida
298 Statutes, is amended to read:

299 827.10 Unlawful desertion of a child.—

300 (3) This section does not apply to a person who surrenders
301 an ~~a newborn~~ infant in accordance ~~compliance~~ with s. 383.50.

302 Section 9. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

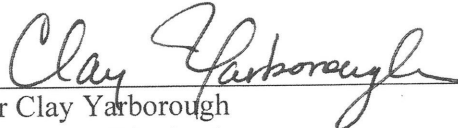
To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 30, 2024

I respectfully request that **Senate Bill #790**, relating to Surrendered Infants, be placed on the:

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



Senator Clay Yarborough
Florida Senate, District 4

The Florida Senate
APPEARANCE RECORD

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

SB 790

Bill Number or Topic

Amendment Barcode (if applicable)

2/8/2024
Meeting Date

Rules
Committee

Name

Lyndal Bell

Phone

786-208-3292

Address

Street

Altamonte FL

City

State

Zip

Email

LyndalBell@bellsouth.net

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)

2-8-2024

Meeting Date

Rules

Committee

Name

Erin Collins/Junior Leagues of Florida

Phone

(850) 570-1492

Address

1400 Village Square Blvd., #3-110

Email

Erin@FloridaAllianceEndHT.co

Street

Tallahassee

FL

32312

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 790

Bill Number or Topic

Amendment Barcode (if applicable)

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 814

INTRODUCER: Senator Yarborough

SUBJECT: Easements Affecting Real Property Owned by the Same Owner

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Favorable
2.	Bond	Twogood	RC	Pre-meeting

I. Summary:

SB 814 provides that a landowner may create a valid easement, servitude, or other interest that affects his or her own land. The bill conforms the law on easements and servitudes to modern practices and customs. The bill applies to existing easements or servitudes but it does not reinstate an easement or servitude that was invalidated in the past by a court.

The bill is effective upon becoming law.

II. Present Situation:

An easement is a nonpossessory interest in land of another. An easement is an interest in land, not merely a contract right. The nonpossessory feature of an easement differentiates it from an estate in land. Thus, the holder of an affirmative easement may only use the land burdened by the easement; the holder may not occupy and possess the realty as does an estate owner. An easement burdens land possessed by someone other than the easement holder. This characteristic is a corollary of the nonpossessory element of an easement. It emphasizes the distinction between possession and use and highlights the fact that a possessor and an easement holder can simultaneously use the same parcel of land.¹ An easement is a right or privilege by which the owner of one parcel of land, by reason of such ownership, has a right to the use of the real property of another for a special purpose.²

“Servitude” is the generic term that describes legal devices private parties can use to create rights and obligations that run with land. Rights and obligations that run with land are useful because they create land-use arrangements that remain intact despite changes in ownership of the land. Servitudes permit the creation of neighborhoods restricted to particular uses, providing a private alternative to zoning; they permit property to be used as a basis for financing infrastructure, providing a private alternative to taxation; and they permit the creation of stable arrangements

¹ “Easement” defined, THE LAW OF EASEMENTS & LICENSES IN LAND § 1:1.

² FLA.JUR.2D EASEMENTS §1.

for shared use of land, providing an alternative to acquisition of fee-simple interests for transportation corridors and natural-resource exploitation. Although these are the most common uses of servitudes, they are not exclusive. Servitudes may be used for any purpose that is not illegal or against public policy. Servitudes are widely used in land development because they can be individually tailored to meet the needs of particular projects. They are widely used for roads, utilities, pipelines, and natural-resource exploitation because they are less expensive than acquisition of a fee simple.³

The earliest form of easement or servitude was probably a road or access easement. Such easements, whether formal or informal, have existed by necessity since the time that civilization started recognizing real property rights and ownership.⁴ In the past two centuries, progress has led society to create arrangements in the nature of an easement that are for the common good. It is important to note, these easements are necessary for society to function, and affect nearly every parcel of property in Florida. These vital easements include road easements, utility easements (including gas, water, sewer, electrical, and communications easements), stormwater easements, and conservation easements. Such easements often created by a landowner in a form affecting the landowner's own real property. Generally, land owners want these easements so that their property is accessible and can use public utilities and services. Currently, a developer must create various access and utility easements as a condition of state and local laws and regulations regarding plat or condominium approval.⁵

At common law, a landowner may not create an easement or other servitude over his or her own lands.⁶ No apparent public policy argument continues to support this rule. This ancient common law concept has been ignored in the creation of numerous easements, servitudes, and other similar arrangements in Florida that are required by modern society. Recent appellate decisions have, however, used this ancient common law concept to invalidate easements and thus have caused real property lawyers to question whether the limited findings of those decisions could be used to challenge millions of vital consensual access and utility easements. Cases include:

- A developer in Brevard County who owned two adjoining commercial properties. He granted an easement from one parcel to the other parcel regarding use of the parking lot as a condition of a development permit. Many years later the separate parcels had separate owners who litigated the validity of the parking easement. The court found the easement invalid because the same person owned both parcels at the time of creation of the easement.⁷
- Poco Place is a short straight private road in Nokomis. It serves 6 homes, 3 on the North and 3 on South. Bayshore Road, a public road, is at the East end of Poco Place, and a waterfront on the intracoastal is at the West end of Poco Place. Owners of one of the waterfront lots physically blocked the road, blocking access to the waterfront. One of the inland parcel

³ Restatement (Third) of Property (Servitudes) § 1.1 (2000).

⁴ For instance, right-of-way easements appear in the Twelve Tables of Rome. Rosenberg, *Fixing a Broken Common Law*, 44 FSU LAW REV. 143, 144 at n. 5.

⁵ For instance, a condominium developer must create a nonexclusive easement for ingress and egress over streets, walks, and other rights-of-way serving the units of a condominium, part of the common elements necessary to provide reasonable access to the public ways, easements through the units for utilities, and easements for support of the structure, all of which must be created before the state will approve the developer to sell condominium units to the public. Sections 718.104(4)(n), 718.108(1), and 718.502(1)(b), F.S.

⁶ *Winthrop v. Wadsworth*, 42 So. 2d 541, 543-44 (Fla. 1949).

⁷ *One Harbor Financial Ltd. Co. v. Hynes Properties, LLC*, 884 So. 2d 1039 (Fla. 3rd DCA 2004).

owners responded by suing to enforce the easement rights. The court invalidated a portion of the easements creating Poco Place because that portion was created by a previous landowner in his own land.⁸

III. Effect of Proposed Changes:

The bill provides that an owner of real property may create an easement, servitude, or other interest in the owner's real property, and such easement, servitude, or other interest is valid notwithstanding that the owner owns all of the affected real property.

The bill states that it clarifies existing law and applies to, without limitation, any easement, including, but not limited to, utility easements, access easements, parking easements, negative easements, environmental easements, and solar easements; surface water management agreements; or any other rights in the nature of an easement, servitude, profit, use right, restriction, obligation, condition, reservation, or other covenant, contained in a written instrument, whether denominated as an easement, deed, plat, declaration, covenant, condition, restriction, servitude, or otherwise.

The bill further provides that it does not revive or reinstate any right or interest that has been fully and finally adjudicated as invalid before the effective date of the bill.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Where a statute may be applied retroactively, a court must first determine if the Legislature intended the statute to be retroactive. If so, the court must determine whether retroactive application would violate any constitutional principles. A court will reject such an application if the statute impairs a vested right, creates a new obligation, or

⁸ *King v. Roorda*, 355 So. 3d 1001 (Fla. 2d DCA 2023).

imposes a new penalty. The central focus of a court's inquiry is whether retroactive application of the statute "attaches new legal consequences to events completed before its enactment."⁹

The bill applies to existing easements, servitudes, and other similar agreements, but does not revive or reinstate any right or interest fully adjudicated before the effective date of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Passage of the bill has no apparent fiscal impact as it will confirm current legal relationships, although failure to pass the bill may lead to costly litigation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

At line 24 the bill states that it "clarifies existing law." It may be more accurate to say that this bill clarifies that the ancient rule has been effectively abrogated by longstanding and widespread custom and use in the modern age.

VIII. Statutes Affected:

This bill creates section 704.09 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.

⁹ *Menendez v. Progressive Exp. Ins. Co.*, 35 So. 3d 873, 877 (Fla. 2010).

B. Amendments:

None.

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



737648

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete line 36
and insert:
before the effective date of this act or apply to any claim or
right asserted in a case pending on or before the effective date
of this act.

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

And the title is amended as follows:

Delete line 10



737648

12 and insert:
13 has been adjudicated invalid before the effective date
14 of the act or apply to any claim or right asserted in
15 a case pending on or before such date;

By Senator Yarborough

4-00572-24

2024814__

A bill to be entitled

An act relating to easements affecting real property owned by the same owner; creating s. 704.09, F.S.; authorizing an owner of real property to create an easement, servitude, or other interest in the owner's real property and providing that such easement, servitude, or other interest is valid; providing construction and applicability; providing that the act does not revive or reinstate a right or interest that has been adjudicated invalid before a certain date; providing an effective date.

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

Section 1. Section 704.09, Florida Statutes, is created to read:

704.09 Creation of easements, servitudes, and other interests affecting real property owned by the same owner.—

(1) An owner of real property may create an easement, servitude, or other interest in the owner's real property, and such easement, servitude, or other interest is valid notwithstanding that the owner owns all of the affected real property.

(2) Subsection (1) clarifies existing law and applies to, without limitation, any easement, including, but not limited to, utility easements, access easements, parking easements, negative easements, environmental easements, and solar easements; surface water management agreements; or any other rights in the nature of an easement, servitude, profit, use right, restriction,

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

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obligation, condition, reservation, or other covenant, contained in a written instrument, whether denominated as an easement, deed, plat, declaration, covenant, condition, restriction, servitude, or otherwise.

(3) This section does not revive or reinstate any right or interest that has been fully and finally adjudicated as invalid before the effective date of this act.

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 5, 2024

I respectfully request that **Senate Bill #814**, relating to Easements Affecting Real Property Owned by the Same Owner, be placed on the:

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

A handwritten signature in cursive script that reads "Clay Yarborough".

Senator Clay Yarborough
Florida Senate, District 4

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 Rules

BILL: SB 832

INTRODUCER: Senator Calatayud

SUBJECT: Employment of Individuals with Disabilities

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2. <u>Renner</u>	<u>McKay</u>	<u>CM</u>	Favorable
3. <u>Brick</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 832 adds requirements relating to data sharing and accountability measures to the roles, responsibilities, and objectives included in the Employment First Act to achieve better employment outcomes for individuals with disabilities.

The bill also requires the Office of Reimagining Education and Career Help to issue an annual statewide report by December 1 each year on the implementation of the Employment First Act and progress made on the accountability measures.

The bill takes effect July 1, 2024.

II. Present Situation:

The Employment First Act

Employment is the most direct and cost-effective means to assist an individual in achieving independence and fulfillment; however, individuals with disabilities are confronted by unique barriers to employment which inhibit their opportunities to compete fairly in the labor force. The Employment First Act provides a framework for a long-term commitment to improving employment outcomes for individuals with disabilities.¹ The Employment First Act:²

- Prioritizes employment of individuals with disabilities and improves the employment system to better integrate individuals with disabilities into the workforce; and
- Encourages a collaborative effort between state agencies and organizations to achieve better employment outcomes for individuals with disabilities.

¹ Section 413.80(2), F.S.

² Section 413.80(3), F.S.

The Employment First Act requires certain state agencies and organizations, and others, as appropriate, to develop an interagency cooperative agreement. The agencies that must participate in developing the agreement include:³

- The Division of Vocational Rehabilitation of the Department of Education.
- The Division of Blind Services of the Department of Education.
- The Bureau of Exceptional Education and Student Services of the Department of Education.
- The Agency for Persons with Disabilities.
- The Substance Abuse and Mental Health Program Office of the Department of Children and Families.
- The Department of Commerce.
- CareerSource Florida, Inc.
- The Florida Developmental Disabilities Council.
- The Florida Association of Rehabilitation Facilities.

The interagency cooperative agreement must identify its objectives and the roles and responsibilities of the state agencies and organizations. The objectives of the agreement must include:⁴

- Establishing a commitment by leadership of the state agencies and organizations to maximize resources and coordination to improve employment outcomes for individuals with disabilities who seek publicly funded services.
- Developing strategic goals and benchmarks to assist the state agencies and organizations in the implementation of the agreement.
- Identifying financing and contracting methods that will help to prioritize employment for individuals with disabilities by state agencies and organizations.
- Establishing training methods to better integrate individuals with disabilities into the workforce.
- Ensuring collaborative efforts between multiple agencies to achieve the purposes of the Employment First Act.
- Promoting service innovations to better assist individuals with disabilities in the workplace.
- Identifying accountability measures to ensure the sustainability of the agreement.

Florida's current interagency cooperative agreement remains in effect until June 30, 2024.⁵

Office of Reimagining Education and Career Help

In 2021, the Legislature passed the Reimagining Education and Career Help Act (REACH Act). The REACH Act serves to address the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training and equity and access to a more integrated workforce and education system.⁶

³ Section 413.80(4), F.S.

⁴ Section 413.80(5), F.S.

⁵ The Able Trust, *Maximizing Employment for Persons with Disabilities in Florida* (Nov. 28, 2023), available at <https://www.abletrust.org/wp-content/uploads/2023/12/FINAL-REPORT-11.28.2023.pdf> at 30 (last visited Jan. 29, 2024).

⁶ Chapter 2021-164, s. 1, Laws of Fla., codified at s. 14.36, F.S.

To facilitate alignment and coordination of entities responsible for Florida's workforce development system, the Office of Reimagining Education and Career Help (REACH Office) was created in the Executive Office of the Governor. The Director of the REACH Office is appointed by, and serves at the pleasure of, the Governor.⁷

The duties of the REACH Office are to:⁸

- Serve as an advisor to the Governor on matters related to the state's workforce development system.
- Establish criteria and goals for workforce development and diversification in Florida's workforce development system.
- Provide strategies to align and improve efficiency in Florida's workforce development system and the delivery of workforce related programs.
- Coordinate state and federal workforce related programs, plans, resources, and activities provided by CareerSource, the Department of Commerce, and the Department of Education (DOE).
- Oversee the workforce development information system designed by the DOE to verify the validity of data collected and monitor compliance of workforce related programs and education and training programs with applicable federal and state requirements as authorized by federal and state law.
- Serve on the Credentials Review Committee to identify non-degree and degree credentials of value and facilitate the collection of data necessary to conduct committee work.
- Coordinate and facilitate a memorandum of understanding for data sharing agreements of the state's workforce performance data among state agencies and align, to the greatest extent possible, adopted performance measures.
- Develop the criteria for assigning a letter grade for each local workforce development board.
- Streamline the clinical placement process and increase clinical placement opportunities for students, hospitals, and other clinical sites by administering, directly or through a contract, a web-based centralized clinical placement system for use by all nursing education programs subject to the requirements of nursing education program approval.
- Direct the objectives of the Talent Development Council.

The office is required to provide the public with access to available federal, state, and local services and provide stakeholders with a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information.⁹

The Florida Endowment Foundation for Vocational Rehabilitation

The Florida Endowment Foundation for Vocational Rehabilitation (Able Trust), is a direct support organization for the Division of Vocational Rehabilitation, within the DOE, that is intended to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.¹⁰ A board of directors, appointed by the Governor, oversees the operations of the Able Trust and ensures that funds are provided for programs or

⁷ Section 14.36(1), F.S.

⁸ Section 14.36(3)(a)-(j), F.S.

⁹ Section 14.36(5), F.S.

¹⁰ Section 413.615(5), F.S.

initiatives which engage in the research, promotion, or aid of job training and counseling for Florida's disabled citizens, and to support the work of the Division of Vocational Rehabilitation.¹¹

The Able Trust is required to conduct research and issue reports on the systems in Florida that provide services to individuals with disabilities, including autism and intellectual and developmental disabilities.¹² The board of the Able Trust was required to submit a report to the Legislature, and duly did so on November 28, 2023. The board was required to:¹³

- Identify the current systems for service delivery to persons with disabilities, including operations, services, coordination activities, and structures.
- Identify barriers and obstacles in transportation for persons with disabilities living in the home or receiving community-based services for jobs, medical appointments, and peer-to-peer groups.
- Identify workforce issues related to direct support professionals, behavioral or mental health specialists, health care practitioners, and other individuals who assist with the provision of services to persons with disabilities.
- Examine the best practices for uniform and efficient service delivery and the coordination of and transition among systems, including transitioning out of high school.
- Examine federal and state law and rules that impact or limit supports or services for persons with disabilities.
- Identify systemwide incongruity and inefficiencies in service delivery.
- Identify opportunities for job coaching and community participation supports, including those opportunities for individuals who cannot or choose not to go into the community because of underlying issues.

In the report, the board recommended that the partners to the interagency cooperative agreement should establish uniform employment outcome data and set targets for improvement that encompass various employment outcomes, including competitive or gainful employment.¹⁴ The board noted it would be particularly valuable for agencies if the employment outcome data and targets for improvement included the categories of:¹⁵

- Competitive integrated employment;¹⁶
- Non-integrated employment; and
- Sub-minimum wage employment.

The Able Trust noted that the centralization of data, reporting, and information on an interagency portal for streamlined service access, reporting, and follow-up may serve to enhance awareness

¹¹ Sections 413.615(4)(c), and (8)-(10), F.S.

¹² Section 413.615(10)(a)2., F.S.

¹³ Section 413.615(10)(a)2., F.S.

¹⁴ The Able Trust, *Maximizing Employment for Persons with Disabilities in Florida* (Nov. 28, 2023), available at <https://www.abletrust.org/wp-content/uploads/2023/12/FINAL-REPORT-11.28.2023.pdf> at 30 (last visited Jan. 29, 2024).

¹⁵ The Able Trust, *Maximizing Employment for Persons with Disabilities in Florida* (Nov. 28, 2023), available at <https://www.abletrust.org/wp-content/uploads/2023/12/FINAL-REPORT-11.28.2023.pdf> at 30 (last visited Jan. 29, 2024).

¹⁶ The term "competitive integrated employment" refers to full-time or part-time work (including self-employment) where an individual is paid at least minimum wage or the standard rate for similar work, is eligible for the same benefits as other employees, works in a setting where they interact with non-disabled individuals to a similar extent as their non-disabled counterparts, and has comparable opportunities for advancement. 29 U.S.C. s. 705(5).

and communication regarding post-secondary education and employment resources, employer-centric support and resources for individuals with disabilities, and awareness of resources related to transportation, housing, and benefits or medical assistance planning services.¹⁷

III. Effect of Proposed Changes:

SB 832 modifies s. 413.80, F.S., to add to the roles, responsibilities, and objectives of the interagency cooperative agreement that implements the Employment First Act to achieve better employment outcomes for individuals with disabilities.

The bill requires that the interagency cooperative agreement ensure that collaborative efforts between the agencies include the collection and sharing of data. The bill also requires that the accountability measures in the interagency cooperative agreement include, minimally, systemwide measures to:

- Increase the number of individuals working in competitive integrated employment;
- Decrease the number of individuals working in subminimum wage employment; and
- Decrease the number of individuals working in nonintegrated employment settings.

The bill also requires the Office of Reimagining Education and Career Help to issue an annual statewide report by December 1 each year on the implementation of the Employment First Act and progress made on the accountability measures.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁷ The Able Trust, *Maximizing Employment for Persons with Disabilities in Florida* (Nov. 28, 2023), available at <https://www.abletrust.org/wp-content/uploads/2023/12/FINAL-REPORT-11.28.2023.pdf> at 31 (last visited Jan. 29, 2024).

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 413.80 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.

By Senator Calatayud

38-01067-24

2024832__

A bill to be entitled

An act relating to employment of individuals with disabilities; amending s. 413.80, F.S.; requiring the collection and sharing of data between multiple agencies for the interagency cooperative agreement under the Employment First Act; providing requirements for accountability measures; requiring the Office of Reimagining Education and Career Help to issue an annual statewide report by a specified date each year; providing an effective date.

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

Section 1. Paragraphs (e) and (g) of subsection (5) of section 413.80, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

413.80 Employment First Act.—

(5) ROLES, RESPONSIBILITIES, AND OBJECTIVES.—The interagency cooperative agreement must identify the roles and responsibilities of the state agencies and organizations identified in subsection (4) and the objectives of the interagency cooperative agreement, which must include all of the following:

(e) Ensuring collaborative efforts between multiple agencies to achieve the purposes of this act, including the collection and sharing of data.

(g) Identifying accountability measures to ensure the sustainability of this agreement. At a minimum, the accountability measures shall include systemwide measures to

Page 1 of 2

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

38-01067-24

2024832__

increase the number of individuals working in competitive integrated employment, decrease the number of individuals working in subminimum wage employment, and decrease the number of individuals working in nonintegrated employment settings.

(6) ANNUAL REPORT.—The Office of Reimagining Education and Career Help shall issue an annual statewide report by December 1 each year on the implementation of this act and progress made on the accountability measures.

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

Page 2 of 2

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

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 Rules

BILL: CS/CS/SB 850

INTRODUCER: Rules Committee; Ethics and Elections Committee; and Senator DiCeglie

SUBJECT: Use of Artificial Intelligence in Political Advertising

DATE: February 9, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2.	<u>Biehl</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 850 creates a definition for “generative artificial intelligence” and requires a disclaimer be included on specified forms of political advertisements created with generative artificial intelligence (AI).

The bill specifies that in addition to any existing civil penalties provided by law, a person who pays for, sponsors, or approves a form of political advertisement which is required to include the AI disclaimer but fails to include it commits a first-degree misdemeanor. In addition, the bill prescribes an expedited process for resolution of a civil complaint to the Florida Elections Commission of a violation of the AI disclaimer requirement.

The bill takes effect July 1, 2024.

II. Present Situation:

Disclaimer Requirements for Political Advertising

Current law defines “political advertisement” to mean a paid expression in a communications medium,¹ whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly

¹ Section 106.011(4), F.S., defines “communications medium” to include broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail, advertising agencies, the Internet, and telephone companies.

advocates the election or defeat of a candidate or the approval or rejection of an issue.² However, the term does not include:

- A statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or in opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.
- Editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium.³

An "electioneering communication" is a text message or communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone which:

- Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and
- Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.⁴

Specified types of communications are exempted from the definition.⁵

Political advertisements, electioneering communications, and certain text message and telephone solicitations must disclose who approved and paid for the advertisement or communication.⁶ Voter guides also must include the required disclaimers, as applicable, and be marked "Voter Guide."⁷ In addition, any advertisement, other than a political advertisement, independent expenditure,⁸ or electioneering communication, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, must clearly designate the sponsor of such advertisement by including a statement of sponsorship.⁹

² Section 106.011(15), F.S.

³ *Id.*

⁴ Section 106.011(8)(a), F.S.

⁵ See s. 106.011(8)(b), F.S.

⁶ Sections 106.071, 106.143, 106.1439, and 106.147, F.S. A failure to include a required disclaimer for an electioneering communication or for a political advertisement paid for by independent expenditure constitutes a first-degree misdemeanor (ss. 106.1439(2) and 106.071(4), F.S.). A willful failure to include a required disclaimer for other political advertisements is subject to prescribed civil penalties (s. 106.143(11), F.S.). A willful violation of text message and telephone solicitation requirements constitutes a first-degree misdemeanor (s. 106.147(4), F.S.).

⁷ Section 106.1436, F.S. The term "voter guide" means direct mail that is either an electioneering communication or a political advertisement sent for the purpose of advocating for or endorsing particular issues or candidates by recommending specific electoral choices to the voter or by indicating issue or candidate selections on an unofficial ballot (s. 106.1436(1), F.S.). In addition to any other penalties provided by law, a person who fails to include the required disclaimer commits a first-degree misdemeanor (s. 106.1436(4), F.S.).

⁸ Section 106.011(12)(a), F.S., defines "independent expenditure" to mean an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.

⁹ Section 106.1437, F.S. The section does not specify a penalty for failure to include the required statement.

Generally, penalties for failure to include a required disclaimer apply to a “person” as defined in s. 106.011(14), F.S. – an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate or other combination of individuals having collective capacity. The term includes a political party, affiliated party committee, or political committee. Examples of past cases relating to existing Florida Election Code¹⁰ requirements that apply to a “person:”

- Allowed for an officer of a political committee to be held personally liable for failure to include a required disclaimer on a political advertisement;¹¹
- Imposed penalties on a political consulting firm and the president of the firm for failing to include disclaimers in, and report expenditures for, certain independent political advertisements;¹²
- Imposed penalties on a political committee for exceeding contribution limits;¹³ and
- Allowed a corporation to be criminally charged for exceeding a contribution limit.¹⁴

Florida law does not currently require a disclaimer for the use of artificial intelligence (AI) in any form of political advertising.

Florida Elections Commission

The Florida Elections Commission (commission) has jurisdiction¹⁵ to investigate and determine violations of campaign finance laws and other specified provisions of the Florida Election Code¹⁶ upon receipt of a report by the Division of Elections¹⁷ or a sworn complaint.¹⁸ Upon a finding of a violation of one of the laws under its jurisdiction, the commission, or in cases referred to the Division of Administrative Hearings, an administrative law judge, may impose fines up to \$2,500 per count.¹⁹

Election-Related Use of Artificial Intelligence

Effect of AI Use on Elections

Nationally, the proliferation of generative AI²⁰ use and its outpacing of government regulation has created concern among policymakers about its potentially negative effect on the electoral

¹⁰ Chapters 97-106, F.S., are known as “The Florida Election Code” (s. 97.011, F.S.).

¹¹ See *Fulton v. Division of Elections*, 689 So.2d 1180 (Fla. Dist. Ct. App. 1997).

¹² See *Guetzloe v. Florida Elections Commission*, 927 So.2d 942 (Fla. Dist. Ct. App. 2006).

¹³ See *Florida PBA-PAC v. Division of Elections*, 430 So.2d 483 (Fla. Dist. Ct. App. 1983).

¹⁴ See *Winn-Dixie Stores, Inc., v. State of Florida*, 408 So.2d 211 (Fla. 1982).

¹⁵ For the purposes of commission jurisdiction, a violation means the willful performance of an act prohibited by ch. 104 or 106, F.S., or the willful failure to perform an act required by such chapters. Willfulness is a determination of fact. Section 106.25(3), F.S.

¹⁶ Section 106.25(2), F.S. The commission is housed within the Department of Legal Affairs, but is not subject to the department’s control, supervision, or direction (s. 106.24(1), F.S.).

¹⁷ The Division of Elections is an administrative unit of the Department of State (s. 97.021(9), F.S.).

¹⁸ Section 106.25(4), F.S.

¹⁹ Section 106.265, F.S. The fine may be multiplied by a factor of 3, not to exceed \$7,500, after a person commits three counts of the same category of offense. If applicable, the commission or administrative law judge may instead impose a civil penalty as provided in s. 104.271 or s. 106.19, F.S.

²⁰ Generally speaking, it is the creation of new content that distinguishes generative AI from the artificial intelligence that is used to make predictions or carry out analytical tasks based on inputs and learned behaviors.

process. Specific concerns include, but are not limited to, voter misinformation by chatbots,²¹ phishing scams on election officials through AI-generated voices, and the use of deepfakes²² to deceive voters and damage political rivals. Over time, the use of AI may also erode trust in authentic information.²³

Federal Action

The current presidential administration has taken a number of actions related to use of AI generally, including creating a government website specific to the issue, creating an “AI Bill of Rights,” and issuing an executive order directing a range of federal agencies to establish guidelines and best practices for use of AI.²⁴

Legislative proposals from members of Congress related to AI and elections include:

- A comprehensive regulatory framework for AI that includes, among other provisions, assorted transparency requirements.²⁵
- Bills requiring political advertisements that include content generated by AI to bear a disclaimer stating such.²⁶
- A bill prohibiting the distribution of materially deceptive AI-generated audio or visual media relating to candidates for federal office.²⁷
- A bill prohibiting certain political communications that contain materially deceptive audio generated by AI which impersonates a candidate’s voice.²⁸

In addition, the Federal Elections Commission received a petition asking the commission to clarify in rule that AI-generated campaign advertisements are subject to a statutory prohibition against fraudulent misrepresentation of other candidates or political parties.²⁹ The commission sought public testimony on the petition. Public comment closed on October 16, 2023, and the commission has not yet taken further action.³⁰

²¹ IBM defines “chatbot” to mean a computer program that simulates human conversation with an end user (see *What is a Chatbot?*, available at <https://www.ibm.com/topics/chatbots> (last visited January 12, 2024)).

²² Although exact definitions of “deepfake” vary, all reflect a depiction of something that has not actually occurred. Merriam-Webster, for example, defines “deepfake” to mean an image or recording that has been convincingly altered and manipulated to misrepresent someone as doing or saying something that was not actually said or done (see <https://www.merriam-webster.com/dictionary/deepfake>, last visited January 12, 2024).

²³ National Conference of State Legislatures, *Challenges Ahead for Lawmakers Seeking to Legislate AI in Campaigns*, available at https://www.ncsl.org/state-legislatures-news/details/challenges-ahead-for-lawmakers-seeking-to-legislate-ai-in-campaigns?utm_source=national+conference+of+state+legislatures&utm_term=0_-61bea1f450-%5blist_email_id%5d&utm_campaign=8fbf8e40e8-canvass-jan-4&utm_medium=email (last visited January 12, 2024).

²⁴ See [ai.gov](https://www.ai.gov) (last visited January 12, 2024), and Executive Order No. 14110, *Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, 88 Fed. Reg. 75191 (Oct. 30, 2023).

²⁵ By Senators Richard Blumenthal and Josh Hawley. A bill has not yet been filed.

²⁶ S. 1596 (Senator Amy Klobuchar) and H.R. 3044 (Representative Yvette Clarke). Instead of providing a definition for “artificial intelligence” within the bills, the legislation directs the Federal Election Commission to create a definition.

²⁷ S. 2077 (Senator Amy Klobuchar).

²⁸ H.R. 4611 (Representative Adriano Espaillat).

²⁹ The statutory prohibition is found in 52 U.S.C. 30124.

³⁰ Federal Elections Commission, *Comments sought on amending regulation to include deliberately deceptive Artificial Intelligence in campaign ads*, <https://www.fec.gov/updates/comments-sought-on-amending-regulation-to-include-deliberately-deceptive-artificial-intelligence-in-campaign-ads/> (last visited January 12, 2024). Also see Pillsbury Law, *Artificial Intelligence-Generated Content in Political Ads Raises New Concerns for Broadcasters*, available at <https://www.pillsburylaw.com/en/news-and-insights/ai-generated-content-broadcasters.html> (last visited January 12, 2024).

Related to robocalls generally, on February 8, 2024, the Federal Communications Commission released an order that interprets the Telephone Consumer Protection Act’s restrictions on the use of “artificial or prerecorded voice”³¹ to encompass current AI technologies that generate human voices.³² As a result, calls that use such technologies, including political calls, will “require the prior express consent of the called party to initiate such calls absent an emergency purpose or exemption.”³³

Other States

The National Conference of State Legislatures reports the following 2023 state legislation related to the use of AI in elections and campaigns:

- In Arizona, a vetoed bill prohibiting use of AI in voting systems.
- In Illinois, a failed bill prohibiting the use of deepfake videos to influence an election 30 days prior to an election.
- In Indiana, a failed bill requiring a disclosure on doctored media used to influence an election.
- In Michigan, enacted bills requiring a disclosure on political ads generated by AI and prohibiting the publication of materially deceptive media 90 days prior to an election where a candidate will appear on the ballot, unless it includes a disclosure that the media has been manipulated.
- In Minnesota, an enacted bill prohibiting the publication of deepfake media to influence an election 90 days prior to an election.
- In New Jersey, failed bills prohibiting the publication of deceptive media for a specified number of days prior to an election where a candidate will appear on the ballot, unless it includes a disclosure that the media has been manipulated, and prohibiting the use of videos that falsely depict an election or policy debate.
- In New York, failed bills prohibiting the use of synthetic media to influence an election and requiring political communications that contain synthetic media to contain a disclaimer.
- In Washington, an enacted bill requiring a disclosure on synthetic media used to influence an election.
- In Wisconsin, a pending bill requiring political communications that contain synthetic media to contain a disclaimer.³⁴

In 2019, Texas created a criminal offense for creating or distributing a “deep fake video” created with AI, with the intent to deceive and injure a candidate or influence the result of an election, which depicts a real person performing an action that did not occur in reality.³⁵

³¹ See 47 U.S.C. § 227(b); 47 CFR § 64.1200(a)(1), (3).

³² The Telephone Consumer Protection Act of 1991 regulates any call made using an “automatic telephone dialing system” or an artificial or prerecorded voice. Any such call is considered a “robocall.” See Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), *codified at* 47 U.S.C. § 227.

³³ Federal Communications Commission declaratory ruling, *In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, released February 8, 2024.

³⁴ National Conference of State Legislatures, *Artificial Intelligence (AI) in Elections and Campaigns*, available at <https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns> (last visited January 12, 2024).

³⁵ *Deepfakes in Texas: What are they and are they illegal?*, available at <https://versustexas.com/deepfakes/> (last visited January 12, 2024). See also LegiScan, *TX SB751, 2019-2020*, <https://legiscan.com/TX/bill/SB751/2019> (last visited January 12, 2024).

III. Effect of Proposed Changes:

This bill creates a definition for “generative AI” and requires certain types of political advertising to bear a disclaimer if created with AI.

Specifically, the bill defines “generative AI” to mean a machine-based system that can, for a given set of human-defined objectives, emulate the structure and characteristics of input data in order to generate derived synthetic content, including images, video, audio, text, and other digital content.

The bill requires a political advertisement, electioneering communication, or other miscellaneous advertisement of a political nature that 1) contains images, video, audio, graphics, or other digital content created in whole or in part with the use of generative AI, 2) appears to depict a real person performing an action that did not actually occur, and 3) was created with intent to injure a candidate or to deceive regarding a ballot issue, to prominently state the following disclaimer: “Created in whole or in part with the use of generative artificial intelligence (AI).” The bill prescribes additional disclaimer characteristics for specific types of generated content, as follows:

- For a printed communication, the disclaimer must be stated in bold font with a font size of at least 12 points.
- For a television or video communication, the disclaimer must be clearly readable throughout the communication and occupy at least 4 percent of the vertical picture height.
- For an internet public communication³⁶ that includes text or graphic components, the disclaimer must be viewable without the user taking any action and be large enough to be clearly readable.
- For any audio component of a communication, the disclaimer must be at least 3 seconds in length and spoken in a clearly audible and intelligible manner at either the beginning or the end of the audio component.
- For a graphic communication, the disclaimer must appear in letters at least as large as the majority of the text in the communication.

In addition to any civil penalties provided by law,³⁷ a person³⁸ who pays for, sponsors, or approves a political advertisement, electioneering communication, or other miscellaneous advertisement of a political nature which is required to contain the AI disclaimer but fails to include it commits a first-degree misdemeanor. The bill provides an expedited process for resolution of a civil complaint to the Florida Elections Commission of a violation of this disclaimer requirement.

The bill takes effect July 1, 2024.

³⁶ As used in federal regulations, “public communications” include electioneering communications and any other form of general public political advertising (*see* 11 C.F.R. § 100.26).

³⁷ Section 106.265, F.S., provides that the Florida Elections Commission or the Division of Administrative Hearings may, upon the finding of a violation of ch. 104 or ch. 106, F.S., impose specified civil penalties.

³⁸ The definition of “person” in s. 106.011(14), F.S., applies.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution promotes the free exchange of ideas and information by prohibiting the government from restricting speech because of the message expressed.³⁹ Content-based restrictions are presumptively invalid.⁴⁰ Among specific rights, the First Amendment protects the right to associate for expressive or political activity. The government may infringe upon this right only if it has a compelling interest unrelated to the suppression of speech and if the interest cannot be achieved through significantly less restrictive means.⁴¹

This bill does not prohibit or restrict the content of political speech generated by AI. Instead, it requires certain political advertisements created using AI to bear a disclaimer.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

³⁹ See, e.g., *Texas v. Johnson* (491 U.S. 397 (1989)); *State v. T.B.D.*, 656 So.2d 479 (Fla. 1995).

⁴⁰ See, e.g., *Police Dept. of Chicago v. Mosley*, 408 U.S. 92 (1972).

⁴¹ *City of Dallas v. Stanglin*, 490 U.S. 19 (1989).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 106.145.

IX. Additional Information:

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

CS/CS by Rules on February 8, 2024:

The committee substitute:

- Specifies additional requirements for the disclaimer in various types of content;
- Clarifies that in addition to the criminal penalty provided by the bill, a failure to include the required disclaimer is subject to existing civil penalties; and
- Clarifies that the person who can be held liable for a failure to include the required disclaimer is the person who must otherwise be listed in a disclaimer as paying for, sponsoring, or approving the advertisement or communication.

CS by Ethics and Elections on January 16, 2024:

The committee substitute:

- Adds to the criteria a political advertisement must meet in order for the disclaimer to apply a requirement that the generated content be created with intent to injure a candidate or to deceive regarding a ballot issue;
- Removes specific reference to the civil penalties prescribed in law for violations of the Election Code; and
- Makes failure to include the disclaimer required by the bill a first-degree misdemeanor.

- B. **Amendments:**

None.



223070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 30 - 45
and insert:
political nature contains images, video, audio, graphics, or
other digital content created in whole or in part with the use
of generative artificial intelligence, if the generated content
appears to depict a real person performing an action that did
not actually occur, and if the generated content was created
with intent to injure a candidate or to deceive regarding a
ballot issue, the political advertisement, electioneering



223070

communication, or other miscellaneous advertisement must
prominently state the following disclaimer: "Created in whole or
in part with the use of generative artificial intelligence
(AI)."

(3) The disclaimer must:

(a) For a printed communication, be stated in bold font
with a font size of at least 12 points.

(b) For a television or video communication, be clearly
readable throughout the communication and occupy at least 4
percent of the vertical picture height.

(c) For an Internet public communication that includes text
or graphic components, be viewable without the user taking any
action and be large enough to be clearly readable.

(d) For any audio component of a communication, be at least
3 seconds in length and spoken in a clearly audible and
intelligible manner at either the beginning or the end of the
audio component of the communication.

(e) For a graphic communication, appear in letters at least
as large as the majority of the text in the communication.

(4) (a) In addition to any civil penalties provided by law,
a person who pays for, sponsors, or approves a political
advertisement, an electioneering communication, or other
miscellaneous advertisement of a political nature which is
required to contain the disclaimer prescribed in this section
and who fails to include the required disclaimer commits a
misdemeanor of the first degree,

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

And the title is amended as follows:



223070

41 Delete line 8
42 and insert:
43 disclaimer; specifying requirements for the
44 disclaimer; providing for civil and criminal
45 penalties;

By the Committee on Ethics and Elections; and Senator DiCeglie

582-02132-24

2024850c1

1 A bill to be entitled
2 An act relating to the use of artificial intelligence
3 in political advertising; creating s. 106.145, F.S.;
4 defining the term "generative artificial
5 intelligence"; requiring that certain political
6 advertisements, electioneering communications, or
7 other miscellaneous advertisements include a specified
8 disclaimer; providing for criminal penalties;
9 authorizing the filing of complaints regarding
10 violations with the Florida Elections Commission;
11 requiring the commission to adopt specified rules;
12 requiring the director of the Division of
13 Administrative Hearings to assign an administrative
14 law judge to provide an expedited hearing if certain
15 conditions exist; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Section 106.145, Florida Statutes, is created to
20 read:
21 106.145 Use of artificial intelligence.—
22 (1) As used in this section, the term "generative
23 artificial intelligence" means a machine-based system that can,
24 for a given set of human-defined objectives, emulate the
25 structure and characteristics of input data in order to generate
26 derived synthetic content, including images, video, audio, text,
27 and other digital content.
28 (2) If a political advertisement, electioneering
29 communication, or other miscellaneous advertisement of a

Page 1 of 2

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30 political nature contains images, video, audio, text, or other
31 digital content created in whole or in part with the use of
32 generative artificial intelligence, the generated content
33 appears to depict a real person performing an action that did
34 not actually occur, and the generated content was created with
35 intent to injure a candidate or to deceive regarding a ballot
36 issue, the political advertisement, electioneering
37 communication, or other miscellaneous advertisement must
38 prominently state the following disclaimer: "Created in whole or
39 in part with the use of generative artificial intelligence
40 (AI)."
41 (3) (a) A person who fails to include the disclaimer
42 prescribed in this section in any political advertisement,
43 electioneering communication, or other miscellaneous
44 advertisement of a political nature which is required to contain
45 such disclaimer commits a misdemeanor of the first degree,
46 punishable as provided in s. 775.082 or s. 775.083.
47 (b) A person may file a complaint with the Florida
48 Elections Commission pursuant to s. 106.25 alleging a violation
49 of this section. The commission shall adopt rules to provide an
50 expedited hearing of complaints filed under this section, or, in
51 cases referred to the Division of Administrative Hearings
52 pursuant to s. 106.25(5), the director shall assign an
53 administrative law judge to provide an expedited hearing.
54 Section 2. This act shall take effect July 1, 2024.

Page 2 of 2

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THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 31, 2024

Dear Chair Mayfield,

I respectfully request that **SB 850: Use of Artificial Intelligence in Political Advertising** be placed on the agenda of the Committee on Rules at your earliest convenience.

- This bill creates a definition for “generative artificial intelligence” and requires a disclaimer be included on specified forms of political advertisements created with generative artificial intelligence (AI).

If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

The Florida Senate

APPEARANCE RECORD

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2/8/24

Meeting Date

Rules

Committee

SB 850

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Amy Keith

Phone

727 342 0730

Address

333 3rd Ave N Unit 214

Email

akeith@commoncause.org

Street

St Petersburg

City

FL

State

33701

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:

Common Cause 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)

February 8, 2024

Meeting Date

Rules

Committee

Name

Pamela Burch Fort

Address

104 S. Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate
APPEARANCE RECORD

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850

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

850-425-1344

Email

TcgLobby@aol.com

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

NAACP Florida State Conference

☐

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 Rules

BILL: CS/SB 984

INTRODUCER: Judiciary Committee and Senator Rouson

SUBJECT: Judgment Liens

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2. <u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	Favorable
3. <u>Bond</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 984 is a glitch bill that makes several changes to legislation relating to judgment liens enacted during the 2023 Legislative Session. These changes:

- Clarify that a judgment lien in payment intangibles and accounts only applies to property interests that are located in the state,
- Allow filing of a corrective judgment lien certificate,
- Provide that the Uniform Commercial Code lien priority law prevails over the lien priority of the statute on judgments, and
- Authorize an account debtor to pay a judgment creditor in lieu of paying the judgment debtor pursuant to a settlement agreement between the judgment creditor and judgment debtor without the need for a final order or judgment directing payment.

The bill is effective July 1, 2024.

II. Present Situation:

Judgment Liens - In General

If a court enters a civil judgment, it creates a judgment debtor and a judgment creditor. Should the judgment debtor fail or refuse to pay the amount of the judgment, the judgment creditor may elect to use statutory methods for the involuntary sale of property or the involuntary transfer of money to partially or fully satisfy the judgment.

A common method of judgment collection is the imposition of a judgment lien.¹ The main benefit of a judgment lien is that the judgment debtor can no longer easily sell the property because any purchaser would, generally speaking, acquire the property subject to the lien. A lien in real property is created by recording a certified copy of the judgment in the county in which the real property is located.² Liens against personal property, however, are not so simple.

A general lien against personal property is created by recording a judgment lien certificate with the Florida Department of State (DOS).³ Before July 1, 2023, Florida law did not allow a judgment lien to attach to intangible personal property, such as royalty rights and the right to receive rents or payments for the sale of goods or services.⁴ Thus, a judgment debtor's intangible personal property remained outside the reach of a judgment creditor even though the value of such property might have been significant and sufficient to satisfy the judgment lien. During the 2023 Legislative Session, however, the Legislature passed the Judgment Lien Improvement Act which, in pertinent part, allows a judgment lien to attach to certain types of intangible personal property (specifically payment intangibles and accounts and the proceeds thereof) and specified the priority of such liens as against pre-existing security agreements in which such property was pledged as collateral to secure the loan.⁵

Filing a judgment lien certificate does not encumber all personal property. Florida law provides that a judgment lien on a motor vehicle or vessel, though enforceable against the judgment debtor, is not enforceable against creditors or subsequent purchasers for value unless the lien is noted on the title certificate.⁶ The Judgment Lien Improvement Act simplified the process for filing a lien that will appear on the title certificate.

Secured Transactions Under the UCC

The Uniform Commercial Code (UCC), adopted in all fifty states, is a set of laws governing and providing uniformity in commercial transactions.⁷ Florida's UCC provisions are codified in chapters 670-680 of the Florida Statutes.

Article 9 of the UCC (codified in ch. 679, F.S.) governs secured transactions, meaning transactions involving the granting of credit under a security agreement in exchange for the borrower's pledge of personal property (collateral) which the secured party may take possession

¹ A lien is a claim against property that evidences a debt, obligation, or duty. Fla. Jur. 2d Liens s. 37:1.

² Recording the certified copy of the judgment establishes the lien's priority; in other words, the recording of the judgment generally guarantees that the lienholder will be paid before lienholders with later-recorded liens on the same property. However, homestead property is exempt from the reach of creditors. S. 55.10(1), F.S.; art. X, s. 4, Fla. Const.; s. 55.10(1), F.S.

³ The judgment lien certificate establishes the lien's priority; in other words, the filing of a judgment lien certificate generally guarantees that the lienholder will be paid before lienholders with later-perfected liens on the judgment debtor's tangible personal property.

⁴ Section 56.061, F.S.

⁵ Chapter 2023-300, L.O.F.

⁶ "Title certificate" means the record that is evidence of ownership of a vehicle, whether a paper certificate authorized by the Department of Highway Safety and Motor Vehicles or a certificate consisting of information that is stored in an electronic form in the department's database. Ss. 319.001(1) and 319.27(2), F.S.

⁷ Chapters 670-680, F.S.; Uniform Law Commission, *Uniform Commercial Code*, <https://www.uniformlaws.org/acts/ucc> (last visited Jan. 25, 2024).

of if the debtor defaults on the loan.⁸ In addition to tangible personal property, collateral recognized by the UCC includes accounts and payment intangibles.

Priority between Competing Liens

Judgment liens in real property are filed with the clerk of court (or county recorder in certain counties) in the same place and manner as mortgages and other liens. A judgment lien in real property stands in line with the mortgages and other liens, equally taking priority according to the date filed (earlier takes priority over later filed).

Similarly, judgment liens against personal property (including intangibles) are filed with the Department of State in the same place and manner as UCC filing statements. The judgment lien law follows the same priority for liens in personal property as real property -- by date of filing.⁹ However, UCC liens are of two general types -- general (encompassing some or all of a debtor's property) and purchase money (taking a lien against specific goods bought with the loan). Under the UCC, most purchase money liens have priority over general liens as to the specific property that was purchased with the money.¹⁰ Additionally, a possessory lien in personal property may take priority under the UCC over an earlier filed lien.¹¹

Effect of Judgment Lien Certificate Improperly Filed

A judgment lien certificate may be filed with the Department of State only after the judgment has become final and if the time to move for rehearing has lapsed, no motion for rehearing is pending, and no stay of the judgment or its enforcement is then in effect.¹² A court may authorize, for cause shown, the filing of a judgment lien certificate before a judgment has become final when the court has authorized the issuance of a writ of execution in the same matter. A judgment lien certificate not filed in compliance with these statutory requirements is permanently void and of no effect. This means that a judgment creditor who files the judgment lien certificate earlier than allowed may lose all rights to the lien.¹³

Redirection of Payment Intangibles or Accounts

The Judgment Lien Improvement Act added that accounts and payment intangibles are forms of intangible personal property to which a judgment lien may now attach. A third party owing money to a judgment debtor that is classified as payment intangibles or accounts ("account debtor") must stop paying the judgment debtor only when the account debtor is served by process with a complaint or petition by the judgment creditor seeking judicial relief with respect

⁸ The UCC right of the creditor to take possession of personal property, sell it, and apply the proceeds to the debt is in contrast with the traditional remedies of foreclosure against real property and execution against personal property. Because real property does not move, foreclosure leaves the debtor in possession of the real property up to the time of sale. Because personal property can move, traditional judgment enforcement against personal property entails seizure by the sheriff and sale at auction.

⁹ Section 55.202(3), F.S.

¹⁰ Section 679.324, F.S.

¹¹ Section 679.333, F.S.

¹² Section 55.202(2)(b), F.S.

¹³ *In re Pullum*, 598 B.R. 489 (Bankr. N.D. Fla. 2019).

to the payment intangibles or accounts. Thereafter, the account debtor may discharge the account debtor's payment obligation only in accordance with a final order or judgment.

III. Effect of Proposed Changes:

The bill clarifies that a judgment lien in payment intangibles and accounts applies only to property interests that are located in the state.

The bill provides that, if a judgment lien certificate is void for having been filed improperly, the judgment creditor may file a judgment lien certificate that is in compliance with the filing requirements. The priority of the lien will be set according to the filing that was in compliance.

The bill provides that if there are conflicting rights between a judgment lienholder and a UCC lienholder, the UCC lien priority law prevails over the lien priority of the statute on judgments.

The bill adds that an account debtor may lawfully pay a judgment creditor in lieu of paying the judgment debtor pursuant to a settlement agreement between the judgment creditor and judgment debtor, as opposed to payment only with a final order or judgment directing payment.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in reduced legal costs and collection costs by clarifying the rights and duties of debtors, creditors, and related parties.

C. Government Sector Impact:

The bill by reducing potential ambiguities may reduce litigation and burdens on the state courts system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 55.202, 55.205, and 55.208.

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

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

CS by Judiciary on January 16, 2024:

The CS makes a technical change to maintain current law providing that a judgment lien applies only to property located within the state.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Rouson

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A bill to be entitled

An act relating to judgment liens; amending s. 55.202, F.S.; authorizing a judgment lien to be acquired on specified personal property and in all payment intangibles and accounts of a judgment debtor whose location is in this state; defining terms; providing that the filing of a noncompliant judgment lien certificate does not preclude the filing of a new certificate that complies with specified requirements; specifying the provisions that must be used to determine the priority of conflicting rights between a judgment lienholder and a secured party; amending s. 55.205, F.S.; specifying that the rights of certain judgment creditors to proceed against a judgment debtor's property are subject to certain provisions; providing that an account debtor may discharge certain obligations through a settlement agreement; amending s. 55.208, F.S.; prohibiting security interests and liens on payment intangibles or accounts and the proceeds thereof from taking priority over payment intangibles or accounts by a judgment lien certificate filed before a specified date; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 55.202, Florida Statutes, are amended to read:

55.202 Judgments, orders, and decrees; lien on personal

Page 1 of 5

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property.—

(2) A judgment lien may be acquired on a judgment debtor's interest in all personal property in this state subject to execution under s. 56.061 ~~and in all, including~~ payment intangibles and accounts of a judgment debtor whose location is in this state as established by s. 679.3071, as those terms are defined in s. 679.1021(1), and the proceeds thereof, but excluding fixtures, money, negotiable instruments, and mortgages. As used in this subsection, the terms "payment intangibles," "account," and "proceeds" have the same meaning as in s. 679.1021(1).

(a) For payment intangibles and accounts and the proceeds thereof:

1. The rights of a judgment lienholder under this section are subject to the rights under chapter 679 of a secured party, as defined in s. 679.1021(1), who has a prior filed financing statement encumbering such payment intangibles or accounts and the proceeds thereof.

2. This section does not affect the obligation under s. 679.607(1) of an account debtor, as defined in s. 679.1021(1), except as the rights and obligations under this paragraph are otherwise adjudicated under applicable law in a legal proceeding to which the secured party and account debtor are joined as parties.

(b) A judgment lien is acquired by filing a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if the time to move for rehearing has lapsed, no motion for rehearing is pending, and no stay of the judgment or its enforcement is then

Page 2 of 5

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in effect. A court may authorize, for cause shown, the filing of a judgment lien certificate before a judgment has become final when the court has authorized the issuance of a writ of execution in the same matter. A judgment lien certificate not filed in compliance with this subsection is permanently void and of no effect but does not preclude the filing of a judgment lien certificate that is in compliance with this subsection.

(c) For any lien, warrant, assessment, or judgment collected by the Department of Revenue, a judgment lien may be acquired by filing the judgment lien certificate information or warrant with the Department of State in accordance with subsection (5).

(d) Except as provided in s. 55.208, the effective date of a judgment lien is the date, including the time of day, of filing. Although no lien attaches to property, and a creditor does not become a lien creditor as to liens under chapter 679, until the debtor acquires an interest in the property, priority among competing judgment liens is determined in order of filing date and time.

(e) Except as provided in s. 55.204(3), a judgment creditor may file only one effective judgment lien certificate based upon a particular judgment.

(3) Except as otherwise provided in s. 55.208, the priority of a judgment lien acquired in accordance with this section or s. 55.204(3) is established at the date and time the judgment lien certificate is filed. The priority of conflicting rights between a judgment lienholder under this section and a secured party as defined in s. 679.1021 must be determined as provided under chapter 679.

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Section 2. Subsection (1), paragraph (a) of subsection (5), and subsection (7) of section 55.205, Florida Statutes, are amended to read:

55.205 Effect of judgment lien.—

(1) A judgment creditor who has not acquired a judgment lien as provided in s. 55.202 or whose lien has lapsed may nevertheless proceed against the judgment debtor's property through any appropriate judicial process, subject to the priority of conflicting rights under chapter 679 of a secured party as defined in s. 679.1021(1). Such judgment creditor proceeding by writ of execution acquires a lien as of the time of levy and only on the property levied upon.

(5)(a) If the judgment debtor's personal property, to the extent not exempt from execution, includes a motor vehicle or a vessel for which a Florida certificate of title has been issued, a judgment lien acquired under this section on such property not yet noted on the certificate of title is valid and enforceable against the judgment debtor. However, enforceability under this chapter of such judgment lien against creditors or subsequent purchasers is determined as provided under s. 319.27(2), ~~or~~ s. 328.14, or chapter 679, as applicable.

(7) Notwithstanding the attachment of a judgment lien acquired under s. 55.202 to payment intangibles or accounts and the proceeds thereof, the account debtor may, absent receipt of notice under s. 679.607(1)(a) from a secured party, discharge the account debtor's obligation to pay payment intangibles or accounts or the proceeds thereof by paying the judgment debtor until, but not after, the account debtor is served by process with a complaint or petition by the judgment creditor seeking

590-02129-24

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judicial relief with respect to the payment intangibles or accounts. Thereafter, the account debtor may discharge the account debtor's obligation to pay payment intangibles or accounts or the proceeds thereof under this section only in accordance with a settlement agreement, final order, or judgment issued in such judicial process that complies with this section.

Section 3. Subsection (1) of section 55.208, Florida Statutes, is amended to read:

55.208 Effect of prior liens on payment intangibles and accounts; effect of filed judgment lien on writs of execution previously delivered to a sheriff.—

(1) A judgment lien under s. 55.202 existing before October 1, 2023, becomes enforceable and perfected as of October 1, 2023, as to payment intangibles and accounts and the proceeds thereof of a judgment debtor under s. 55.202(2). Any security interest or lien on payment intangibles or accounts and the proceeds thereof of a judgment debtor which is enforceable and perfected before October 1, 2023, continues to have the same rights and priority as existed before October 1, 2023, and may not take priority over ~~be primed as to~~ payment intangibles or accounts by a judgment lien certificate filed before October 1, 2023.

Section 4. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

Senator Debbie Mayfield
Chair, Committee on Rules
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Mayfield,

I write today respectfully requesting that SB 984, Judgment Liens, be added to the agenda of a forthcoming meeting of the Committee on Rules for consideration. This is a glitch bill that makes several changes to legislation relating to judgment liens enacted during the 2023 Legislative Session, including allowing the filing of a corrective judgment lien certificate. I look forward to the opportunity to present SB 984 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in cursive script that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

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

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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2/8/24

Meeting Date

Rules

Committee

SB 984

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kenneth Pratt

Phone 850-509-8020

Address 1001 Thomasville Rd Ste 201
Street

Email kpratt@floridabankers.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Bankers Association

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

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

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S-001 (08/10/2021)

2/8/24

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

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SB 984

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Aimee Diaz Lyon

Phone

850-205-9000

Address

119 South Monroe Street #200

Email

adl@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:

☐

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

the Business Law Section of the Florida Bar

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 Rules

BILL: CS/CS/SB 988

INTRODUCER: Rules Committee; Banking and Insurance Committee; and Senator Martin

SUBJECT: Public Records/My Safe Florida Home Program

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Fav/CS
2.	Thomas	Twogood	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 988 provides that certain information within applications and home inspection reports submitted by applicants as part of the My Safe Florida Home (MSFH) Program to the Department of Financial Services (DFS) is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The information made exempt by the bill is:

- The components of the applicant's mailing address other than the city, zip code, and the addressee's name;
- Any phone number or email address provided by the applicant; and
- Detailed descriptions and pictures of the inside and outside of applicants' homes.

The bill applies the exemption retroactively to applications and home inspection reports submitted before, on, or after the effective date of the exemption.

The exemption is necessitated because it is believed that public availability of this information puts participants in the MSFH Program at increased risk of home invasions and reduces privacy in their homes. Such risk may be significantly limited by making such information exempt.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date. The bill provides a statement of public necessity as required by the Florida Constitution.

The bill requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

There is no anticipated fiscal impact on state, county, or municipal governments. Agency costs incurred in responding to public records requests for the specified information should be offset by authorized fees.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The Florida 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

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

It 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

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted. Section 119.011(12), F.S., defines “public records” to include:

all 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 connection with the transaction of official business by any agency.⁶

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

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.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

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.

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;²⁰
- 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;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.

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

My Safe Florida Home Program

In 2006, the Legislature created the My Safe Florida Home (MSFH) Program²⁶ within the Department of Financial Services (DFS).²⁷ The MSFH Program was created with the intent to provide trained and certified inspectors to perform mitigation inspections for owners of site-built, single-family, residential properties (mitigation inspections), and mitigation grants to eligible applicants, subject to the availability of funds.²⁸ In May 2022, during Special Session 2022-D, after the program being dormant since 2008, the Legislature reestablished the MSFH Program

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?
- 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 *Id.*

²⁷ The Legislature initially established the program as the Florida Comprehensive Hurricane Damage Mitigation Program (ch. 2006-12, L.O.F.) however, the name was subsequently changed in 2007 (ch. 2007-126, L.O.F.).

²⁸ Section 215.5586, F.S.

within the DFS to provide financial incentives for Florida residential property owners to obtain free home inspections which identify mitigation measures and provide mitigation grants to retrofit such properties, thereby reducing their vulnerability to hurricane damage and helping decrease the cost of residential property insurance.²⁹

Hurricane Mitigation Inspections

The MSFH Program provides licensed inspectors to perform inspections for owners of site-built, single-family, residential properties, for which a homestead exemption has been granted, to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. A townhouse as defined in s. 481.203, F.S.,³⁰ for which a homestead exemption has been granted, may qualify to receive a mitigation inspection to determine if opening protection³¹ mitigation would provide improvements to mitigate hurricane damage. The mitigation inspections must include, at a minimum:

- A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage;
- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.³²

Hurricane Mitigation Grants

The homeowner eligibility requirements for the mitigation grants are:

- The homeowner must have been granted a homestead exemption on the home;
- The home must be a dwelling with an insured value of \$700,000 or less. Low-income homeowners are exempt from this requirement;
- The home must have undergone an acceptable hurricane mitigation inspection;
- The building permit for the initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make the home available for inspection upon completion of the mitigation project.³³

MSFH Program grants must be matched on the basis of one dollar provided by the applicant for two dollars provided by the state, up to a maximum state contribution of \$10,000 toward the actual cost of the mitigation project.³⁴ Low-income homeowners may receive up to \$10,000 in grant funds without providing matching dollars.³⁵

²⁹ Section 3, ch. 2022-268, L.O.F.

³⁰ "Townhouse" generally means "a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units." Section 481.203(16), F.S.

³¹ Opening protection includes windows, exterior doors, and garage doors. See s. 215.5586(2)(e), F.S.

³² Section 215.5586(1)(a), F.S.

³³ Section 215.5586(2)(a), F.S.

³⁴ Section 215.5586(2)(b), F.S.

³⁵ Section 215.5586(2)(g), F.S.

III. Effect of Proposed Changes:

Section 1 of the bill provides that certain information within applications and home inspection reports submitted by applicants as part of the MSFH Program to the DFS is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The information made exempt by the bill is:

- The components of the applicant's mailing address other than the city, zip code, and the addressee's name;
- Any phone number or email address provided by the applicant; and
- Detailed descriptions and pictures of the inside and outside of applicants' homes.

The bill applies the exemption retroactively to applications and home inspection reports submitted before, on, or after the effective date of the exemption.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date.

Section 2 of the bill provides that the Legislature finds it is a public necessity that the information referred to in section 1 of the bill be made exempt. The public necessity statement notes:

Additionally, My Safe Florida Home Program applications and home inspection reports contain detailed descriptions and pictures of the inside and outside of applicants' homes, including private areas, points of entry, and other vulnerabilities. The public availability of this information puts participants in the My Safe Florida Home Program at increased risk of home invasions and reduces privacy in their homes. These risks may be significantly limited by making such information contained in My Safe Florida Home Program applications and home inspection reports exempt from public records requirements.

Section 3 of the bill provides for an effective date of upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 creates a new exemption and therefore, the bill will 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 contains a statement of public necessity.

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. The bill provides the specific information that would be made exempt to prevent the unintentional publication of information that may subject the filer to identity theft, financial harm, or other adverse impacts.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 215.5587.

IX. Additional Information:

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

CS/CS by Rules on February 8, 2024:

The committee substitute revises the public necessity statement in the bill to be more specific to the bill's exemptions.

CS by Banking and Insurance on January 29, 2024:

The committee substitute limits the My Safe Florida Home Program information made exempt by the bill to:

- The components of the applicant's mailing address other than the city, zip code, and the addressee's name;
- Any phone number or email address provided by the applicant; and
- Detailed descriptions and pictures of the inside and outside of applicants' homes.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Martin) recommended the following:

Senate Amendment

Delete lines 38 - 60
and insert:
necessity that the following information contained in
applications and home inspection reports submitted by applicants
as part of the My Safe Florida Home Program be made exempt from
s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
State Constitution: an applicant's name, certain components of
his or her mailing address, an applicant's phone number or e-
mail address, as well as descriptions and pictures of the inside



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12 and outside of an applicant's home. The Legislature further
13 finds that it is a public necessity that the public records
14 exemption be applied retroactively. More than 99 percent of all
15 home inspections and grant applications are completed
16 electronically or by phone. Under current law, My Safe Florida
17 Home Program applications and home inspection reports are public
18 records and can be obtained by anyone for any purpose. This
19 information is unique to each individual and can be used for
20 identity theft, consumer scams, unwanted solicitations, or other
21 invasive contact. Additionally, My Safe Florida Home Program
22 applications and home inspection reports contain detailed
23 descriptions and pictures of the inside and outside of
24 applicants' homes, including private areas, points of entry, and
25 other vulnerabilities. The public availability of this
26 information puts participants in the My Safe Florida Home
27 Program at increased risk of home invasions and reduces privacy
28 in their homes. These risks may be significantly limited by
29 making such information contained in My Safe Florida Home
30 Program applications and home inspection reports exempt from
31 public records requirements.

By the Committee on Banking and Insurance; and Senator Martin

597-02595-24

2024988c1

A bill to be entitled

An act relating to public records; creating s. 215.5587, F.S.; providing an exemption from public records requirements for certain information contained in applications and home inspection reports submitted by applicants to the Department of Financial Services as a part of the My Safe Florida Home Program; providing retroactive applicability; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 215.5587, Florida Statutes, is created to read:

215.5587 My Safe Florida Home Program; public records exemption.—

(1) All of the following information contained in applications and home inspection reports submitted by applicants as part of the My Safe Florida Home Program under s. 215.5586 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) The components of the applicant's mailing address other than the city, zip code, and the applicant's name.

(b) Any phone number or e-mail address provided by the applicant.

(c) Detailed descriptions and pictures of the inside and outside of applicant's homes.

597-02595-24

2024988c1

(2) This exemption applies retroactively to applications and home inspection reports submitted before, on, or after the effective date of this exemption.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that My Safe Florida Home Program applications and home inspection reports be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. More than 99 percent of all home inspections and grant applications are completed electronically or by phone. Under current law, My Safe Florida Home Program applications and home inspection reports are public records and can be obtained by anyone for any purpose. These documents contain personal information, including, but not limited to, e-mail addresses, mailing addresses, and telephone numbers. This information is unique to each individual and, when combined with other personal identifying information, can be used for identity theft, consumer scams, unwanted solicitations, or other invasive contact. Additionally, the My Safe Florida Home Program applications and home inspection reports contain detailed descriptions and pictures of the inside and outside of applicants' homes, including private areas, points of entry, and other vulnerabilities. The public availability of these records puts participants in the My Safe Florida Home Program at increased risk of home invasions and reduces privacy in their homes. Such risk may be significantly limited by making My Safe

597-02595-24

2024988c1

59 Florida Home Program applications and home inspection reports
60 exempt.

61 Section 3. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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

02/08/24

Meeting Date

Rules

Committee

SB 988

Bill Number or Topic

Amendment Barcode (if applicable)

Name CHASE MITCHELL

Phone 850 413 - 4928

Address 400 S. MONROE ST
Street

Email CHASE.MITCHELL@MYFLORIDA
CA.COM

Tallahassee ST 32399
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:

DEPT OF FINANCIAL
SERVICES

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

February 8, 2024

Meeting Date

RULES

Committee

SB 0988

Bill Number or Topic

Amendment Barcode (if applicable)

Name TASITA CARTER

Phone 850-413-2868

Address 200 E. Gaines Street
Street

Email TASITA.Carter@myfloridaleg.com

Tallahassee, FL 32399
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:
Office of the INSURANCE
CONSUMER ADVOCATE

☐ 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 Rules

BILL: SB 1082

INTRODUCER: Senator Collins

SUBJECT: Housing for Agricultural Workers

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hackett	Ryon	CA	Favorable
2. Burse	Becker	AG	Favorable
3. Hackett	Twogood	RC	Pre-meeting

I. Summary:

SB 1082 preempts a local government from inhibiting the construction or installation of housing for certain agricultural workers on land classified as agricultural if the housing meets certain criteria related to location and construction. The bill also provides for circumstances requiring the removal or disuse of such housing, and recordkeeping requirements for property owners related to such housing sites.

The bill takes effect July 1, 2024.

II. Present Situation:

Comprehensive Plans and Land Use Regulation

The Community Planning Act¹ requires every city and county to create and implement a comprehensive plan to guide future development. A local government's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²

The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the

¹ Part II, Ch. 163, F.S.

² Section 163.3177(6)(a), F.S.

jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.³

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.⁴

Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.⁵ Common regulations on buildings within the zoning map districts include density,⁶ height and bulk of buildings, setbacks, and parking requirements.⁷ Zoning regulations also include acceptable uses of property for other categories of land, such as agricultural or industrial.

If a landowner believes that a proposed development may have merit but it does not meet the requirements of a zoning map in a jurisdiction, the landowner can seek a rezoning through a rezoning application which is reviewed by the local government and voted on by the governing body.⁸ If a property has unique circumstances or small nonconformities but otherwise meets zoning regulations, local governments may ease restrictions on certain regulations such as building size or setback through an application for a variance.⁹ However, any action to rezone or grant a variance must be consistent with the local government's comprehensive plan.

Agricultural Lands

Agricultural land is one example of property that is assessed based on its current use rather than its highest and best use.¹⁰ A property appraiser is required to annually classify all land as either agricultural or nonagricultural.¹¹ Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.¹²

³ Section 163.3177(6)(f), F.S.

⁴ See ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

⁵ INDIAN RIVER CNTY., *General Zoning Questions*, https://indianriver.gov/services/community_development/faq.php#faq-questions-33 (last visited Jan. 22, 2024).

⁶ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. Section 163.3164(12), F.S.

⁷ INDIAN RIVER CNTY., *supra* note 5.

⁸ See, e.g., CITY OF TALLAHASSEE, *Application For Rezoning Review*, available at: <https://www.talgov.com/Uploads/Public/Documents/place/zoning/cityrezinfsh.pdf> (last visited Jan. 22, 2024).

⁹ See, e.g., CITY OF TALLAHASSEE, *Variance and Appeals*, available at: https://www.talgov.com/Uploads/Public/Documents/growth/forms/boaa_variance.pdf (last visited Jan. 22, 2024) and SEMINOLE CNTY., *Variance Process & Requirements*, <https://www.seminolecountyfl.gov/departments-services/development-services/planning-development/boards/board-of-adjustment/variance-process-requirements.html> (last visited Jan. 22, 2024).

¹⁰ FLA. CONST. art. VII, s. 4(a).

¹¹ Section 193.461(1), F.S.

¹² Section 193.461, F.S.

Migrant and Seasonal Farmworkers

Migrant farmworkers are defined as people who are or have been employed in hand labor operations in planting, cultivating, or harvesting agricultural crops within the last 12 months and who have changed residence for purposes of employment in agriculture within the last 12 months.¹³ Outreach, employment, and other services targeted to migrant farmworkers are regulated by federal law and administered by various state and local agencies, including the Department of Economic Opportunity's Migrant and Seasonal Farmworker Services program.¹⁴

Migrant farmworker housing is regulated by the Florida Department of Health in coordination with local health departments and federal law.¹⁵ Migrant farmworker housing may include residential property, including mobile homes or a migrant labor camp consisting of dormitories constructed and operated as living quarters for migrant farmworkers.¹⁶ Establishment of such housing requires advance notice, inspections, and permitting based on standards of construction, sanitation, equipment, and operation, as well as compliance with inspections during use.¹⁷

Employment Verification

Under the Immigration Reform and Control Act of 1986 (IRCA),¹⁸ it is illegal for any United States employer to knowingly:

- Hire, recruit, or refer for a fee an alien knowing he or she is unauthorized to work;
- Continue to employ an alien knowing he or she has become unauthorized; or
- Hire, recruit or refer for a fee, any person (citizen or alien) without following the record keeping requirements of the IRCA.¹⁹

Under Florida law, public employers and their contractors, and subcontractors thereof, are required to register and use E-Verify to verify the work authorization status of all newly hired employees.²⁰ A private employer that transacts business in Florida, has a license issued by an agency, and employs workers in Florida is required to use the I-9 Form or E-Verify or a substantially equivalent system to verify that new hires or retained contract employees are authorized to work in the United States.²¹

¹³ Section 381.008(4), F.S.

¹⁴ FLA. DEP'T OF ECON. OPPORTUNITY, *Migrant and Seasonal Farmworker Services*, <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/migrant-and-seasonal-farmworker-services> (last visited Jan. 22, 2024).

¹⁵ Sections 381.008-381.00897, F.S.

¹⁶ Section 381.008(5) and (8), F.S.

¹⁷ Section 381.0083, F.S.

¹⁸ Pub. L. No. 99-603, 100 Stat. 3359.

¹⁹ 8 U.S.C. s. 1324a.

²⁰ Section 448.095(2), F.S.

²¹ Section 448.095(3), F.S.

H-2A Visa Program²²

The H-2A Temporary Agricultural Workers program is a federal program which allows U.S. employers meeting specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. The program includes work, housing, visa, and recordkeeping requirements, and is a joint program of the Federal Departments of Labor, State, and Homeland Security. Prospective nonimmigrant agricultural workers must receive a temporary labor certification from the U.S. Department of Labor.

Florida Keys Area of Critical State Concern

The Florida Keys Area Protection Act²³ provides, in part, that comprehensive plan amendments within the covered area, which includes the majority of Monroe County, must comply with “goals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours.”²⁴ Monroe County, applicable municipalities, and the DEO have agreed to use a multi-phase evacuation model and limit residential building permits going forward in order to comply with these standards.²⁵

III. Effect of Proposed Changes:

The bill amends s. 163.3162, F.S., to define “agricultural worker” as a person who:

- Is seasonally or annually employed in agricultural production;
- Is lawfully present in the United States;
- Is authorized, and remains allowed, to work; and
- Has been verified according to the state’s employment eligibility verification requirements.

This term includes a migrant farmworker as defined in s. 381.008, F.S., and a worker with an H-2A visa.

The bill defines “housing site” as the totality of development supporting authorized housing, including buildings, mobile homes, barracks, dormitories, parking areas, common areas, storage structures, and related structures.

The bill provides that a governmental entity may not adopt or enforce any legislation which inhibits the construction or installation of housing for agricultural employees on land zoned for agricultural use and operated as a bona fide farm, except as provided by law. The bill provides that local governments may require that a housing site authorized under this section:

- Must meet all local and state building standards, including migrant farmworker housing standards regulated by the Department of Health and federal standards for H-2A visa housing;

²² See generally, Department of Homeland Security Office of U.S. Citizenship and Immigration Services, *H-2A Temporary Agricultural Workers*, available at <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers> (last visited Jan. 22, 2024).

²³ Section 380.0552, F.S.

²⁴ *Id.* at (9)(e)2.

²⁵ See *Mattino v. City of Marathon*, 345 So.3d 939 (Fla. 3d DCA 2022), for detailed background on this section.

- Must be maintained in a neat, orderly, and safe manner;
- Must have structures placed a minimum of 10 feet apart;
- May not exceed square footage of 1.5 percent of the property's area or 35,000 square feet, whichever is less;
- Must provide 50 foot setbacks on all sides;
- May not be located less than 250 feet from a property line adjacent to property zoned for residential use;
- If within 500 feet of a property line adjacent to property zoned for residential use, must contain screening consisting of tree, wall, berm or fence coverage at least six feet in height; and
- Must cover access drives with dust-free material such as packed shell or gravel.

The bill provides that a local ordinance adopted pursuant to this section must comply with state and federal regulations for migrant farmworker housing, and that a local government may validly adopt less restrictive land use regulations.

The bill further provides that, beginning July 1, 2024, a property owner must maintain records of all permits for such housing for three years, and make the records available for inspection within 14 days after receipt of a request by a governmental entity.

The bill further provides that if agricultural operations are discontinued on the property for at least 365 days, structures used as living quarters must be removed within 180 days after notice from the local government unless the property owner demonstrates that its intended use will resume within 90 days. If the property ceases to be classified as agricultural, housing established under this section is no longer eligible for residential use without further approval under the local jurisdiction's zoning and land use regulations. Additionally, if Department of Health permits for agricultural housing uses are revoked, structures used as living quarters must be removed within 180 days of notice from the local government unless the permit is reinstated.

The bill provides that, notwithstanding the provisions herein, the construction or installation of housing for seasonal agricultural employees in the Florida Keys and City of Key West Areas of Critical State Concern is subject to the permit allocation system.

The bill finally provides that a housing site constructed and in use before July 1, 2024, may continue to be used, and the property owner may not be required to make changes to meet the requirements of this section, unless the housing site will be enlarged, remodeled, renovated, or rehabilitated.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Businesses employing and housing migrant farmworkers will benefit from the creation of certain property rights.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.3162 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.



727784

LEGISLATIVE ACTION

Senate

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. .
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. .
. .

House

The Committee on Rules (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 29 - 146
and insert:
paragraphs (b) through (e), respectively, new paragraphs (a),
(f), and (g) are added to that subsection, and subsection (5) is
added to that section, to read:

163.3162 Agricultural Lands and Practices.—

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

(a) "Agricultural worker" means a person who is seasonally
or annually employed in bona fide agricultural production; is



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lawfully present in the United States; is authorized to work at the time of employment and remains so throughout the duration of that employment; and has been verified through the process provided in s. 448.095. The term includes a migrant farmworker as defined in s. 381.008 and a worker with an H-2A visa.

(f) "Housing site" means the totality of development supporting authorized housing, including buildings, mobile homes, barracks, dormitories used as living quarters, parking areas, common areas such as athletic fields or playgrounds, storage structures, and other related structures.

(g) "Nonimmigrant agricultural employee" means a person who is working in this state pursuant to 8 U.S.C. s. 1188.

(5) HOUSING FOR NONIMMIGRANT AGRICULTURAL EMPLOYEES WITH AN H-2A VISA.—

(a) A governmental entity may not adopt or enforce any legislation to inhibit the construction or installation of housing for nonimmigrant agricultural employees with an H-2A visa on land classified as agricultural land pursuant to s. 193.461 which is operated as a bona fide farm except as provided in this subsection. However, a local government may adopt land use regulations relating to the construction or installation of housing for agricultural workers on lands classified as agricultural if such regulations are less restrictive than those provided in this section.

(b) Construction or installation of housing units for nonimmigrant agricultural employees with an H-2A visa on parcels of land classified as agricultural land under s. 193.461 must satisfy all of the following criteria:

1. The dwelling units must meet federal, state, and local



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building standards, including H-2A farmworker housing standards regulated by the Department of Health and federal standards for H-2A visa housing. If written notice of intent is required to be submitted to the Department of Health pursuant to s. 381.0083, the appropriate governmental entity with jurisdiction over the agricultural lands may also require submittal of a copy of the written notice.

2. The housing site must be maintained in a neat, orderly, and safe manner.

3. All structures containing dwelling units must be located a minimum of 10 feet apart.

4. The square footage of the housing site's climate-controlled facilities may not exceed 1.5 percent of the property's area or 35,000 square feet, whichever is less.

5. A housing site must provide front, side, and rear yard setbacks of at least 50 feet. However, an internal project driveway may be located in the required yard space if the yard is adjacent to a public roadway or to property that is under common ownership with the housing site.

6. A housing site may not be located less than 250 feet from a property line adjacent to property zoned for residential use. If the housing site is located less than 500 feet from any property line, screening must be provided between the housing site and any residentially developed adjacent parcels that are under different ownership. The screening may be designed in any of the following ways:

a. Evergreen plants that, at the time of planting, are at least 6 feet in height and provide an overall screening opacity of 75 percent;



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b. A masonry wall at least 6 feet in height and finished on all sides with brick, stone, or painted or pigmented stucco;

c. A solid wood or PVC fence at least 6 feet in height with the finished side of the fence facing out;

d. A row of evergreen shade trees that, at the time of planting, are at least 10 feet in height, a minimum of 2-inch caliper, and spaced no more than 20 feet apart; or

e. A berm made with a combination of the materials listed in sub-subparagraphs a.-d., which is at least 6 feet in height and provides an overall screening capacity of 75 percent at the time of installation.

7. All access drives that serve the housing site must be made of packed shell, gravel, or a similar material that will provide a relatively dust-free surface.

(c) Any local ordinance adopted pursuant to this subsection must comply with all state and federal regulations for migrant farmworker housing, as applicable, including rules adopted by the Department of Health pursuant to ss. 381.008-381.00897 and federal regulations under the Migrant and Seasonal Agricultural Worker Protection Act or the H-2A visa program.

(d) Beginning July 1, 2024, a property owner must maintain records of all approved permits, including successor permits, for migrant labor camps or residential migrant housing as required under s. 381.0081. A property owner must maintain such records for at least 3 years and make the records available for inspection within 14 days after receipt of a request for records by a governmental entity.

(e) A housing site may not continue to be used and may be required to be removed under the following circumstances:



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1. If, for any reason, a housing site is not being used for nonimmigrant agricultural employees with an H-2A visa for longer than 365 days, any structures used as living quarters must be removed from the housing site within 180 days after receipt of written notification from the county unless the property owner can demonstrate that use of the site for housing nonimmigrant agricultural employees with an H-2A visa will occur within 90 days

2. If the property on which the housing site is located ceases to be classified as agricultural land, housing authorized under this section ceases to be eligible for residential uses unless and until it is approved under the zoning and land use regulations of the governmental entity.

3. If the permit authorized by the Department of Health for the housing site is revoked, any structures must be removed from the housing site within 180 days after receipt of written notification from the county unless the permit is reinstated by the Department of Health.

(f) Notwithstanding this subsection, the construction or installation of housing for seasonal agricultural employees in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern is subject to the permit allocation systems of the Florida Keys Area of Critical State Concern and City of Key West Area of Critical State Concern, respectively.

(g) A housing site that was constructed and in use before

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

And the title is amended as follows:



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128 Delete lines 2 - 14
129 and insert:
130 An act relating to housing for nonimmigrant
131 agricultural employees; amending s. 163.3162, F.S.;
132 defining terms; prohibiting a governmental entity from
133 adopting or enforcing any legislation to inhibit the
134 construction of housing for nonimmigrant agricultural
135 employees with an H-2A visa on agricultural land
136 operated as a bona fide farm; requiring that the
137 construction or installation of such housing units on
138 agricultural lands satisfy certain criteria; requiring
139 that local ordinances comply with certain regulations;
140 requiring property

By Senator Collins

14-00506A-24

20241082__

A bill to be entitled

An act relating to housing for agricultural workers; amending s. 163.3162, F.S.; defining the terms "agricultural worker" and "housing site"; prohibiting a governmental entity from adopting or enforcing any legislation to inhibit the construction of housing for agricultural workers on agricultural land operated as a bona fide farm; requiring that the construction or installation of such housing units on agricultural lands satisfy certain criteria; requiring that local ordinances comply with certain regulations; authorizing governmental entities to adopt local land use regulations that are less restrictive than certain state and federal regulations; requiring property owners to maintain certain records for a specified timeframe; requiring the suspension of use of certain housing units and authorizing their removal under certain circumstances; specifying applicability of permit allocation systems in certain areas of critical state concern; authorizing the continued use of housing sites constructed before the effective date of the act if certain conditions are met; providing an effective date.

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

Section 1. Present paragraphs (a) through (d) of subsection (2) of section 163.3162, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, new paragraphs (a) and

Page 1 of 6

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

14-00506A-24

20241082__

(f) are added to that subsection, and subsection (5) is added to that section, to read:

163.3162 Agricultural Lands and Practices.—

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

(a) "Agricultural worker" means a person who is seasonally or annually employed in bona fide agricultural production; is lawfully present in the United States; is authorized to work at the time of employment and remains so throughout the duration of that employment; and has been verified through the process provided in s. 448.095. The term includes a migrant farmworker as defined in s. 381.008 and a worker with an H-2A visa.

(f) "Housing site" means the totality of development supporting authorized housing, including buildings, mobile homes, barracks, dormitories used as living quarters, parking areas, common areas such as athletic fields or playgrounds, storage structures, and other related structures.

(5) HOUSING FOR AGRICULTURAL WORKERS.—

(a) A governmental entity may not adopt or enforce any legislation to inhibit the construction or installation of housing for agricultural workers on land classified as agricultural land pursuant to s. 193.461 which is operated as a bona fide farm except as provided in this subsection.

1. Construction or installation of housing units for agricultural workers on parcels of land classified as agricultural land under s. 193.461 must satisfy all of the following criteria:

a. The dwelling units must meet federal, state, and local building standards, including migrant farmworker housing standards regulated by the Department of Health and federal

Page 2 of 6

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

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standards for H-2A visa housing. If written notice of intent is required to be submitted to the Department of Health pursuant to s. 381.0083, the appropriate governmental entity with jurisdiction over the agricultural lands may also require submittal of a copy of the written notice.

b. The housing site must be maintained in a neat, orderly, and safe manner.

c. All structures containing dwelling units must be located a minimum of 10 feet apart.

d. The square footage of the housing site's climate-controlled facilities may not exceed 1.5 percent of the property's area or 35,000 square feet, whichever is less.

e. A housing site must provide front, side, and rear yard setbacks of at least 50 feet. However, an internal project driveway may be located in the required yard space if the yard is adjacent to a public roadway or to property that is under common ownership with the housing site.

f. A housing site may not be located less than 250 feet from a property line adjacent to property zoned for residential use. If the housing site is located less than 500 feet from any property line, screening must be provided between the housing site and any residentially developed adjacent parcels that are under different ownership. The screening may be designed in any of the following ways:

(I) Evergreen plants that, at the time of planting, are at least 6 feet in height and provide an overall screening opacity of 75 percent;

(II) A masonry wall at least 6 feet in height and finished on all sides with brick, stone, or painted or pigmented stucco;

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(III) A solid wood or PVC fence at least 6 feet in height with the finished side of the fence facing out;

(IV) A row of evergreen shade trees that, at the time of planting, are at least 10 feet in height, a minimum of 2-inch caliper, and spaced no more than 20 feet apart; or

(V) A berm made with a combination of the materials listed in sub-sub-subparagraphs (I)-(IV), which is at least 6 feet in height and provides an overall screening capacity of 75 percent at the time of installation.

g. All access drives that serve the housing site must be made of packed shell, gravel, or a similar material that will provide a relatively dust-free surface.

(b) Any local ordinance adopted pursuant to this subsection must comply with all state and federal regulations for migrant farmworker housing, as applicable, including rules adopted by the Department of Health pursuant to ss. 381.008-381.00897 and federal regulations under the Migrant and Seasonal Agricultural Worker Protection Act or the H-2A visa program. A governmental entity may adopt local government land use regulations that are less restrictive than the regulations established by the Department of Health pursuant to ss. 381.008-381.00897 and federal regulations under the Migrant and Seasonal Agricultural Worker Protection Act or the H-2A visa program for the construction or installation of housing for temporary migrant farmworkers.

(c) Beginning July 1, 2024, a property owner must maintain records of all approved permits, including successor permits, for migrant labor camps or residential migrant housing as required under s. 381.0081. A property owner must maintain such

14-00506A-24 20241082__

records for at least 3 years and make the records available for inspection within 14 days after receipt of a request for records by a governmental entity.

(d) A housing site may not continue to be used and may be required to be removed under the following circumstances:

1. If, for any reason, a housing site is not being used for agricultural workers for longer than 365 days, any structures, used as living quarters must be removed from the housing site within 180 days after receipt of written notification from the county unless the property owner can demonstrate that use of the site for housing agricultural workers will occur within 90 days after the written notification.

2. If the property on which the housing site is located ceases to be classified as agricultural land, housing authorized under this section ceases to be eligible for residential uses unless and until it is approved under the zoning and land use regulations of the governmental entity.

3. If the permit authorized by the Department of Health for the housing site is revoked, any structures must be removed from the housing site within 180 days after receipt of written notification from the county unless the permit is reinstated by the Department of Health.

(e) Notwithstanding this subsection, the construction or installation of housing for seasonal agricultural employees in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern is subject to the permit allocation systems of the Florida Keys Area of Critical State Concern and City of Key West Area of Critical State Concern, respectively.

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(f) A housing site that was constructed and in use before July 1, 2024, may continue to be used, and the property owner may not be required by a governmental entity to make changes to meet the requirements of this subsection, unless the housing site will be enlarged, remodeled, renovated, or rehabilitated. The property owner of a housing site that is permitted under this paragraph must provide regular maintenance and repair, including compliance with health and safety regulations and maintenance standards, for such housing site to ensure the health, safety, and habitability of the housing site.

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



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 24, 2024

I respectfully request that **Senate Bill # 1082**, relating to Housing for Agricultural Workers, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Jay Collins", written over a horizontal line.

Senator Jay Collins
Florida Senate, District 14

**Following appearance records
not read into the record**

Bill temporarily postponed

The Florida Senate

APPEARANCE RECORD

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

2-8-2024

Meeting Date

Rules

Committee

SB 1082

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Natalie Fausel for Polk County

Phone

21-317-0889

Address

201 W Park

Email

natalie@antfieldflorida.com

Street

Tallahassee

State

FL

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

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:

Associated Industries of FL

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

Rules

Committee

1082

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tripp Hunter

Phone

850-408-6042

Address

119 S Monroe

Email

Tripp.Hunter@FFVA.COM

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Fruit & Vegetable Assn.

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

1092

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Jim Spratt

Phone

950-228-1296

Address

119 S. Monroe St.

Email

Jim@maguoliasolutionsllc.com

Street

TLH

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

FLORIDA Nursery, Growers and Landscape Association

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

Rules

Committee

1182

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Madeline Wright

Phone

850 557 3871

Address

310 W College Ave

Email

madeline.wright@
ffbf.org

Street

Hallandale

State

FL

Zip

32301

City

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 Farm Bureau

☐

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 Rules

BILL: CS/SB 1112

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Health Care Practitioner Titles and Designations

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
2.	<u>Brown</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1112 creates s. 456.0651, F.S., to provide regulations for the use of health care practitioner titles and designations. The bill defines “advertisement,” “educational degree,” “misleading, deceptive, or fraudulent representation,” and “profession.”

The bill amends existing legislative intent under s. 456.003, F.S., relating to the regulation of health care professions and finds that the health, safety, and welfare of the public may be harmed or endangered under specified circumstances.

The bill provides that if a person other than an allopathic or osteopathic physician attaches to his or her name any of the terms, titles, or designations listed in the bill, in an advertisement or in a manner that is misleading, deceptive, or fraudulent, the person is practicing medicine or osteopathic medicine without a license and is subject to the provisions of s. 456.065, F.S., relating to the unlicensed practice of a health care profession. The bill provides exceptions for certain professions and certain titles and provides that practitioners may use titles and specialty designations authorized under their respective practice acts. The bill also provides that the bill restrictions may not be construed to interfere with a practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program.

The bill amends s. 456.072(1)(t), F.S., to provide that a practitioner's failure to wear a name tag, which must include his or her name and profession, when treating or consulting with a patient, is grounds for discipline, unless he or she is providing services in his or her own office where the practitioner's license is prominently displayed in a conspicuous area. If the practitioner chooses not to wear a name tag under those latter conditions, the practitioner must verbally identify himself or herself to all new patients by name and profession in a manner that does not constitute the unlicensed practice of medicine or osteopathic medicine.

The bill further amends s. 456.072(1)(t), F.S., to provide that any advertisement naming a practitioner must include the practitioner's profession and educational degree and to require practitioner regulatory boards,¹ or the Department of Health (DOH) if there is no board, to adopt rules to determine how practitioners must comply with this paragraph of statute.

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

II. Present Situation:

The Health, Safety, and Welfare of the Public

Chapter 456, F.S., is entitled "Health Professions and Occupations: General Provisions." Section 456.003, F.S., in part, provides Legislative intent about the state's regulation of health care professions, as follows:

- It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the DOH are entitled to do so as a matter of right if otherwise qualified.
- Such professions will be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions will be regulated when:
 - Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.
 - The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.
 - Less restrictive means of regulation are not available.

Licensure and Regulation of Health Care Practitioners

The Division of Medical Quality Assurance (MQA), within the DOH, has general regulatory authority over health care practitioners.² The MQA works in conjunction with 22 regulatory

¹ Under s. 456.001(1), F.S., the term "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH's Division of Medical Quality Assurance (MQA).

² Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, genetic counselors, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

boards and four councils to license and regulate 364 health care professions.³ Professions are generally regulated by individual practice acts and by ch. 456, F.S., which provides regulatory and licensure authority for the MQA. The MQA is statutorily responsible for the following boards and professions established within the division:⁴

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part I of ch. 483, F.S.;
- Medical physicists, as provided under part II of ch. 483, F.S.;
- Genetic Counselors as provided under part III of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. The DOH

³ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2023*, p. 4, <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Jan. 24, 2024).

⁴ Section 456.001(4), F.S.

receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.⁵ Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel which may include:⁶

- Issuing an Emergency Order;
- Having the file reviewed by an expert;
- Issuing a closing order; or
- Filing an administrative complaint.

The boards determine the course of action and any disciplinary action to take against a practitioner under the respective practice act.⁷ For professions for which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.⁸ The DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.⁹ If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.¹⁰

The DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH takes on the disciplinary functions of a board relating to violations of a practice act only for practitioner types that do not have a board. The DOH itself takes no final disciplinary action against practitioners for which there is a board.

The Unlicensed Activity Unit

The Unlicensed Activity (ULA) Unit protects Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from an unlicensed person. The ULA unit investigates and refers for prosecution all unlicensed health care activity complaints and allegations.

The ULA unit works in conjunction with law enforcement and the state attorney's offices to prosecute individuals practicing without a license. In many instances, unlicensed activity is a felony level criminal offense. More importantly, receiving health care from unlicensed persons is dangerous and could result in further injury, disease or even death.¹¹

⁵ Department of Health, *Investigative Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html> (last visited Jan. 24, 2024).

⁶ Department of Health, *Prosecution Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html> (last visited Jan. 24, 2024).

⁷ Section 456.072(2), F.S.

⁸ Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors, and school psychologists.

⁹ *Supra*, note 6.

¹⁰ *Id.*

¹¹ The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Reporting Unlicensed Activity*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/index.html> (last visited Jan. 24, 2024).

The Unlicensed Activity Investigation Process

The DOH assigns all ULA complaints a computer-generated complaint number for tracking purposes. If the allegations are determined to be legally sufficient, the matter will be forwarded to a ULA investigator whose office is geographically closest to the location where the alleged unlicensed activity is occurring. In cases where the person making the allegation has provided their identifying information, a ULA investigator will contact him or her to verify the allegations. The investigator may also ask for more detailed information concerning certain aspects of the complaint. He or she may also ask to meet with the complainant in person for a formal interview. All ULA investigators are empowered to take sworn statements.

After discussing the allegations with the complainant, the ULA investigator will pursue all appropriate investigative steps (gather documents, conduct surveillance, question witnesses, etc.) in order to make a determination concerning the likelihood that the offense(s) took place in the manner described by the complainant. In the event that a licensed health care provider is alleged to be somehow involved with the unlicensed activity, the ULA investigator will also coordinate his/her investigation with the Investigative Services Unit (ISU) regulatory investigator assigned to investigate the licensee.

If the complainant's allegations can be substantiated, the ULA investigation will conclude with one or more of the following outcomes:

- The subject(s) will be issued a Cease and Desist Agreement.
- The subject(s) will be issued a Uniform Unlicensed Activity Citation (fine).
- The subject(s) will be arrested by law enforcement.

If the investigation determines that the alleged acts either did not take place or if they did occur but all actions were lawful and proper, the investigation will be closed as unfounded. In the event that the allegation(s) cannot be clearly proved or disproved, the matter will be closed as unsubstantiated. In any case, a detailed investigative report will be prepared by the ULA investigator supporting the conclusions reached by the investigation.

Under s. 456.065, F.S., investigations involving the unlicensed practice of a health care profession are criminal investigations that require the development of sufficient evidence (probable cause) to present to law enforcement or file charges with the State Attorney's Office in the county of occurrence. While ULA investigators are non-sworn, many have law enforcement experience gained from prior careers as police officers and detectives. ULA investigators work cooperatively with many law enforcement agencies in joint investigations that are either initiated by the DOH or the agency concerned.¹²

Health Care Specialties and Florida Licensure

The DOH does not license health care practitioners by specialty or subspecialty. A health care practitioner's specialty area of practice is acquired through the practitioner's additional education, training, or experience in a particular area of health care practice. Practitioners who

¹² The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Investigate Complaints*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/investigate-complaints.html> (last visited Jan. 24, 2024).

have acquired additional education, training, or experience in a particular area may also elect to become board-certified in that specialty by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.¹³ Board certification is not required to practice a medical or osteopathic specialty.

Title Prohibitions Under Current Florida Law

Current law limits which health care practitioners may hold themselves out as board-certified specialists. An allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the ABMS or other recognizing agency¹⁴ approved by the Board of Medicine.¹⁵ Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency¹⁶ approved by the board.¹⁷ In addition, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.¹⁸

A podiatric physician also may not advertise that he or she is board certified unless the organization is approved by the Board of Podiatric Medicine (BPM) for the purposes of advertising only and the name of the organization is identified in full in the advertisement. In order for an organization to obtain the BPM approval it must be the American Podiatric Medical Association, the National Council of Competency Assurance, or an organization that must:

- Be composed of podiatric physicians interested in a special area of practice demonstrated through successful completion of examinations or case reports;
- Subscribe to a code of ethics;
- Have rules and procedures for maintaining a high level of professional conduct and discipline among its membership;
- Have an active membership of at least seventy-five (75);
- Sponsor annual meeting and courses in Board approved continuing education; and
- Be a national organization in scope and give a certification examination at least once a year before the podiatric physician can advertise possession of the certification.¹⁹

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty

¹³ Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

¹⁴ The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. See Fla. Admin. Code R. 64B8-11.001(1)(f), (2022).

¹⁵ Section 458.3312, F.S.

¹⁶ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Fla. Admin. Code R. 64B15-14.001(h), (2022).

¹⁷ Section 459.0152, F.S.

¹⁸ *Id.*

¹⁹ Fla. Admin. Code R. 64B18-14.004 (2022).

education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:²⁰

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- Is a diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.²¹

The Board of Chiropractic Medicine (BCM) permits a chiropractor to advertise that he or she has attained diplomate status in a chiropractic specialty area recognized by the BCM. BCM specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.²²

Practitioner Discipline

Section 456.072, F.S., authorizes a regulatory board, or the DOH if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

If a board or the DOH finds that a licensee committed a violation of a statute or rule, the board or the DOH may:²³

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

²⁰ Section 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

²¹ Section 466.0282(3), F.S.

²² Fla. Admin. Code R. 64B2-15.001(2)(e), (2022). Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.

²³ Section 456.072(2), F.S.

State Versus Federal Practitioner Licensure

The federal government does not license health care practitioners, nor does it regulate practitioner behavior in terms of scope of practice, standards of practice, or practitioner discipline. Instead, the federal government relies on state governments to fulfill those functions.

Conditions of Participation in Federal Health Care Programs

In addition to state licensure requirements, Medicare, Medicaid, and other government reimbursement programs²⁴ rely on the power of the purse to manage practitioners and facilities in the provision of health care services to persons enrolled in such programs. These programs impose “conditions of participation” and “conditions of payment,” which essentially mandate compliance with specified standards. Certification under a federal health care program is a right to participate in government payment systems. It is distinct from licensure by a state government or accreditation by a nationally-recognized board.²⁵

Examples of Federal Deference to State Regulatory Authority

For example, under federal labor law found in 29 CFR s. 825.125, the definition of “health care provider” includes, in part, a doctor of medicine or osteopathy who is authorized to practice medicine or surgery *by the state in which the doctor practices*.

That section of federal law goes on to reference other practitioners, including podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, and physician assistants who are *authorized to practice in their state and performing within the scope of their practice as defined under state law*.

Another example is found in federal law creating a workers’ compensation program for longshoremen and harbor workers.²⁶ Under that federal program, for the purpose of establishing who may be paid for providing services to persons enrolled in the program, the term “physician” includes doctors of medicine, surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners *within the scope of their practice as defined by state law*.²⁷

This federal workers’ compensation program that reimburses health care providers as described above will also reimburse for treatment based on prayer or spiritual means alone if provided by an accredited practitioner of a church or religious denomination that is recognized by the federal government in certain ways.²⁸

²⁴ Such as the federal workers’ compensation program for longshoremen and harbor workers found under 20 CFR Subchapter A, available at: <https://www.law.cornell.edu/cfr/text/20/chapter-VI/subchapter-A> (last visited Jan. 24, 2024).

²⁵ The Healthcare Law Review: USA, *Spotlight: The Regulation of Healthcare Providers and Professionals in the USA*, Sept. 7, 2020, available at: <https://www.lexology.com/library/detail.aspx?g=c3c193d0-753e-4244-914a-fd943e70ec8e> (last visited Jan. 24, 2024).

²⁶ *Supra* note 24.

²⁷ See 20 CFR s. 702.404.

²⁸ See 20 CFR s. 702.401(b).

Federal Distinctions Between Physicians and Other Providers

Other federal programs draw specific distinctions between “physicians” and non-physicians who are included in the “physician” payment provisions above. For example, federal Medicaid law requires that state Medicaid programs “must provide for payment of optometric services as physician services, whether furnished by *an optometrist or a physician*,” thereby differentiating between optometrists and physicians instead of classifying them jointly.²⁹

These federal laws do not license or regulate such practitioners the way state laws do. They also do not define practitioner credentials, titles, or scopes of practice outside the provisions of state law and regulations that provide for such designations.

Florida Requirements for Billing Medicare Patients

In 1992, the Legislature created s. 456.056, F.S., relating to how Florida-licensed practitioners may bill patients enrolled in Medicare. The sole purpose of this section of statute is to prohibit Florida-based practitioners who participate in Medicare from directly invoicing Medicare patients in excess of the amounts that patients owe, according to Medicare payment methodologies.

Section 456.056, F.S., provides that the term “physician” is defined in a manner consistent with federal law that governs Medicare billing. As the term is used in that section of the Florida Statutes, “physician” means:

- A *physician* licensed under ch. 458, F.S.,
- An osteopathic *physician* licensed under ch. 459, F.S.,
- A chiropractic *physician* licensed under ch. 460, F.S.,
- A podiatric *physician* licensed under ch. 461, F.S., or
- An optometrist licensed under ch. 463, F.S.³⁰

This definition of “physician,” which was written to apply only to Medicare billing issues, is comparable to Medicare’s definition of “physician services” found in 42 CFR Part 414, which is entitled “Payment for Part B Medical and Other Health Services.” This portion of Medicare law³¹ provides that, for payment purposes, “physician services” includes the following services, to the extent they are covered by Medicare: professional services of doctors of medicine and osteopathy, doctors of optometry, doctors of podiatry, doctors of dental surgery and dental medicine,³² and chiropractors.

Section 456.056, F.S., goes on to provide that any attempt by a Florida-licensed “physician,” as defined above, to collect from a Medicare beneficiary any amount of charges in excess of an

²⁹ See 42 CFR s. 441.30.

³⁰ See s. 456.056(1)(a), F.S.

³¹ See 42 CFR s. 414.2.

³² Dentistry is omitted from s. 456.056, F.S., since traditional Medicare does not cover most dental care apart from emergencies or dental services provided in a hospital setting. See: <https://www.medicare.gov/coverage/dental-services> (last visited Jan. 24, 2024).

unmet deductible or the 20 percent of charges that Medicare does not pay, is deemed null, void, and of no merit.³³

As such, the only purpose of s. 456.056, F.S., is to regulate the dollar amounts that specified practitioners may attempt to collect from their patients as payment for Medicare services, consistent with Medicare's terminology for billing. This Florida statute does not provide authority for any health care practitioner to use certain titles.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 456.003(2), F.S., regarding Legislative intent for the regulation of health care professions to provide a Legislative finding that the health, safety, and welfare of the public may be harmed or endangered under any of the following conditions:

- By the unlawful practice of a profession;
- By a misleading, deceptive, or fraudulent representation relating to a person's authority to lawfully practice a profession; or
- When patients are uninformed about the profession under which a practitioner is practicing before receiving professional consultation or services from the practitioner.

The bill provides that the Legislature's regulation of health care professions as provided under current law in s. 456.003(2), F.S., is a matter of great public importance.

Section 2 of the bill creates s. 456.0651, F.S., and defines the following terms as used in that section of statute:

- "Advertisement" means any printed, electronic, or oral, statement that:
 - Is communicated or disseminated to the general public;
 - Is prepared, communicated, or disseminated under the control of the practitioner or with the practitioner's consent; and
 - Is intended to encourage a person to use a practitioner's professional services or to promote those services or the practitioner in general; or, for commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.
- "Educational degree" means a degree awarded to a practitioner by a college or university relating to the practitioner's profession or specialty designation, which degree may be referenced in an advertisement by name or acronym.
- "Misleading, deceptive, or fraudulent representation" means any information that misrepresents or falsely describes a practitioner's profession, skills, training, expertise, educational degree, board certification, or licensure.
- "Profession" means, in addition to the meaning provided in s. 456.001, the name or title of a practitioner's profession that is regulated by the DOH's Division of Medical Quality Assurance and which name or title is allowed to be used by an individual due to his or her license, license by endorsement, certification, or registration issued by a board or the DOH. The term does not include a practitioner's license or educational degree.

³³ See s. 456.056(5), F.S.

The bill provides that, for purposes of s. 456.065, F.S., relating to the unlicensed practice of a health care profession, in addition to the definitions of the “practice of medicine”³⁴ and the “practice of osteopathic medicine”³⁵ found in their corresponding practice acts, those terms also include attaching to one’s name, alone or in combination, or in connection with other words, any terms indicating that a person is licensed to practice medicine or osteopathic medicine or any of the following titles or designations in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation:

- Doctor of medicine.
- M.D.
- Doctor of osteopathy.
- D.O.
- Emergency physician.
- Family physician.
- Interventional pain physician.
- Medical doctor.
- Osteopath.
- Osteopathic physician.
- Doctor of osteopathic medicine.
- Surgeon.
- Neurosurgeon.
- General surgeon.
- Resident physician.
- Medical resident.
- Medical intern.
- Anesthesiologist.
- Cardiologist.
- Dermatologist.
- Endocrinologist.
- Gastroenterologist.
- Gynecologist.
- Hematologist.
- Hospitalist.
- Intensivist.
- Internist.
- Laryngologist.
- Nephrologist.
- Neurologist.
- Obstetrician.
- Oncologist.
- Ophthalmologist.
- Orthopedic surgeon.
- Orthopedist.

³⁴ See s. 458.305, F.S.

³⁵ See s. 459.003, F.S.

- Otolologist.
- Otolaryngologist.
- Otorhinolaryngologist.
- Pathologist.
- Pediatrician.
- Primary care physician.
- Proctologist.
- Psychiatrist.
- Radiologist.
- Rheumatologist.
- Rhinologist.
- Urologist.

Exceptions

Notwithstanding the provisions above, the bill authorizes all of the following:

A licensed practitioner may use any name or title of his or her profession, and any corresponding designation or initials, authorized under his or her practice act to describe himself or herself and his or her practice.

If the licensed practitioner has a specialty area of practice authorized under his or her practice act, he or she may use the following format to identify himself or herself or describe his or her practice: “...(name or title of the practitioner’s profession)..., specializing in ...(name of the practitioner’s specialty)....”

A chiropractic physician³⁶ licensed under ch. 460, F.S., may use the titles “chiropractic physician,” “doctor of chiropractic medicine,” “chiropractic radiologist,” and other titles, abbreviations, or designations authorized under his or her practice act or reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

A podiatric physician³⁷ licensed under ch. 461, F.S., may use the titles “podiatric physician,” “podiatric surgeon,” “Fellow in the American College of Foot and Ankle Surgeons,” and other titles or abbreviations authorized under his or her practice act.

A dentist licensed under ch. 466, F.S., may use the following titles and abbreviations as applicable to his or her license, specialty, and certification, and any other titles or abbreviations authorized under his or her practice act:

- Doctor of medicine in dentistry.

³⁶ Under s. 460.403(5), F.S., “chiropractic physician” means any person licensed to practice chiropractic medicine pursuant to ch. 460, F.S.

³⁷ Under s. 461.003(4), F.S., “podiatric physician” means any person licensed to practice podiatric medicine pursuant to ch. 461, F.S.

- Doctor of dental medicine.
- D.M.D.
- Doctor of dental surgery.
- D.D.S.
- Oral surgeon.
- Maxillofacial surgeon.
- Oral and maxillofacial surgeon.
- O.M.S.
- Oral radiologist.
- Dental anesthesiologist.
- Oral pathologist

An anesthesiologist assistant licensed under ch. 458 or 459, F.S., may use only the titles “anesthesiologist assistant” or “certified anesthesiologist assistant” and the abbreviation “C.A.A.”

The bill also provides that the provisions above in the newly-created s. 456.0651, F.S., may not be construed to prohibit or interfere with a licensed practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program using definitions and terminology provided under applicable federal law or regulations.

Grounds for Discipline

Section 3 of the bill amends the grounds for discipline that may be imposed by practitioner regulatory boards in s. 456.072(1)(t), F.S., to specify that the following acts constitute grounds for disciplinary actions:

- A practitioner’s failure, when treating or consulting with a patient, to identify through the wearing of a name tag the practitioner’s name and profession, as defined in s. 456.0651, F.S. The information on the name tag must be consistent with the specifications of s. 456.0651(2), F.S., such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.
- The failure of any advertisement for health care services naming a practitioner to identify the profession under which the practitioner is practicing and the practitioner’s educational degree in relation to the services featured in the advertisement.

The name tag requirement does not apply if the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case:

- If the practitioner chooses not to wear a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license.
- The practitioner must also verbally identify himself or herself to a new patient by name and profession, and such identification must be consistent with the specifications of s. 456.0651(2), F.S., so that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

The bill requires each board, or the DOH if there is no board, to adopt rules to determine how practitioners must comply with s. 456.072(1)(t), F.S., as amended by the bill.

Section 4 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent persons violate the bill's provisions, the bill could have a potential workload increase and an increase in costs for the DOH's ULA Unit of an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.003 and 456.072.

This bill creates section 456.0651 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 Health Policy on January 30, 2024:

The committee substitute:

- Amends s. 456.003(2), F.S., regarding Legislative intent for the regulation of health care professions to protect the health, safety, and welfare of the public;
- Provides that, for the purposes of s. 456.065, F.S., relating to the unlicensed practice of a health care profession, in addition to the definitions of the “practice of medicine” and the “practice of osteopathic medicine” found in their corresponding practice acts, those terms also include attaching to one’s name, alone or in combination, or in connection with other words, any terms indicating that a person is licensed to practice medicine or osteopathic medicine or any of the bill’s specified titles or designations, in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation; and
- Provides that s. 456.0651, F.S., as created by the bill, may not be construed to prohibit or interfere with a licensed practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program using definitions or terminology provided under applicable federal law or regulations.

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senator Harrell

588-02646-24

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A bill to be entitled

An act relating to health care practitioner titles and designations; amending s. 456.003, F.S.; revising legislative findings; creating s. 456.0651, F.S.; defining terms; providing that, for specified purposes, the use of specified titles or designations in connection with one's name constitutes the practice of medicine or the practice of osteopathic medicine; providing exceptions; providing construction; amending s. 456.072, F.S.; revising grounds for disciplinary action relating to a practitioner's use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; revising applicability; requiring certain health care practitioners to prominently display a copy of their license in a conspicuous area of their practice; requiring that the copy of the license be a specified size; requiring such health care practitioners to also verbally identify themselves in a specified manner to new patients; requiring, rather than authorizing, certain boards, or the Department of Health if there is no board, to adopt certain rules; providing an effective date.

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

Section 1. Subsection (2) of section 456.003, Florida Statutes, is amended to read:
456.003 Legislative intent; requirements.-

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(2) The Legislature further finds believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state, and that the health, safety, and welfare of the public may be harmed or endangered by the unlawful practice of a profession; by a misleading, deceptive, or fraudulent representation relating to a person's authority to lawfully practice a profession; or when patients are uninformed about the profession under which a practitioner is practicing before receiving professional consultation or services from the practitioner. As a matter of great public importance, such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

Section 2. Section 456.0651, Florida Statutes, is created to read:

456.0651 Health care practitioner titles and designations.-

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

(a) "Advertisement" means any printed, electronic, or oral statement that:

1. Is communicated or disseminated to the general public;

2.a. Is intended to encourage a person to use a practitioner's professional services or to promote those

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59 services or the practitioner in general; or

60 b. For commercial purposes, names a practitioner in
 61 connection with the practice, profession, or institution in
 62 which the practitioner is employed, volunteers, or provides
 63 health care services; and

64 3. Is prepared, communicated, or disseminated under the
 65 control of the practitioner or with the practitioner's consent.

66 (b) "Educational degree" means the degree awarded to a
 67 practitioner by a college or university relating to the
 68 practitioner's profession or specialty designation, which degree
 69 may be referenced in an advertisement by name or acronym.

70 (c) "Misleading, deceptive, or fraudulent representation"
 71 means any information that misrepresents or falsely describes a
 72 practitioner's profession, skills, training, expertise,
 73 educational degree, board certification, or licensure.

74 (d) "Practitioner" means a health care practitioner as
 75 defined in s. 456.001.

76 (e) "Profession," in addition to the meaning provided in s.
 77 456.001, also means the name or title of a practitioner's
 78 profession that is regulated by the department's Division of
 79 Medical Quality Assurance and which name or title is allowed to
 80 be used by an individual due to his or her license, license by
 81 endorsement, certification, or registration issued by a board or
 82 the department. The term does not include a practitioner's
 83 license or educational degree.

84 (2) For purposes of this section and s. 456.065, in
 85 addition to the definitions of the terms "practice of medicine"
 86 in s. 458.305 and "practice of osteopathic medicine" in s.
 87 459.003, the practice of medicine or osteopathic medicine also

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88 includes attaching to one's name, either alone or in
 89 combination, or in connection with other words, any terms
 90 indicating that a person is licensed to practice medicine or
 91 osteopathic medicine or any of the following titles or
 92 designations, if used in an advertisement or in a manner that
 93 constitutes a misleading, deceptive, or fraudulent
 94 representation:

95 (a) Doctor of medicine.

96 (b) M.D.

97 (c) Doctor of osteopathy.

98 (d) D.O.

99 (e) Emergency physician.

100 (f) Family physician.

101 (g) Interventional pain physician.

102 (h) Medical doctor.

103 (i) Osteopath.

104 (j) Osteopathic physician.

105 (k) Doctor of osteopathic medicine.

106 (l) Surgeon.

107 (m) Neurosurgeon.

108 (n) General surgeon.

109 (o) Resident physician.

110 (p) Medical resident.

111 (q) Medical intern.

112 (r) Anesthesiologist.

113 (s) Cardiologist.

114 (t) Dermatologist.

115 (u) Endocrinologist.

116 (v) Gastroenterologist.

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117 (w) Gynecologist.
 118 (x) Hematologist.
 119 (y) Hospitalist.
 120 (z) Intensivist.
 121 (aa) Internist.
 122 (bb) Laryngologist.
 123 (cc) Nephrologist.
 124 (dd) Neurologist.
 125 (ee) Obstetrician.
 126 (ff) Oncologist.
 127 (gg) Ophthalmologist.
 128 (hh) Orthopedic surgeon.
 129 (ii) Orthopedist.
 130 (jj) Otolologist.
 131 (kk) Otolaryngologist.
 132 (ll) Otorhinolaryngologist.
 133 (mm) Pathologist.
 134 (nn) Pediatrician.
 135 (oo) Primary care physician.
 136 (pp) Proctologist.
 137 (qq) Psychiatrist.
 138 (rr) Radiologist.
 139 (ss) Rheumatologist.
 140 (tt) Rhinologist.
 141 (uu) Urologist.
 142 (3) Notwithstanding subsection (2):
 143 (a) A licensed practitioner may use the name or title of
 144 his or her profession which is authorized under his or her
 145 practice act, and any corresponding designations or initials so

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146 authorized, to describe himself or herself and his or her
 147 practice.
 148 (b) A licensed practitioner who has a specialty area of
 149 practice authorized under his or her practice act may use the
 150 following format to identify himself or herself or describe his
 151 or her practice: "... (name or title of the practitioner's
 152 profession)..., specializing in ... (name of the practitioner's
 153 specialty)..."
 154 (c) A chiropractic physician licensed under chapter 460 may
 155 use the titles "chiropractic physician," "doctor of chiropractic
 156 medicine," "chiropractic radiologist," and other titles,
 157 abbreviations, or designations authorized under his or her
 158 practice act or reflecting those chiropractic specialty areas in
 159 which the chiropractic physician has attained diplomate status
 160 as recognized by the American Chiropractic Association, the
 161 International Chiropractors Association, the International
 162 Academy of Clinical Neurology, or the International Chiropractic
 163 Pediatric Association.
 164 (d) A podiatric physician licensed under chapter 461 may
 165 use the following titles and abbreviations as applicable to his
 166 or her license, specialty, and certification: "podiatric
 167 physician," "podiatric surgeon," "Fellow in the American College
 168 of Foot and Ankle Surgeons," and other titles or abbreviations
 169 authorized under his or her practice act.
 170 (e) A dentist licensed under chapter 466 may use the
 171 following titles and abbreviations as applicable to his or her
 172 license, specialty, and certification: "doctor of medicine in
 173 dentistry," "doctor of dental medicine," "D.M.D.," "doctor of
 174 dental surgery," "D.D.S.," "oral surgeon," "maxillofacial

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surgeon," "oral and maxillofacial surgeon," "O.M.S.," "oral radiologist," "dental anesthesiologist," "oral pathologist," and any other titles or abbreviations authorized under his or her practice act.

(f) An anesthesiologist assistant licensed under chapter 458 or chapter 459 may use only the titles "anesthesiologist assistant" or "certified anesthesiologist assistant" and the abbreviation "C.A.A."

(4) This section may not be construed to prohibit or interfere with a licensed practitioner's ability to lawfully bill the Medicare program or other federal health care program using definitions or terminology provided under applicable federal law or regulations for services rendered to a patient enrolled in such program.

Section 3. Paragraph (t) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t)1. A practitioner's failure, when treating or consulting with a patient, ~~Failing to identify through written notice,~~ which may include the wearing of a name tag the practitioner's name and profession, as defined in s. 456.0651, or orally to a patient the type of license under which the practitioner is practicing. The information on the name tag must be consistent with the specifications of s. 456.0651(2) such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

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2. The failure of any advertisement for health care services naming the practitioner ~~to must~~ identify the profession, as defined in s. 456.0651, under which the practitioner is practicing and the practitioner's educational degree, as defined in s. 456.0651, in relation to the services featured in the advertisement ~~type of license the practitioner holds.~~

3. Subparagraph 1. ~~This paragraph~~ does not apply to a practitioner while the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case, if the practitioner chooses not to wear a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license. Such practitioner shall also verbally identify himself or herself to a new patient by name and identify the profession, as defined in s. 456.0651, under which the practitioner is practicing. Such verbal identification must be consistent with the specifications of s. 456.0651(2) such that it does not constitute the unlicensed practice of medicine or osteopathic medicine ~~a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429.~~

4. Each board, or the department ~~if where~~ there is no board, ~~shall is authorized~~ by rule ~~to~~ determine how its practitioners ~~must may~~ comply with this paragraph disclosure requirement.

Section 4. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Health and
Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

January 30, 2024

Senator Debbie Mayfield
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Mayfield,

I respectfully request that **SB 1112** – Health Care Practitioner Titles and Designations be placed on the next available agenda for the Rules Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Philip Twogood, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- ☐ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- ☐ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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8 FEB 2024

Meeting Date

RULES

Committee

SB 1112

Bill Number or Topic

Amendment Barcode (if applicable)

Name

JACK HEBERT

Phone

727-560-3323

Address

5320 SILVER SUN DR.

Street

Email

JACK@FCACHIRO.ORG

APOLLO BEACH FL 33572

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FLORIDA CHIROPRACTIC ASSOCIATION

☐

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Feb. 8, 2024

Meeting Date

Rules

Committee

SB 1112

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Joe Anne Hart

Phone

850-224-1089

Address

118 East Jefferson St

Street

Tallah

FL

32301

City

State

Zip

Email

jahart@floridadental.org

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Dental Association

☐

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

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

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S-001 (08/10/2021)

**Following appearance record
not read into the record**

Received after bill considered

The Florida Senate

APPEARANCE RECORD

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2/8/24

Meeting Date

Rules

Committee

1112

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Chris Lyon

Phone

222-5702

Address

106 E. College Ave., Ste. 1500

Email

clyon@lw-law.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Osteopathic Medical Association

☐

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

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

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 Rules

BILL: CS/CS/SB 1136

INTRODUCER: Rules Committee; Community Affairs Committee; and Senator Trumbull

SUBJECT: Regulation of Water Resources

DATE: February 9, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. <u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3. <u>Carroll</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1136 revises the qualification requirements a person must meet to take the water well contractor licensure examination. The bill requires an applicant to have at least two years of experience in constructing, repairing, or abandoning water wells specifically permitted in Florida.

The bill authorizes an authority to whom a water management district has delegated enforcement powers to consistently apply disciplinary guideline rules relating to wells.

The bill includes business entities as possible violators of certain unlawful acts relating to wells. The bill adds that it is unlawful to advertise water well drilling or construction services if the business entity is not owned by a licensed water well contractor or does not employ a full-time water well contractor.

The bill provides that the onsite sewage treatment and disposal system (OSTDS) variance review and advisory committee is not responsible for water well permitting. However, the committee shall consider all requirements of law related to OSTDSs when making recommendations on variance requests for OSTDS permits.

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

II. Present Situation:

Department of Environmental Protection and Water Management District Authority

The Department of Environmental Protection (DEP) is responsible for the administration of water resources at the state level and exercises general supervisory authority over the Water Management Districts (WMDs).¹ The state's five water management districts (WMDs) are responsible for the administration of water resources at the regional level. The five regions are Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida.²

DEP has authorized the WMDs to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells.³ Because of this authorization, the issuance of well permits are the sole responsibility of the WMDs, delegated local governments, or local county health departments. Further, DEP has authorized the WMDs to adopt rules and procedures relating in part to the location, construction, repair, and abandonment of water wells; to implement a program for the licensing of water well contractors; and to adopt by rule disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the WMDs.⁴

Water Well Regulations

Licensure of Water Well Contractors

A water well is defined as any excavation to acquire, locate, or artificially recharge groundwater.⁵ The law requires that every person who wishes to engage in business as a water well contractor must obtain a license from the appropriate WMD.⁶ Each person desiring to be licensed as a water well contractor must apply to take a licensure examination. The application must be made to the WMD in which the applicant resides or in which his or her principal place of business is located. If the applicant resides in another state, he or she must apply to the WMD in which most of his or her business will take place.⁷

An applicant who meets the following requirements shall be entitled to take the water well contractor licensure examination:

- Is at least 18 years of age.
- Has at least two years of experience in constructing, repairing, or abandoning water wells.
- Has completed the application form and remitted a nonrefundable application fee.⁸

¹ DEP, *Water Management Districts*, <https://floridadep.gov/owper/water-policy/content/water-management-districts#:~:text=The%20state%27s%20five%20water%20management%20districts%20include%20the,District%2C%20and%20the%20South%20Florida%20Water%20Management%20District>. (last visited Jan. 24, 2024).

² *Id.*

³ Section 373.308, F.S.; DEP *Water Well Contractor Licensing and Permitting*, <https://floridadep.gov/water/source-drinking-water/content/water-well-contractor-licensing-and-permitting> (last visited Jan. 24, 2024).

⁴ *Id.*; see ss. 373.323, 373.333, and 373.336, F.S.; see, e.g., ch. 40E-3, F.A.C. (South Florida Water Management District rules relating to water wells).

⁵ Institute of Food and Agricultural Sciences (UF/IFAS), *2021 Handbook of Florida Water Regulation: Water Wells*, <https://edis.ifas.ufl.edu/publication/FE603> (last visited Jan. 24, 2024).

⁶ Section 373.323, F.S.

⁷ *Id.*

⁸ *Id.*

An applicant must demonstrate satisfactory proof of his or her two years of experience by providing the following:

- Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from a water well contractor or a letter from a water well inspector employed by a governmental agency.
- A list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years. Of these wells, at least seven must have been constructed by the applicant. The list shall also include:
 - The name and address of the owner or owners of each well.
 - The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.
 - The approximate date the construction, repair, or abandonment of each well was completed.⁹

The WMD must issue a water well contracting license to any applicant who:

- Receives a passing grade on the examination,
- Has paid the initial application fee,
- Takes and completes a minimum of 12 hours of approved coursework, and
- Has complied with the requirements listed above.

Once licensed, a water well contractor may install, repair and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems.¹⁰ Due to revisions to the Florida Building Code, Section 612 now refers to solar systems and Section 614 refers to water wells.¹¹ In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water systems.¹²

Exemptions to these licensing requirements may be made if the WMD finds that compliance with all requirements would result in undue hardship.¹³ A WMD may grant an exemption to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of water well regulations. Further, a person who is not licensed may construct a well if the well is two inches or under in diameter, on his or her own or leased property intended for use only in a single-family house which is his or her residence, or intended for use only for farming purposes on the person's farm, and when the waters are not intended for use by the public or any residence other than his or her own, and he or she complies with all local and state rules and regulations relating to the construction of water wells.¹⁴

⁹ *Id.*

¹⁰ *Id.*

¹¹ 2023 Florida Building Code, Plumbing, Eight Edition, Sections 612 and 614, available at https://codes.iccsafe.org/content/FLPC2023P1/chapter-6-water-supply-and-distribution#FLPC2023P1_Ch06_Sec614. (last visited Jan. 24, 2024)

¹² Section 373.323, F.S.

¹³ Section 373.326, F.S.

¹⁴ *Id.*

Disciplinary Guidelines

The WMDs may adopt by rule disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the WMDs.¹⁵ A specific finding of mitigating or aggravating circumstances shall allow a WMD to impose a penalty other than that provided in the guidelines. Disciplinary action may be taken by any WMD, regardless of where the contractor's license was issued.¹⁶

When a WMD has reasonable grounds for believing that there has been a violation of water well regulations or of any rule or regulation adopted pursuant thereto, it must give written notice to the alleged violator. The notice must be served in the manner required by law for the service of process upon a person in a civil action or by registered U.S. mail to the last known address of the alleged violator.

Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the WMD requiring remedial action which, if taken within the time specified in the order, will effect compliance with the requirements of water well regulations and regulations issued pursuant thereto. Such order shall become final unless a request for a hearing is made within 30 days from the date of service of such order. Upon compliance, the WMD shall serve notice stating that compliance with the order has been achieved.¹⁷

Unlawful Acts

The statutes provide that, with respect to water well regulations, it is unlawful for any person to:

- Practice water well contracting without an active license.
- Construct, repair, or abandon a water well, or operate drilling equipment for such purpose, unless employed by or under the supervision of a licensed water well contractor or exempt.
- Give false or forged evidence to obtain a license.
- Present as his or her own the license of another.
- Use or attempt to use a license to practice water well contracting that has been suspended, revoked, or placed on inactive status.
- Engage in willful or repeated violation of water well regulations or of any DEP rule or regulation or WMD or state agency rule or regulation relating to water wells which endangers the public health, safety, and welfare.¹⁸

¹⁵ Section 373.333, F.S.

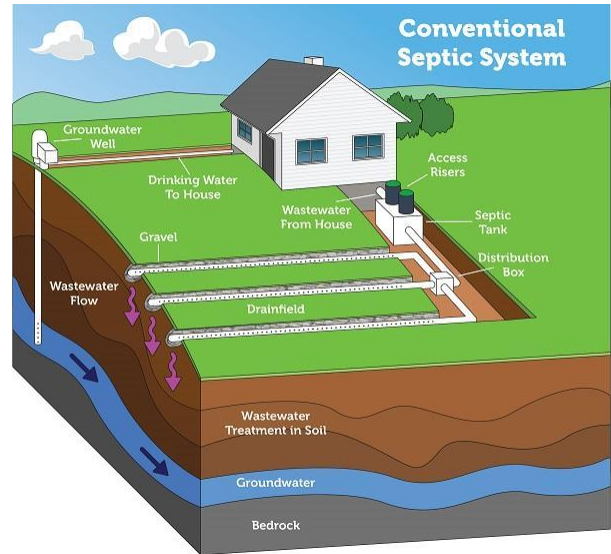
¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 373.336, F.S.

Onsite Sewage Treatment and Disposal Systems

Onsite Sewage Treatment and Disposal Systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.¹⁹ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.²⁰



Please note: Septic systems vary. Diagram is not to scale.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state’s population.²¹ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.²² For example, in rural areas and low-density developments, central sewer systems are not cost-effective. In 2008, less than one percent of OSTDSs in Florida were actively managed under operating permits and maintenance agreements.²³ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.²⁴

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.²⁵ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.²⁶

¹⁹ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Jan. 9, 2024); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Jan. 24, 2024) (showing the graphic provided in the analysis).

²⁰ *Id.*

²¹ DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems> (last visited Jan. 24, 2024).

²² DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/costs-implement-mandatory-statewide-inspection.pdf. (last visited Jan. 24, 2024).

²³ *Id.*

²⁴ *Id.*

²⁵ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; (last visited Jan. 24, 2024). See Fla. Admin. Code R. 64E-6.006(2).

²⁶ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Oct. 2020), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf>. (last visited Jan. 24, 2024).

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as “advanced” or “nutrient-reducing” septic systems).²⁷ DEP publishes on its website approved products and resources on advanced systems.²⁸ Determining which advanced system is the best option can depend on site-specific conditions.

In 2020, the Clean Waterways Act provided for the transfer of the Onsite Sewage Program from the Department of Health (DOH) to DEP.²⁹ The Onsite Sewage Program will be transferred over a period of five years, and guidelines for the transfer are provided by an interagency agreement.³⁰ Per the agreement, DEP has the primary powers and duties of the Onsite Sewage Program, meaning that the county departments of health will implement the OSTDS program under the direction of DEP instead of DOH.³¹ The county departments of health still handle permitting and inspection of OSTDS.³² In the event of an alleged violation of OSTDS laws, county departments of health will be responsible for conducting an inspection to gather information regarding the allegations.³³

Variances

DEP is required by law to grant variances in hardship cases relating to OSTDSs under certain conditions.³⁴ DEP may grant variances in hardship cases which may be less restrictive than OSTDSs regulations specified in law.³⁵ A variance may not be granted until DEP is satisfied of the following:

- The hardship was not caused intentionally by the action of the applicant;
- A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and
- The discharge from the OSTDS will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.³⁶

The law provides that where soil conditions, water table elevation, and setback provisions are determined by DEP to be satisfactory, special consideration must be given to those lots platted before 1972.³⁷

²⁷ DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf. (last visited Jan. 24, 2024).

²⁸ DEP, *Onsite Sewage Program, Product Listings and Approval Requirements*, <https://floridadep.gov/water/onsite-sewage/content/product-listings-and-approval-requirements>. (last visited Jan. 24, 2024).

²⁹ DEP, *Program Transfer*, <https://floridadep.gov/water/onsite-sewage/content/program-transfer> (last visited Jan. 24, 2024).

³⁰ DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida’s Clean Waterways Act for Transfer of the Onsite Sewage Program*, 5 (June 30, 2021), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf. (last visited Jan. 24, 2024).

³¹ *Id.* at 14.

³² *Id.* at 11; and DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage> (last visited Jan. 24, 2024).

³³ DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida’s Clean Waterways Act for Transfer of the Onsite Sewage Program* at 11.

³⁴ Section 381.0065(3), F.S.

³⁵ Section 381.0065(4), F.S.

³⁶ *Id.*

³⁷ *Id.*

DEP is required to appoint and staff a variance review and advisory committee, which meets monthly to recommend agency action on variance requests.³⁸ The committee makes its recommendations of variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee must consider the criteria listed above in its recommended agency action on variance requests and must also strive to allow property owners the full use of their land where possible.³⁹

The variance review and advisory committee consists of the following:

- The Secretary of Environmental Protection or his or her designee.
- A representative from the county health departments.
- A representative from the home building industry recommended by the Florida Home Builders Association.
- A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.
- A representative from the Department of Health.
- A representative from the real estate industry who is also a developer in Florida who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.
- A representative from the engineering profession recommended by the Florida Engineering Society.⁴⁰

Members of the variance review and advisory committee shall be appointed for a three-year term, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 373.323, F.S., to specify that an applicant is eligible to take the water well contractor licensure examination if he or she has at least two years of experience in constructing, repairing, or abandoning water wells specifically permitted in this state.

The bill amends the requirement that an applicant must show proof that he or she is eligible by providing a list of at least ten water wells he or she has constructed, repaired, or abandoned within the preceding five years by requiring those water wells to be permitted in this state.

The bill updates a reference to the Florida Building Code, Plumbing. It provides that water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 614—Wells pumps and tanks used for private potable water systems.

³⁸ *Id.*; DEP, *Variances*, available at <https://floridadep.gov/water/onsite-sewage/content/variances> (last visited Jan. 24, 2024).

³⁹ Section 381.0065(4), F.S.

⁴⁰ *Id.*; DEP, *Variance Review and Advisory Committee for Onsite Sewage Treatment and Disposal Systems*, available at https://floridadep.gov/sites/default/files/OSTDSVarianceReviewAdvisoryCommittee-Members_0.pdf (last visited Jan. 24, 2024).

⁴¹ Section 381.0065(4), F.S.

Section 2 amends s. 373.333, F.S., to provide that the disciplinary guideline rules must be consistently applied by the water management districts (WMDs) or by an authority to whom a WMD has delegated enforcement powers.

The bill requires that if a written notice for an alleged violation of this part or any rule or regulation adopted pursuant hereto is served by mail, it must be certified U.S. mail. Current law requires registered U.S. mail.

The bill provides that an order of a WMD requiring remedial action is final unless a request for hearing is made within 30 days after the date of service of such order.

Section 3 amends s. 373.336, F.S., to provide that the listed unlawful acts are also unlawful for a business entity, as applicable. The bill adds that it is unlawful to advertise water well drilling or construction services if the business entity is not owned by a licensed water well contractor or does not employ a full-time water well contractor.

The bill provides that a person who violates this part or a regulation or an order issued hereunder commits a misdemeanor of the second degree. The bill deletes language providing that a person shall, upon conviction, be guilty of a misdemeanor of the second degree.

Section 4 amends s. 381.0065, F.S., to provide that the onsite sewage treatment and disposal system (OSTDS) variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to OSTDSs when making recommendations on variance requests for OSTDS permits.

Section 5 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.323, 373.333, 373.336, and 381.0065.

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

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

CS/CS by Rules on February 8, 2024:

The committee substitute:

- Deletes a requirement added by the underlying bill that the Department of Environmental Protection (DEP) must adopt rules, in consultation with the water management districts (WMDs), to allow a licensed water well contractor to apply for and receive a variance for the installation of a private or public potable water well from the applicable WMD within the region of installation.
- Restores the onsite sewage treatment and disposal system (OSTDS) variance review and advisory committee, which the underlying bill removes.
- Provides that the OSTDS variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to OSTDSs when making recommendations on variance requests for OSTDS permits.

CS by Community Affairs on January 29, 2024:

The committee substitute provides that DEP's rules relating to the location of OSTDSs must, in consultation with the WMDs, allow a licensed water well contractor to apply for

and receive a variance for the installation of a private or public potable water well from the applicable WMD in the region of installation.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Trumbull) recommended the following:

Senate Amendment (with title amendment)

Delete lines 148 - 302
and insert:

Section 4. Paragraph (h) of subsection (4) of section
381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems;
regulation.—

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
construct, repair, modify, abandon, or operate an onsite sewage
treatment and disposal system without first obtaining a permit



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approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. An operating permit must be obtained before the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. A fee is not associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service,



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41 abandon, or maintain any portion of an onsite sewage treatment
42 and disposal system without being registered under part III of
43 chapter 489. A property owner who personally performs
44 construction, maintenance, or repairs to a system serving his or
45 her own owner-occupied single-family residence is exempt from
46 registration requirements for performing such construction,
47 maintenance, or repairs on that residence, but is subject to all
48 permitting requirements. A municipality or political subdivision
49 of the state may not issue a building or plumbing permit for any
50 building that requires the use of an onsite sewage treatment and
51 disposal system unless the owner or builder has received a
52 construction permit for such system from the department. A
53 building or structure may not be occupied and a municipality,
54 political subdivision, or any state or federal agency may not
55 authorize occupancy until the department approves the final
56 installation of the onsite sewage treatment and disposal system.
57 A municipality or political subdivision of the state may not
58 approve any change in occupancy or tenancy of a building that
59 uses an onsite sewage treatment and disposal system until the
60 department has reviewed the use of the system with the proposed
61 change, approved the change, and amended the operating permit.

62 (h)1. The department may grant variances in hardship cases
63 which may be less restrictive than the provisions specified in
64 this section. If a variance is granted and the onsite sewage
65 treatment and disposal system construction permit has been
66 issued, the variance may be transferred with the system
67 construction permit, if the transferee files, within 60 days
68 after the transfer of ownership, an amended construction permit
69 application providing all corrected information and proof of



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ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. A fee is not associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance



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requests and shall also strive to allow property owners the full use of their land where possible.

a. The committee is composed ~~consists~~ of the following:

(I) ~~a.~~ The Secretary of Environmental Protection or his or her designee.

(II) ~~b.~~ A representative from the county health departments.

(III) ~~c.~~ A representative from the home building industry recommended by the Florida Home Builders Association.

(IV) ~~d.~~ A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

(V) ~~e.~~ A representative from the Department of Health.

(VI) ~~f.~~ A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

(VII) ~~g.~~ A representative from the engineering profession recommended by the Florida Engineering Society.

b. Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

3. The variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to onsite sewage treatment and disposal systems when making recommendations on variance requests for onsite sewage treatment and disposal system permits.



564856

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

And the title is amended as follows:

Delete lines 17 - 26

and insert:

amending s. 381.0065, F.S.; providing that the
Department of Environmental Protection's variance
review and advisory committee is not responsible for
reviewing water well permitting; requiring the
committee to consider certain requirements when making
recommendations on variance requests for onsite sewage
treatment and disposal system permits; making
technical changes;

By the Committee on Community Affairs; and Senator Trumbull

578-02602-24

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A bill to be entitled

An act relating to the regulation of water resources; amending s. 373.323, F.S.; revising the qualification requirements a person must meet in order to take the water well contractor license examination; updating the reference to the Florida Building Code standards that a licensed water well contractor's work must meet; amending s. 373.333, F.S.; authorizing certain authorities who have been delegated enforcement powers by water management districts to apply disciplinary guidelines adopted by the districts; requiring that certain notices be delivered by certified, rather than registered, mail; making technical changes; amending s. 373.336, F.S.; prohibiting a person or business entity from advertising water well drilling or construction services in specified circumstances; amending s. 381.0065, F.S.; requiring that certain rules adopted by Department of Environmental Protection relating to the location of onsite sewage treatment and disposal systems allow licensed water well contractors to apply for and receive from the water management district within the region of installation a variance for private or public potable well installations; deleting provisions relating to the variance review and advisory committee for onsite sewage treatment and disposal system permits; providing an effective date.

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

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

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Section 1. Subsections (3) and (10) of section 373.323, Florida Statutes, are amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets all of the following requirements is eligible ~~shall be entitled~~ to take the water well contractor licensure examination:

(a) Is at least 18 years of age.

(b) Has at least 2 years of experience in constructing, repairing, or abandoning water wells permitted in this state. The applicant must demonstrate satisfactory proof of such experience ~~shall be demonstrated~~ by providing:

1. Evidence of the length of time he or she ~~the applicant~~ has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from a water well contractor or a letter from a water well inspector employed by a governmental agency.

2. A list of at least 10 water wells permitted in this state which he or she ~~that the applicant~~ has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list must ~~shall~~ also include:

a. The name and address of the owner or owners of each well.

b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.

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

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c. The approximate date the construction, repair, or abandonment of each well was completed.

(c) Has completed the application form and remitted a nonrefundable application fee.

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 614-Wells ~~Section 612-Wells~~ Pumps And Tanks Used For Private Potable Water Systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water systems.

Section 2. Subsections (1) and (3) of section 373.333, Florida Statutes, are amended to read:

373.333 Disciplinary guidelines; adoption and enforcement; license suspension or revocation.—

(1) The department shall adopt by rule disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the water management districts, providing each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the disciplinary guideline rules as they are drafted. The disciplinary guidelines must ~~shall~~ be adopted by each water management district. The guideline rules must ~~shall~~ be consistently applied by the water management districts, or by an authority to whom a water management district has delegated enforcement powers, and must do all of the following shall:

(a) Specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses.

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(b) Distinguish minor violations from those which endanger public health, safety, and welfare or contaminate the water resources.

(c) Inform the public of likely penalties which may be imposed for proscribed conduct.

A specific finding of mitigating or aggravating circumstances shall allow a water management district to impose a penalty other than that provided in the guidelines. Disciplinary action may be taken by any water management district, regardless of where the contractor's license was issued.

(3) Such notice must ~~shall~~ be served in the manner required by law for the service of process upon a person in a civil action or by certified ~~registered~~ United States mail to the last known address of the person. The water management district shall send copies of such notice only to persons who have specifically requested such notice or to entities with which the water management district has formally agreed to provide such notice. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells must ~~shall~~ be accompanied by an order of the water management district requiring remedial action which, if taken within the time specified in such order, will effect compliance with ~~the requirements of~~ this part and regulations issued hereunder. Such order is ~~shall become~~ final unless a request for hearing as provided in chapter 120 is made within 30 days after ~~from~~ the date of service of such order. Upon compliance, notice must ~~shall~~ be served by the water management district in a timely manner upon each person and entity who received notice of a

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violation, stating that compliance with the order has been achieved.

Section 3. Subsections (1) and (3) of section 373.336, Florida Statutes, are amended to read:

373.336 Unlawful acts; penalties.—

(1) It is unlawful for any person or business entity, as applicable, to do any of the following:

(a) Practice water well contracting without an active license issued pursuant to this part.

(b) Construct, repair, or abandon a water well, or operate drilling equipment for such purpose, unless employed by or under the supervision of a licensed water well contractor or exempt under s. 373.326.

(c) Give false or forged evidence to obtain a license.

(d) Present as his or her own the license of another.

(e) Use or attempt to use a license to practice water well contracting which license has been suspended, revoked, or placed on inactive status.

(f) Engage in willful or repeated violation of this part or of any department rule or regulation or water management district or state agency rule or regulation relating to water wells which endangers the public health, safety, and welfare.

(g) Advertise water well drilling or construction services if the business entity is not owned by a licensed water well contractor or does not employ a full-time water well contractor.

(3) ~~A Any person who violates any provision of this part or a regulation or an order issued hereunder commits shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Continuing~~

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violation after an order or a conviction constitutes shall
~~constitute~~ a separate violation for each day so continued.

Section 4. Paragraphs (e), (h), and (w) of subsection (4) of section 381.0065, Florida Statutes, are amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. An operating permit must be obtained before the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location,

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175 and installation conditions or repair of an onsite sewage
 176 treatment and disposal system remains the same, a construction
 177 or repair permit for the onsite sewage treatment and disposal
 178 system may be transferred to another person, if the transferee
 179 files, within 60 days after the transfer of ownership, an
 180 amended application providing all corrected information and
 181 proof of ownership of the property. A fee is not associated with
 182 the processing of this supplemental information. A person may
 183 not contract to construct, modify, alter, repair, service,
 184 abandon, or maintain any portion of an onsite sewage treatment
 185 and disposal system without being registered under part III of
 186 chapter 489. A property owner who personally performs
 187 construction, maintenance, or repairs to a system serving his or
 188 her own owner-occupied single-family residence is exempt from
 189 registration requirements for performing such construction,
 190 maintenance, or repairs on that residence, but is subject to all
 191 permitting requirements. A municipality or political subdivision
 192 of the state may not issue a building or plumbing permit for any
 193 building that requires the use of an onsite sewage treatment and
 194 disposal system unless the owner or builder has received a
 195 construction permit for such system from the department. A
 196 building or structure may not be occupied and a municipality,
 197 political subdivision, or any state or federal agency may not
 198 authorize occupancy until the department approves the final
 199 installation of the onsite sewage treatment and disposal system.
 200 A municipality or political subdivision of the state may not
 201 approve any change in occupancy or tenancy of a building that
 202 uses an onsite sewage treatment and disposal system until the
 203 department has reviewed the use of the system with the proposed

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204 change, approved the change, and amended the operating permit.
 205 (e) The department shall adopt rules relating to the
 206 location of onsite sewage treatment and disposal systems,
 207 including establishing setback distances, to prevent groundwater
 208 contamination and surface water contamination and to preserve
 209 the public health. In adopting such rules, the department rules
 210 must:
 211 1. Consider conventional and enhanced nutrient-reducing
 212 onsite sewage treatment and disposal system designs, impaired or
 213 degraded water bodies, domestic wastewater and drinking water
 214 infrastructure, potable water sources, nonpotable wells,
 215 stormwater infrastructure, the onsite sewage treatment and
 216 disposal system remediation plans developed pursuant to s.
 217 403.067(7)(a)9.b., nutrient pollution, and the recommendations
 218 of the onsite sewage treatment and disposal systems technical
 219 advisory committee established pursuant to former s. 381.00652.
 220 2. The rules must also Allow a person to apply for and
 221 receive a variance from a rule requirement upon demonstration
 222 that the requirement would cause an undue hardship and that
 223 granting the variance would not cause or contribute to the
 224 exceedance of a total maximum daily load.
 225 3. In consultation with the water management districts,
 226 allow a licensed water well contractor to apply for and receive
 227 a variance for the installation of a private or public potable
 228 water well from the applicable water management district within
 229 the region of installation.
 230 (h) ~~4-~~ The department may grant variances in hardship cases
 231 which may be less restrictive than the provisions specified in
 232 this section. If a variance is granted and the onsite sewage

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treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. A fee is not associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

1.a. The hardship was not caused intentionally by the action of the applicant;

2.b. A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and

3.e. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

~~2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the~~

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~~application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:~~

~~a. The Secretary of Environmental Protection or his or her designee.~~

~~b. A representative from the county health departments.~~

~~c. A representative from the home building industry recommended by the Florida Home Builders Association.~~

~~d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.~~

~~e. A representative from the Department of Health.~~

~~f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.~~

~~g. A representative from the engineering profession recommended by the Florida Engineering Society.~~

~~Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

(w) A governmental entity, including a municipality,

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county, or statutorily created commission, may not require an
engineer-designed performance-based treatment system, excluding
a passive engineer-designed performance-based treatment system,
before the completion of the Florida Onsite Sewage Nitrogen
Reduction Strategies Project. This paragraph does not apply to a
governmental entity, including a municipality, county, or
statutorily created commission, which adopted a local law,
ordinance, or regulation on or before January 31, 2012.
~~Notwithstanding this paragraph, an engineer-designed
performance-based treatment system may be used to meet the
requirements of the variance review and advisory committee
recommendations.~~

Section 5. This act shall take effect July 1, 2024.

The Florida Senate
APPEARANCE RECORD

2/
Meeting Date

1136
Bill Number or Topic

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

Rules
Committee

Amendment Barcode (if applicable)

Name Ryan Matthews

Phone 850 577 9090

Address 301 S Brimley St. Suite 600

Email Ryan.Matthews@gray-robison.com

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:

FGWA

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

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

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 Rules

BILL: CS/CS/SB 1198

INTRODUCER: Rules Committee; Commerce and Tourism Committee; and Senator Martin

SUBJECT: Corporate Actions

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Baird</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1198 provides a statutory ratification procedure for corporate actions that may not have been properly authorized and for shares that may have been improperly issued. These improperly authorized corporate actions, that would otherwise be proper, are called defective corporate actions.

The bill provides a statutory ratification process that is intended to supplement common law ratification. Subsequent ratified defective corporate actions, under these proposed provisions, would remain subject to equitable review. The ratification procedure is intended to be available only where there is objective evidence that a corporate action was defectively implemented. The bill gives specified affected parties the ability to file motions in the circuit court of the applicable county.

The bill also provides a statutory method, through filing a single composite statement, for a registered agent to resign from more than one corporate entity at a time, if the specified entity has been dissolved, administratively or voluntarily, for 10 years or longer. The bill applies to the following business entity types:

- Limited liability companies or a foreign limited liability companies;
- Corporations; and
- Corporations not for profit.

The bill keeps the fee to file the registered agent resignation the same for the listed above business entity types, even if filing to resign from more than one entity at a time.

The bill takes effect July 1, 2024.

II. Present Situation:

Corporations that do business within Florida are governed by the requirements laid forth in the Florida Business Corporation Act, a law that is modeled after the Model Business Corporation Act (MBCA) promulgated by the American Bar Association (ABA) in 1950.¹ The general business law community, headed by groups like the ABA and the Florida Bar Business Law Section (Business Law Section), are continually participating in collaborative efforts to make corporate laws clearer and pragmatic.

Limited Liability Companies (Chapter 605)

A Limited Liability Company (LLC) is a type of business entity recognized by and regulated under chapter 605, F.S., the Florida Revised Limited Liability Company Act. Benefits to forming a business as an LLC include a flexible tax structure and a vertical liability shield, which limits the personal liability of the LLC's members and managers for company obligations. Currently, LLCs are the most popular business entity in Florida, with over 2 million active LLCs as of 2023.²

Corporations for Profit (Chapter 607)

A for profit corporation is a type of business entity recognized and regulated under chapter 607, F.S. In order for a corporation to organize, the entity must file articles of incorporation, including specifics such as a corporate name, address, number of shares, and the designation of a registered office and agent.³

Corporations Not for Profit (Chapter 617)

A corporation not for profit is a type of business entity recognized and regulated under chapter 617, F.S. The structure of corporations not for profit are similar to for profit corporations, needing the filing of articles of incorporation.

The Department of State

The Department of State (DOS) is the state's central location responsible for receiving and maintaining a number of corporate records. Florida law requires certain documents to be filed with the Division of Corporations (division) of the DOS in order for a business to be organized as a corporation, partnership, LLC, or other business/commercial entity. Business entities can file these documents and check their status through an internet portal that is maintained by the division.

¹ See generally Section 607, F.S.

² Florida Department of State, Division of Corporations Yearly Statistics, available at <https://dos.fl.gov/sunbiz/about-us/yearly-statistics/> (last visited January 2024).

³ Section 607.0202, F.S.

Fees

In order to help maintain these records, the DOS is statutorily allowed to collect fees. Florida's fee requirements for business entities are some of the most competitive in the United States; where a corporation in Delaware (the state with the most incorporations, because of their notoriously pro-business laws) will pay no less than \$175 and no more than \$200,000 in annual fees, Florida only requires an aggregate of \$150 in fees per year.⁴

In 2013, the Legislature passed a law to make fees more uniform across the various business law chapters. However, each specific type of business entity should be aware of the various fees associated with their respective business organization chapter.

The relevant fees for the bill are as follows:⁵

<u>Corporation Fees</u>	
New Florida/Foreign Corporation	
Filing Fees	\$35.00
Registered Agent Designation	\$35.00
Annual Reports	
Annual Report of a For Profit Corporation	\$150.00
Annual Report of Not For Profit Corporation	\$61.25
Resignation of Agent	
Resignation of Registered Agent of an Active Corporation	\$87.50
Resignation of Registered Agent of an Administratively Dissolved/Voluntarily Dissolved/Withdrawn Corporation/Inactive Corporation	\$35.00

<u>Limited Liability Company Fees</u>	
New Florida/Foreign LLC	
Filing Fee	\$100.00
Registered Agent Designation Fee	\$25.00
Annual Reports	
Annual Report	\$138.75
Resignation of Agent	
Resignation of Registered Agent for an active LLC	\$85.00
Resignation of Registered Agent for a dissolved/inactive LLC	\$25.00

⁴ U.S. Securities and Exchange Commission, Schedule 14-A, Saga Communications, Inc. Proxy Statement (Apr. 16, 2020), available at https://www.sec.gov/Archives/edgar/data/0000886136/000110465921050534/tm2111304-1_def14a.htm, (last visited January 22, 2024).

⁵ The Florida Department of State, Division of Corporations, Fees, available at <https://dos.fl.gov/sunbiz/forms/fees/>, (last visited January 22, 2024).

Defective Corporate Actions

Under the Florida Business Corporation Act, there are certain requirements that a corporation must establish in order to be considered a valid corporation and properly authorized. For instance, a corporation must file its articles of incorporation with the DOS to transact business in the state. If a corporation does not file those articles of incorporation or does not include the requirements of the articles of incorporation, they are not entitled to filing by the department and may be considered an invalid corporation.⁶

Additionally, a corporation could have filed all documents correctly, but made an error in the appointment of their board of directors. Subsequent actions by the corporation, after that incorrect appointment of the board of directors, may be considered invalid. Another potential scenario of a defective corporate action may arise when a corporation issues shares but did not adhere to the correct share issuing guidelines. Any subsequent action, after that incorrect share issuance, may be considered invalid.

Being an invalid corporation can also be referred to as being a defective corporation or an unauthorized corporation. However, because of their nature, corporations, whether it be the incorporator, the board of directors, an officer or agent of the corporation, or the shareholders, can take actions even though the corporation is technically defective, unauthorized, or invalid.

When an unauthorized or defective corporation takes an action, such as improperly issuing shares, a legal situation can arise. For example, a corporation that is trying to make a business deal with another entity or raise capital usually has to reveal certain corporate records for the other parties due diligence, discovering a defective corporate action can immediately halt a transaction or potential transaction. If a business deal has already been agreed upon prior to the discovering the defective corporate action, legal issues can arise.

Currently, disputed acts or defective share issuances that are carried out by a defective or unauthorized corporation are governed by common law in the court system. These disputes can cost business entities time and money to resolve, in addition to the time and resources that have to be allocated by the state via the court system.

Amending Articles of Incorporation

The articles of incorporation govern a corporation. A corporation can amend or add as many articles of incorporation as necessary.⁷ The amendment of an articles of incorporation must be adopted and approved. The adopting and approving can be done several ways, including, through the provided method in the articles of incorporation, either by the incorporators or board of directors, if shareholder action is not required, or by the shareholders or shareholders through voting groups.⁸

⁶ Section 607.0120(1), F.S.

⁷ Section 607.1001, F.S.

⁸ Section 607.1003(1-9), F.S., provides various methods for amending the articles of incorporation.

The amendment can be done in one single amendment form for a fee of \$35.00.⁹ This form, called the articles of amendment form, must be signed and delivered to the DOS, among other specific requirements laid out in statute.¹⁰

Active vs Dissolved Business Entities

The division annually assigns an accompanying status to business entities based on that business entities' filings and payment of fees. When a business entity pays their filing fees and files their initial required filings, (for an LLC it is their articles of organization, and for a corporation it is their articles of incorporation) the division will review the filings and if everything is satisfied the business entity will be assigned an "active" status.

After the initial filings to begin the business entity, a business entity is considered "active" when it has filed the annual report and paid the associated fee. Typically in the fall, the division will go through all of their filings and determine if a business entity is up to date in all of their filings and fees. If the division does not have the required information and associated fee on record they will assign the business entity an "inactive" status and the business entity will be administratively dissolved or administratively revoked.¹¹

A business entity can determine their status by logging in to the online portal operated by the DOS, or they can file and pay to have the DOS send them a certificate of status, for a \$5 fee for an LLC or an \$8.75 fee for a corporation.¹²

A business entity may file a reinstatement application, accompanied with the associated fee, to reactivate their business status and become an "active" business entity again.

Registered Agents

Generally, one of the statutory requirements that a business entity must meet is designating a registered agent.¹³ A registered agent must be an individual who resides in this state whose business address is identical to the address of the registered office.¹⁴ The registered agent must also be available at that Florida address during normal business hours and promptly forward any significant legal or state documents to the business. Registered agents are required to serve as the contact for the business entity that receives service of process, legal notifications, and other official state documents for a business entity.

The DOS is required to maintain an accurate record of the registered agent and registered office for service of process, and must promptly furnish any information disclosed thereby upon request and payment of the required fee.¹⁵ An individual within the business may serve as the entity's

⁹ Florida Department of State, Division of Corporations, Articles of Amendment form, *available at* <https://form.sunbiz.org/pdf/cr2e011.pdf>, (last visited on January 22, 2024).

¹⁰ Section 607.1006, F.S.

¹¹ Note that a general partnership is not required to file an annual report or pay an annual report fee.

¹² For LLCs see section 605.0213(12), F.S. and for Corporations see section 607.0122(19), F.S.

¹³ Section 607.0501, F.S.

¹⁴ *Id.*

¹⁵ *Id.*

registered agent. Additionally, a business entity with an active Florida filing or registration may serve as a registered agent, however an entity cannot serve as its own registered agent.

Additionally, if a business entity does not appoint and maintain a registered agent, the DOS may administratively dissolve that business entity.¹⁶

In Florida, a registered agent is required for the following:

- Limited Liability Companies;
- Corporation/Foreign Corporation (for profit);
- Corporation/Foreign Corporation (not for profit);
- Limited Partnerships (domestic and foreign); and
- Limited Liability Partnerships (domestic and foreign).¹⁷

In order for a registered agent to resign as the registered agent of the business entity, the registered agent must complete a specific form, accompanied by the payment of the fee, and mail it in to the division. Currently, a registered agent must pay a separate fee to resign as a registered agent of each business entity, separately.

III. Effect of Proposed Changes:

Ratification of Defective Corporate Actions

Sections 1 through 6 create new sections of law detailing the required procedures for ratifying a defective corporate action.

Section 7 of the bill creates filing requirements for ratifying a defective corporate action.

Section 8 of the bill creates law contemplating the jurisdiction and process for judicial proceedings regarding the validity of corporate actions.

Procedural Requirements

Section 1 creates s. 607.145, F.S., defining the following terms, among others, as:

- “Corporate action” meaning any action taken by or on behalf of a corporation, including any action taken by the incorporator the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders;
- “Defective corporate action” meaning any corporate action purportedly taken which is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization; or an overissue; and
- “Failure of authorization” meaning the failure to authorize, approve, or otherwise effect a corporate action in compliance with this chapter, the corporation’s articles of incorporation

¹⁶ For limited partnerships Section 620.1809, F.S. governs.

¹⁷ Note that a general partnership is not required to have a registered agent. Section 620.8301, F.S., states that each general partner is an agent of the partnership. (Note that a general partnership can still designate a separate registered agent, through their initial general partnership registration form, but partners of the general partnership are deemed to be agents and therefore the statutes do not require a general partnership to have a registered agent.)

or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

Section 2 creates s. 607.0146, F.S., providing that a defective corporate action is not void or voidable if the defective corporate action was ratified (under the ratification requirements that are being created in section 607.0147, F.S.) This section of the bill also emphasizes that the ratification process for a defective corporate action is not the exclusive means of ratifying or validating any defective corporate action.

Additionally, the bill provides that an overissue of shares over and above the number authorized in the corporation's articles of incorporation can be remedied by the adoption of an amendment to the articles of incorporation or other corporate action that authorizes or creates the putative shares that resulted in the overissue. This provision enables a corporation to cure an overissue occurring when shares have been duly authorized but are issued before articles of amendment are filed.

Section 3 creates s. 607.0147, F.S., which sets forth the steps that a corporation must use to remedy a defective corporate action. This includes stating:

- The defective corporate action to be ratified;
- The number and type of putative shares purportedly issued (if shares were issued);
- The date of the defective corporate action;
- The nature of the failure of authorization; and
- The approval of the ratification of the defective corporate action by the board of directors.

This bill also sets forth a similar mechanism as listed above but for a scenario where the defective corporate action to be ratified relates to the election of the initial board of directors of the corporation. In this described scenario the bill provides that after the board of directors takes action it must refer the matter to shareholders for approval. This section clarifies that the board of directors may abandon ratification even after approval without further action.

Section 4 creates s. 607.0148, F.S., which sets forth specific procedural requirements for the ratification of defective corporate actions. The bill provides that the board of directors are subject to the same quorum and voting requirements for the ratification process that exist at the time such ratifying action is taken and that notice, of whether the defective corporate action is to be ratified at a meeting or by written consent, is required to be given to shareholders. The bill also provides notice requirements for whether the corporate action is to be ratified by written consent.

If the shareholders are meeting to ratify the election of a director, or if the ratification is through written consent, the bill requires that it must be approval by a majority vote. The bill clarifies that putative shares existing on the record date are only entitled to notice of matter relating to ratification and that such shares are not entitled to vote, are not counted for quorum purposes, and are not counted in any written consent and that to ratify putative shares, an amendment to the articles of incorporation must be approved.

Section 5 creates s. 607.0149, F.S., detailing notice requirements to shareholders and holders of putative shares when shareholder action to approve the ratification of the defective corporate action is not required. The bill requires "prompt" notice to shareholders following the ratification

of a corporate action by the board of directors. The bill provides for exceptions to the notice requirements, such as that notice is not required to be submitted to shareholders for approval if notice is given pursuant to s. 607.0148(2), F.S., and a disclaimer that notice required by this section may be given in any manner that is authorized under section 607.0141, F.S, and in the case of a public company, notice may be given by any means required by the United States Securities and Exchange Commission.

Section 6 creates s. 607.0150, F.S., which sets forth how a ratification, upon proper notice, affects the corporation and the timing of any ratification. The bill provides that where a defective corporate action is properly ratified, it is deemed no longer void or voidable and is deemed for all intents and purposes to be a validly approved corporate action, effective as the date of the original defective act. Similarly, the bill provides that issuances of putative shares, or fractions of putative shares, are deemed to be issuances of identical valid shares, or fractions of shares, on the date on which the mentioned shares were purportedly issued.

This section clarifies that any corporate action that was taken, subsequent to the defective corporate action that was ratified pursuant to statute, in reliance on such defective corporate action and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action, is valid as of the respective time such corporate action was taken.

Filing Requirements

Section 7 creates s. 607.0151, F.S., which establishes a new filing requirement (articles of validation) for defective corporate actions ratified that would have normally required a filing, regardless of whether or not the filing was properly made. The bill provides specific requirements for the content of the articles of validation, including that the articles of validation must be filed with the DOS and that the articles of validation will serve to amend or be a substitute for any other filings related to the defective corporate action.

Judicial Proceedings

Section 8 creates s. 607.0152, F.S., conferring jurisdiction on the circuit court in the applicable county to hear and determine claims regarding the validity of any corporate action. The bill provides that it can be a successor thereto, a director of a corporation, or any shareholder of the corporation that can make the filing to a court to determine the validity of any corporate action and that when the filing is made, the court may make any findings or orders it deems proper under the circumstances.

This section of the bill clarifies that service of process for any of these such proceedings should follow the same rules as set forth in Chapter 48, F.S., and that any action brought forth must be done so within 120 days after the validation effective time. Additionally, this section of the bill sets forth a non-exclusive list of various factors that may be considered by the court and certain actions that the court may decide for determinations on the validity of the challenged corporate action.

Resignation of a Registered Agent

Sections 9 through 11 amend the requirements for the resignation of a registered agent.

Sections 12 through 14 amend the associated fees for the resignation of a registered agent.

Section 9 amends s. 605.0115, F.S., to redesignate certain subsections and create a mechanism for a registered agent to resign as the registered agent of more than one dissolved **limited liability company** or inactive **foreign limited liability company**, that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved company and the date of the respective companies dissolution. The resignation statement, or composite resignation statement, if resigning from two or more companies at a time, once filed with the DOS, must also be delivered to the company or each respective companies' current mailing address as it appears in the records of the DOS.

Section 10 amends s. 607.0503, F.S., to redesignate certain subsections and create a mechanism for a registered agent of more than one dissolved **corporation** that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved corporation and the date of the respective corporation's dissolution. The resignation statement, or composite resignation statement, if resigning from two or more corporations at a time, once filed with the DOS, must also be delivered to the corporation or each respective corporations' current mailing address as it appears in the records of the DOS.

Section 11 amends s. 617.0502, F.S., to redesignate certain subsections and create a mechanism for a registered agent of more than one dissolved **(not for profit) corporation** that has been dissolved for 10 years or longer, through a single composite statement. Additionally, the bill sets forth requirements that the composite resignation statement should contain the name of each dissolved corporation and the date of the respective corporations' dissolution. The resignation statement, or composite resignation statement, if resigning from two or more corporations at a time, once filed with the DOS, must also be delivered to the corporation or each respective corporation's current mailing address as it appears in the records of the DOS.

Fees

Section 12 amends s. 605.0213, F.S., to provide that the fee to resign as a registered agent of a dissolved limited liability company is the same, regardless of whether one is resigning from one entity or more than one entity.

Section 13 amends s. 607.0122, F.S., to provide that the fee to resign as a registered agent of a dissolved corporation is the same, regardless of whether one is resigning from one corporation or more than one corporation.

Section 14 amends s. 617.0122, F.S., to provide that the fee to resign as a registered agent of an inactive corporation is the same, regardless of whether one is resigning from one corporation or more than one corporation.

Incorporating Amendments

Sections 15 through 26 make conforming changes.

Effective Date

Section 27 provides an effective date of July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

Registered agents looking to resign from more than one inactive corporation at a time will see a reduction in their charged fees.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate at this time.

The DOS is likely to see a reduced amount in collected fees if a registered agent is able to resign from more than one corporation at a time paying only one fee, as opposed to current law that makes a registered agent pay to resign from each corporation separately.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Fees**

The bill creates a new filing requirement, the filing of articles of validation. Section 7 of the bill states that “a corporation that ratifies a defective corporate action and that corporate action that was ratified would have required a filing under ss. 607.0145-607.0152, F.S., must file articles of validation.” Typically filings have fees associated with them, however this bill does not contemplate any fee for filing articles of validation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 605.0115, 607.0503, 617.0502, 605.0213, 607.0122, 617.0122, 605.0207, 605.0113, 658.23, 607.0501, 607.193, 607.0120, 607.1507, 39.8298, 252.71, 288.012, 617.1807, 617.2006, 617.0501, and 617.0503.

The bill creates sections 607.0145, 607.0146, 607.0147, 607.0148, 607.0149, 607.0150, 607.0151, and 607.0152 of the Florida Statutes.

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

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

CS/CS by Rules on February 8, 2024:

The committee substitute corrects a scrivener’s error, and makes technical and conforming changes.

CS by Commerce and Tourism on January 23, 2024:

The committee substitute primarily makes clarifying and stylistic changes throughout the bill. The most significant adjustments to the bill are as follows:

- Adds clarifying language to the definition of “validation effective time” stating that the filing or pendency of a judicial proceeding will not affect the validation effective time.
- Clarifies when the issuance of putative shares become effective.
- Clarifies what actions a circuit court can take regarding challenges to the validity of defective corporate actions.
- Clarifies which types of business entities a registered agent can resign from using a composite statement to resign from more than one business entity at a time.
- Clarifies language associated with the fees.

Additionally, the amendment deletes language regarding a registered agent being able to resign from one or more foreign corporations or partnerships at a time with a single composite statement and fee.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
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	.	

The Committee on Rules (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete lines 418 - 649
and insert:

(b) A filing was not previously filed in respect of the
defective corporate action,
in lieu of a filing otherwise required under this chapter, the
corporation must file articles of validation in accordance with
this section, and such articles of validation will serve to
amend or be a substitute for any other filing with respect to



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such defective corporate action required by this chapter.

(2) The articles of validation must specify all of the following:

(a) The defective corporate action that is the subject of the articles of validation, including, in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued.

(b) The date of the defective corporate action.

(c) The nature of the failure of authorization in respect of the defective corporate action.

(d) A statement that the defective corporate action was ratified in accordance with s. 607.0147, including the date on which the board of directors ratified such defective corporate action and, if applicable, the date on which the shareholders approved the ratification of such defective corporate action.

(e)1. If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action pursuant to s. 607.0147:

a. The name, title, and filing date of the filing previously made and any articles of correction for that filing;

b. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

c. The date and time that such filing is deemed to have



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become effective.

2. If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified pursuant to s. 607.0147 would have required a filing under any other provision of this chapter:

a. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

b. The date and time that such filing is deemed to have become effective.

Section 8. Section 607.0152, Florida Statutes, is created to read:

607.0152 Judicial proceedings regarding validity of corporate actions.—

(1) Subject to subsection (4), upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified pursuant to s. 607.0147; or any other person claiming to be substantially and adversely affected by a ratification in accordance with s. 607.0147, the circuit court in the applicable county may take any one or more of the following actions:

(a) Determine the validity and effectiveness of any corporate action or defective corporate action ratified pursuant



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to s. 607.0147.

(b) Determine the validity and effectiveness of any ratification of any defective corporate action pursuant to s. 607.0147.

(c) Determine the validity and effectiveness of any defective corporate action not ratified or not ratified effectively pursuant to s. 607.0147.

(d) Determine the validity of any putative shares.

(e) Modify or waive any of the procedures specified in s. 607.0147 or s. 607.0148 to ratify a defective corporate action.

(2) In connection with an action brought under this section, the court may make such findings or issue such orders and take into account any one or more factors or considerations as it deems proper under the circumstances, including, but not limited to, any one or more of the factors, considerations, findings, and orders set forth in subsections (5) and (6).

(3) Service of process of the application under subsection (1) on the corporation may be made in any manner provided in chapter 48 for service on a corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require that notice of the action be provided to other persons specified by the court and permit such other persons to intervene in the action.

(4) Notwithstanding any other law to the contrary, any action asserting that the ratification of a defective corporate action, and any putative shares issued as a result of such defective corporate action, should not be effective, or should be effective only on certain conditions, must be brought, if at



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all, within 120 days after the validation effective time.

(5) In connection with the resolution of matters under subsection (2), the court may consider any of the following:

(a) Whether the defective corporate action was originally approved or effectuated with the belief that the approval or effectuation was in compliance with the provisions of this chapter, the articles of incorporation, or the bylaws of the corporation.

(b) Whether the corporation and board of directors have treated the defective corporate action as a valid act or transaction and whether any person has acted in reliance on the public record that such defective corporate action was valid.

(c) Whether any person will be or was harmed by the ratification or validation of the defective corporate action, excluding any harm that would have resulted if the defective corporate action had been valid when approved or effectuated.

(d) Whether any person will be harmed by the failure to ratify or validate the defective corporate action.

(e) Whether the defective corporate action was a conflict of interest transaction.

(f) Any other factors or considerations the court deems just and equitable.

(6) In connection with an action under this section, the court may do any one or more of the following:

(a) Declare that a ratification in accordance with and pursuant to s. 607.0147 is not effective or shall only be effective at a time or upon conditions established by the court.

(b) Validate and declare effective any defective corporate action or putative shares and impose conditions upon such



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validation.

(c) Require measures to remedy or avoid harm to any person substantially and adversely affected by a ratification in accordance with and pursuant to s. 607.0147 or by any order of the court pursuant to this section, excluding any harm that would have resulted if the defective corporate action had been valid when approved or effectuated.

(d) Order the department to accept an instrument for filing with an effective time specified by the court, which effective time may be before or after the date and time of such order, provided that the filing date of such instrument shall be determined in accordance with s. 607.0123.

(e) Approve a stock ledger for the corporation that includes any shares ratified or validated in accordance with this section or s. 607.0147.

(f) Declare that the putative shares are valid shares or require a corporation to issue and deliver valid shares in place of any putative shares.

(g) Order that a meeting of holders of valid shares or putative shares be held and exercise such powers as it deems appropriate with respect to such a meeting.

(h) Declare that a defective corporate action validated by the court shall be effective as of the date and time of the defective corporate action or at such other date and time as determined by the court.

(i) Declare that putative shares validated by the court shall be deemed to be identical valid shares or fractions of valid shares as of the date and time originally issued or purportedly issued or at such other date and time as determined



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by the court.

(j) Require payment by the corporation of reasonable expenses, including attorney fees and costs, that the court finds just and equitable under the circumstances.

(k) Issue other orders as it deems necessary and proper under the circumstances.

Section 9. Subsection (2) of section 605.0115, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

605.0115 Resignation of registered agent.—

(2) After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the limited liability company's or foreign limited liability company's current mailing address; provided, however, that if a composite statement of resignation is being filed pursuant to subsection (6), the registered agent must promptly mail a copy of either the composite statement of resignation or a separate notice of resignation for each respective limited liability company, in each case using the respective mailing address of the respective limited liability company that then appears in the records of the department.

(6) (a) If a registered agent is resigning as registered agent from more than one limited liability company that each has been dissolved, either voluntarily, administratively, or by court action, for a continuous period of 10 years or longer, the registered agent may elect to file the statement of resignation separately for each such limited liability company or may elect to file a single composite statement of resignation covering two or more limited liability companies. Any such composite



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statement of resignation must set forth, for each such limited liability company covered by the statement of resignation, the name of the respective limited liability and the date dissolution became effective for the respective limited liability company.

(b) This subsection is applicable only to resignations from limited liability companies as defined in this chapter.

Section 10. Subsection (2) of section 607.0503, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

607.0503 Resignation of registered agent.—

(2) After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the corporation at its current mailing address; provided, however, that if a composite statement of resignation is being filed pursuant to subsection (6), the registered agent must promptly mail a copy of either the composite statement of resignation or a separate notice of resignation for each respective corporation, in each case using the respective mailing address of the respective corporation that then appears in the records of the department.

(6) (a) If a registered agent is resigning as registered agent from more than one corporation that each has been dissolved, either voluntarily, administratively, or by court action, for a continuous period of 10 years or longer, the registered agent may elect to file the statement of resignation separately for each such corporation or may elect to file a single composite statement of resignation covering two or more corporations. Any such composite statement of resignation must



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set forth, for each such corporation covered by the statement of
resignation, the name of the respective corporation and the date
that dissolution became effective for the respective
corporation.

(b) This subsection is applicable only to resignations by
registered agents from domestic corporations.

Section 11. Subsection (2) of section 617.0502, Florida
Statutes, is amended to read:

617.0502 Change of registered office or registered agent;
resignation of registered agent.—

(2)(a) Any registered agent may resign his or her agency
appointment by signing and delivering for filing with the
Department of State a statement of resignation and mailing a
copy of such statement to the corporation at its mailing address
of the respective corporation that then appears in the records
of the Department of State; provided, however, that if a
composite statement of resignation is being filed pursuant to
paragraph (b), the registered agent must promptly mail a copy of
either the composite statement of resignation or a separate
notice of resignation for each respective corporation, in each
case using the respective mailing address of the respective
corporation that then appears in the records of the Department
of State ~~principal~~

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

And the title is amended as follows:

Delete lines 12 - 83

and insert:

properly ratified; providing for a process whereby



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putative shares can be validated in the event of an overissue; creating s. 607.0147, F.S.; requiring the board of directors to take certain action to ratify a defective corporate action; authorizing those exercising the powers of the directors to take certain action when certain defective actions are related to the ratification of the initial board of directors; requiring members of the board of directors to seek approval of the shareholders, in connection with ratifying a defective corporate action under certain conditions; authorizing the board of directors to abandon ratification at any time before the validation effective time after action by the board and, if required, approval of the shareholders; creating s. 607.0148, F.S.; providing quorum and voting requirements for the ratification of certain defective corporate actions; requiring the board, in connection with a shareholder meeting held to ratify a defective corporate action, to send notice to all identifiable shareholders of a certain meeting date; requiring that the notice state that a purpose of the meeting is to consider ratification of a defective corporate action; requiring the notice sent to be accompanied with certain information; specifying the quorum and voting requirements applicable to ratification of the election of directors; requiring that votes cast within the voting group favoring ratification of the election of a director exceed the votes cast within the voting group opposing such ratification;



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prohibiting holders of putative shares from voting on ratification of any defective corporate action and providing that they may not be counted for quorum purposes or in certain written consents; requiring approval of certain amendments to the corporation's articles of incorporation under certain circumstances; creating s. 607.0149, F.S.; requiring that notice be given to shareholders of certain corporate action taken by the board of directors; providing that notice is not required for holders of certain shares whose identities or addresses for notice cannot be determined; providing requirements for such notice; providing requirements for such notice for corporations subject to certain federal reporting requirements; creating s. 607.0150, F.S.; specifying the effects of ratification; creating s. 607.0151, F.S.; requiring corporations to file articles of validation under certain circumstances; providing applicability; providing requirements for articles of validation; creating s. 607.0152, F.S.; authorizing certain persons and entities to file certain motions; providing for service of process; requiring that certain actions be filed within a specified timeframe; authorizing the court to consider certain factors in resolving certain issues; authorizing the courts to take certain actions in cases involving defective corporate actions; amending ss. 605.0115, 607.0503, and 617.0502, F.S.; providing that a registered agent may resign from certain limited liability companies or



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foreign limited liability companies, certain dissolved corporations, and certain active or dissolved corporations, respectively, by delivering a specified statement of resignation to the Department of State; providing requirements for the statement; providing that a registered agent who is resigning from more than one such corporation or limited liability company may elect to file a statement of resignation for each such company or corporation or a composite statement; providing requirements for composite statements; requiring that a copy of each of the statements of resignation or the composite statement be mailed to the address on file with the department for the company or corporation or companies or corporations, as applicable; amending ss. 605.0213 and

By the Committee on Commerce and Tourism; and Senator Martin

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1 A bill to be entitled
 2 An act relating to corporate actions; creating s.
 3 607.0145, F.S.; defining terms; creating s. 607.0146,
 4 F.S.; providing that a defective corporate action is
 5 not void or voidable in certain circumstances;
 6 providing that ratification or validation under
 7 certain circumstances may not be deemed the exclusive
 8 means of either ratifying or validating defective
 9 corporate actions, and that the absence or failure to
 10 ratify defective corporate actions does not affect the
 11 validity or effectiveness of certain corporate actions
 12 properly ratified; providing for the validity of
 13 putative shares in the event of an overissue; creating
 14 s. 607.0147, F.S.; requiring the board of directors to
 15 take certain action to ratify a defective corporate
 16 action; authorizing those exercising the powers of the
 17 directors to take certain action when certain
 18 defective actions are related to the ratification of
 19 the initial board of directors; requiring members of
 20 the board of directors to seek approval of the
 21 shareholders under certain conditions; authorizing the
 22 board of directors to abandon ratification at any time
 23 before the validation effective time after action by
 24 the board and, if required, approval of the
 25 shareholders; creating s. 607.0148, F.S.; providing
 26 quorum and voting requirements for the ratification of
 27 certain defective corporate actions; requiring the
 28 board to send notice to all identifiable shareholders
 29 of a certain meeting date; requiring that the notice

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30 state that a purpose of the meeting is to consider
 31 ratification of a defective corporate action;
 32 requiring the notice sent to be accompanied with
 33 certain information; specifying the quorum and voting
 34 requirements applicable to ratification of the
 35 election of directors; requiring votes cast within the
 36 voting group favoring ratification of the election of
 37 a director to exceed the votes cast within the voting
 38 group opposing such ratification; prohibiting holders
 39 of putative shares from voting on ratification of any
 40 defective corporate action and providing that they may
 41 not be counted for quorum purposes or in certain
 42 written consent; requiring approval of certain
 43 amendments to the corporation's articles of
 44 incorporation under certain circumstances; creating s.
 45 607.0149, F.S.; requiring that notice be given to
 46 shareholders of certain corporate action taken by the
 47 board of directors; providing that notice is not
 48 required for holders of certain shares whose
 49 identities or addresses for notice cannot be
 50 determined; providing requirements for such notice;
 51 providing requirements for such notice for
 52 corporations subject to certain federal reporting
 53 requirements; creating s. 607.0150, F.S.; specifying
 54 the effects of ratification; creating s. 607.0151,
 55 F.S.; requiring corporations to file articles of
 56 validation under certain circumstances; providing
 57 applicability; providing requirements for articles of
 58 validation; creating s. 607.0152, F.S.; authorizing

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59 certain persons and entities to file certain motions;
 60 providing for service of process; requiring that
 61 certain actions be filed within a specified timeframe;
 62 authorizing the court to consider certain factors in
 63 resolving certain issues; authorizing the courts to
 64 take certain actions in cases involving defective
 65 corporate actions; amending ss. 605.0115, 607.0503,
 66 and 617.0502, F.S.; providing that a registered agent
 67 may resign from certain limited liability companies or
 68 foreign limited liability companies, certain inactive
 69 or dissolved corporations, and certain active or
 70 inactive corporations, respectively, by delivering a
 71 specified statement of resignation to the Department
 72 of State; providing requirements for the statement;
 73 providing that a registered agent who is resigning
 74 from one or more such corporations, companies, or
 75 partnerships may elect to file a statement of
 76 resignation for each such company, corporation, or
 77 partnership or a composite statement; providing
 78 requirements for composite statements; requiring that
 79 a copy of each of the statements of resignation or the
 80 composite statement be mailed to the address on file
 81 with the department for the company, corporation, or
 82 partnership or companies, corporations, or
 83 partnerships, as applicable; amending ss. 605.0213 and
 84 607.0122, F.S.; conforming provisions to changes made
 85 by the act; providing registered agents may pay one
 86 resignation fee regardless of whether resigning from
 87 one or multiple inactive or dissolved companies or

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88 corporations; reenacting ss. 605.0207 and
 89 605.0113(3)(b), F.S., relating to effective dates and
 90 times and to registered agents, respectively, to
 91 incorporate the amendments made to s. 605.0115, F.S.,
 92 in references thereto; reenacting s. 658.23(1), F.S.,
 93 relating to submission of articles of incorporation,
 94 to incorporate the amendment made to s. 607.0122,
 95 F.S., in a reference thereto; reenacting s.
 96 607.0501(4), F.S., relating to registered offices and
 97 registered agents, to incorporate the amendment made
 98 to s. 607.0503, F.S., in a reference thereto;
 99 reenacting s. 607.193(2)(b), F.S., relating to
 100 supplemental corporate fees, to incorporate the
 101 amendments made to ss. 605.0213 and 607.0122, F.S., in
 102 references thereto; reenacting ss. 39.8298(1)(a),
 103 252.71(2)(a), 288.012(6)(a), 617.1807, and
 104 617.2006(4), F.S., relating to the Guardian Ad Litem
 105 direct-support organization, the Florida Emergency
 106 Management Assistance Foundation, State of Florida
 107 international offices, conversion to corporation not
 108 for profit, and incorporation of labor unions or
 109 bodies, respectively, to incorporate the amendment
 110 made in s. 617.0122, F.S., in references thereto;
 111 reenacting s. 617.0501(3) and 617.0503(1)(a), F.S.,
 112 relating to registered agents, to incorporate the
 113 amendment made to s. 617.0502, F.S., in references
 114 thereto; providing an effective date.

115
116 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 607.0145, Florida Statutes, is created to read:

607.0145 Definitions.—As used in ss. 607.0145–607.0152, the term:

(1) “Corporate action” means any action taken by or on behalf of a corporation, including any action taken by the incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.

(2) “Date of the defective corporate action” means the date, or, if the exact date is unknown, the approximate date, on which the defective corporate action was purported to have been taken.

(3) “Defective corporate action” means:

(a) Any corporate action purportedly taken which is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization; or

(b) An overissue.

(4) “Failure of authorization” means the failure to authorize, approve, or otherwise effect a corporate action in compliance with this chapter, the corporation’s articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

(5) “Overissue” means the purported issuance of:

(a) Shares of a class or series in excess of the number of

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shares of the class or series the corporation has the power to issue under s. 607.0601 at the time of such issuance; or

(b) Shares of any class or series that is not then authorized for issuance by the corporation’s articles of incorporation.

(6) “Putative shares” means the shares of any class or series, including shares issued upon exercise of rights, options, warrants or other securities convertible into shares of the corporation, or interests with respect to such shares, that were created or issued as a result of a defective corporate action and that:

(a) Would constitute valid shares but for any failure of authorization; or

(b) Cannot be determined by the board of directors to be valid shares.

(7) “Valid shares” means the shares of any class or series that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under ss. 607.0145–607.0152.

(8) (a) “Validation effective time,” with respect to any defective corporate action ratified under ss. 607.0145–607.0152, means the later of the following:

1. The date and time at which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the date and time at which the notice required by s. 607.0149 becomes effective in accordance with s. 607.0141;

2. If no articles of validation are required to be filed in accordance with s. 607.0151, the date and time at which the

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175 notice required by s. 607.0149 becomes effective in accordance
 176 with s. 607.0141; or

177 3. If articles of validation are required to be filed in
 178 accordance with s. 607.0151, the date and time at which the
 179 articles of validation filed in accordance with s. 607.0151
 180 become effective.

181 (b) The validation effective time will not be affected by
 182 the filing or pendency of a judicial proceeding under s.
 183 607.0152 or any other law unless otherwise ordered by the court.

184 Section 2. Section 607.0146, Florida Statutes, is created
 185 to read:

186 607.0146 Defective corporate actions.-

187 (1) A defective corporate action is not void or voidable
 188 if:

189 (a) The defective corporate action was ratified in
 190 accordance with the requirements of s. 607.0147, including the
 191 filing, if required, of articles of validation pursuant to s.
 192 607.0151; or

193 (b) The defective corporate action was validated in
 194 accordance with s. 607.0152.

195 (2) Ratification under s. 607.0147 or validation under s.
 196 607.0152 shall not be deemed to be the exclusive means of
 197 ratifying or validating any defective corporate action, and the
 198 absence or failure of ratification in accordance with ss.
 199 607.0145-607.0152 will not, in and of itself, affect the
 200 validity or effectiveness of any corporate action properly
 201 ratified under common law or otherwise, and it does not create a
 202 presumption that any such corporate action is or was a defective
 203 corporate action or is or was void or voidable.

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204 (3) In the case of an overissue, putative shares will be
 205 valid shares effective as of the date originally issued or
 206 purportedly issued upon:

207 (a) The effectiveness under ss. 607.0145-607.0152 and ss.
 208 607.1001-607.1009 of an amendment to the articles of
 209 incorporation authorizing, designating, or creating such shares;
 210 or

211 (b) The effectiveness of any other corporate action taken
 212 under ss. 607.0145-607.0152 ratifying the authorization,
 213 designation, or creation of such shares.

214 Section 3. Section 607.0147, Florida Statutes, is created
 215 to read:

216 607.0147 Ratification of defective corporate actions.-

217 (1) To ratify a defective corporate action under this
 218 section, other than to ratify an election of the initial board
 219 of directors under subsection (2), the board of directors must
 220 take the action in accordance with s. 607.0148, stating all of
 221 the following:

222 (a) The defective corporate action to be ratified and, if
 223 the defective corporate action involved the issuance of putative
 224 shares, the number and type of putative shares purportedly
 225 issued.

226 (b) The date of the defective corporate action.

227 (c) The nature of the failure of authorization with respect
 228 to the defective corporate action to be ratified.

229 (d) That the board of directors approves the ratification
 230 of the defective corporate action.

231 (2) If a defective corporate action to be ratified relates
 232 to the election of the initial board of directors of the

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corporation under s. 607.0205(1)(b), a majority of the persons who, at the time of the ratification, are exercising the powers of directors must take an action stating all of the following:

(a) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation.

(b) The earlier of the date on which either such persons first took such action or were purported to have been elected to the initial board of directors.

(c) That the ratification of the election of such person or persons as the initial board of directors is approved.

(3) If any provision of this chapter, the corporation's articles of incorporation or bylaws, any corporate resolution, or any plan or agreement in effect at the time action to which the corporation is a party under subsection (1) is taken requires shareholder approval, or would have required shareholder approval, at the date of the occurrence of the defective corporate action, the ratification of the defective corporate action approved in the action taken by the directors under subsection (1) must be submitted to the shareholders for approval in accordance with s. 607.0148.

(4) Unless otherwise provided in the action taken by the board of directors under subsection (1), after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

Section 4. Section 607.0148, Florida Statutes, is created to read:

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607.0148 Action on ratification.—

(1) The quorum and voting requirements applicable to a ratifying action by the board of directors under s. 607.0147(1) are the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

(2)(a) If the ratification of the defective corporate action requires approval by the shareholders under s. 607.0147(3), and if the approval is to be given at a meeting, the corporation must give notice of the meeting to each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of the defective corporate action; however, such notice is not required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the meeting is to consider ratification of a defective corporate action.

(b) If the ratification of the defective corporate action requires approval by the shareholders under s. 607.0147(3), and if the approval is to be ratified by one or more written consents of the shareholders, the corporation must give notice of the action taken by such written consent to each holder of valid and putative shares as of the record date of the action by written consent and as of the date of the occurrence of the defective corporate action, regardless of whether entitled to vote; however, notice is not required to be given to holders of valid or putative shares whose identities or addresses for

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notice cannot be determined from the records of the corporation.
The notice must state that the purpose, or one of the purposes,
of the written consent was to ratify the defective corporate
action.

(c) The notice must be accompanied by both of the
following:

1. Either:

a. A copy of the action taken by the board of directors in
accordance with s. 607.0147(1); or

b. The information required by s. 607.0147(1)(a)-(d).

2. A statement that any claim asserting that the
ratification of such defective corporate action, and any
putative shares issued as a result of such defective corporate
action, should not be effective, or should only be effective on
certain conditions, and must be brought, if at all, within 120
days after the applicable validation effective time.

(3) Except as provided in subsection (4) with respect to
the voting requirements to ratify the election of a director,
any quorum and voting requirements applicable to the approval by
the shareholders required by s. 607.0147(3) will be the quorum
and voting requirements that are applicable, at the time of such
shareholder approval, to the defective corporate action proposed
to be ratified.

(4) The approval by shareholders at a meeting to ratify the
election of a director requires that the votes cast within the
voting group favoring such ratification exceed the votes cast
within the voting group opposing such ratification of the
election at a meeting at which a quorum is present. Approval by
shareholders by written consent to ratify the election of a

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director requires that the consents given within the voting
group favoring such ratification represent a majority of the
shares of the voting group.

(5) Putative shares on the record date for determining the
shareholders entitled to vote on any matter submitted to
shareholders under s. 607.0147(3), and without giving effect to
any ratification of putative shares that becomes effective as a
result of such vote, will neither be entitled to vote nor be
counted for quorum purposes in any vote to approve the
ratification of any defective corporate action. Putative shares
on the record date for an action by written consent, and without
giving effect to any ratification of putative shares that
becomes effective as a result of such written consent, will not
be entitled to be counted in any written consent to approve the
ratification of any defective corporate action.

(6) If approval under this section of putative shares would
result in an overissue, in addition to the approval required by
s. 607.0147(3), approval of an amendment to the corporation's
articles of incorporation under ss. 607.1001-607.1009 to
increase the number of shares of an authorized class or series
or to authorize the creation of a class or series of shares so
there is no overissue will also be required.

Section 5. Section 607.0149, Florida Statutes, is created
to read:

607.0149 Notice requirements.—

(1) Unless shareholder approval is required under s.
607.0147(3), prompt notice of an action taken by the board of
directors under s. 607.0147 must be given to each holder of
valid shares and each holder of putative shares, regardless of

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whether entitled to vote, that is a holder of valid shares or putative shares as of:

(a) The date of the action by the board of directors taken under s. 607.0147; and

(b) The date of the occurrence of the defective corporate action being ratified.

(2) Notice is not required to be given to those holders of valid shares or those holders of putative shares whose identities or addresses for notice cannot be determined from the records of the corporation.

(3) The notice must contain both of the following:

(a) Either:

1. A copy of the action taken by the board of directors pursuant to s. 607.0147(1); or

2. The information required by s. 607.0147(1)(a)-(d) or s. 607.0147(2)(a), (b), and (c), as applicable.

(b) A statement that, in order to be considered, any claim asserting that the ratification of the defective corporate action, and any putative shares issued as a result of such defective corporate action, should not be effective, or should be effective only on certain conditions, and must be brought, if at all, within 120 days after the applicable validation effective time.

(4) Notice under this section is not required with respect to any action required to be submitted to shareholders for approval pursuant s. 607.0147(3) if notice is given in accordance with s. 607.0148(2).

(5) Notice required by this section may be given in any manner permitted under s. 607.0141 and, for any corporation

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subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, may be given by means of a filing or furnishing of such notice with the United States Securities and Exchange Commission.

Section 6. Section 607.0150, Florida Statutes, is created to read:

607.0150 Effects of ratification.—The following provisions apply from and after the validation effective time, without regard to the 120-day period during which a claim may be brought under s. 607.0152:

(1) Each defective corporate action ratified in accordance with s. 607.0147 will not be void or voidable as a result of the failure of authorization set forth and identified in the action taken under s. 607.0147(1) or (2) and will be deemed a valid corporate action effective as of the date of the defective corporate action.

(2) The issuance of each putative share or fraction of a putative share purportedly issued pursuant to a defective corporate action identified in the action taken in accordance with s. 607.0147 will not be void or voidable, and each such putative share or fraction of a putative share will be deemed to be an identical share or fraction of a valid share as of the time it was purportedly issued.

(3) Any corporate action taken subsequent to the defective corporate action ratified pursuant to ss. 607.0145-607.0152 in reliance on such defective corporate action having been validly effected, and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action, will be valid as of the respective time such

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corporate action was taken.

Section 7. Section 607.0151, Florida Statutes, is created to read:

607.0151 Filings.—

(1) If the defective corporate action ratified under ss. 607.0145-607.0152 would have required a filing under this chapter and either:

(a) Any previous filing requires any change to the filing to give effect to the defective corporate action in accordance with this section, including, but not limited to, a change to the date and time of the effectiveness of such filing; or

(b) A filing was not previously filed in respect to the defective corporate action,

In lieu of a filing otherwise required under this chapter, the corporation must file articles of validation in accordance with this section, and such articles of validation will serve to amend or be a substitute for any other filing with respect to such defective corporate action required by this chapter.

(2) The articles of validation must specify all of the following:

(a) The defective corporate action that is the subject of the articles of validation, including, in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued.

(b) The date of the defective corporate action.

(c) The nature of the failure of authorization in respect

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of the defective corporate action.

(d) A statement that the defective corporate action was ratified in accordance with s. 607.0147, including the date on which the board of directors ratified such defective corporate action and, if applicable, the date on which the shareholders approved the ratification of such defective corporate action.

(e)1. If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action pursuant to s. 607.0147:

a. The name, title, and filing date of the filing previously made and any articles of correction for that filing;

b. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

c. The date and time that such filing is deemed to have become effective.

2. If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified pursuant to s. 607.0147 would have required a filing under any other provision of this chapter:

a. A statement that a filing containing all of the information required to be included under the applicable provisions of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation; and

b. The date and time that such filing is deemed to have

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become effective.

Section 8. Section 607.0152, Florida Statutes, is created to read:

607.0152 Judicial proceedings regarding validity of corporate actions.—

(1) Subject to subsection (4), upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified pursuant to s. 607.0147; or any other person claiming to be substantially and adversely affected by a ratification in accordance with s. 607.0147, the circuit court in the applicable county may take any one or more of the following actions:

(a) Determine the validity and effectiveness of any corporate action or defective corporate action ratified pursuant to s. 607.0147.

(b) Determine the validity and effectiveness of any ratification of any defective corporate action pursuant to s. 607.0147.

(c) Determine the validity and effectiveness of any defective corporate action not ratified or not ratified effectively pursuant to s. 607.0147.

(d) Determine the validity of any putative shares.

(e) Modify or waive any of the procedures specified in s. 607.0147 or s. 607.0148 to ratify a defective corporate action.

(2) In connection with an action brought under this

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section, the court may make such findings or issue such orders and take into account any one or more factors or considerations as it deems proper under the circumstances, including, but not limited to, any one or more of the factors, considerations, findings, and orders set forth in subsections (5) and (6).

(3) Service of process of the application under subsection (1) on the corporation may be made in any manner provided in chapter 48 for service on a corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require that notice of the action be provided to other persons specified by the court and permit such other persons to intervene in the action.

(4) Notwithstanding any other law to the contrary, any action asserting that the ratification of a defective corporate action, and any putative shares issued as a result of such defective corporate action, should not be effective, or should be effective only on certain conditions, must be brought, if at all, within 120 days after the validation effective time.

(5) In connection with the resolution of matters under subsection (2), the court may consider any of the following:

(a) Whether the defective corporate action was originally approved or effectuated with the belief that the approval or effectuation was in compliance with the provisions of this chapter, the articles of incorporation, or the bylaws of the corporation.

(b) Whether the corporation and board of directors have treated the defective corporate action as a valid act or transaction and whether any person has acted in reliance on the

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public record that such defective corporate action was valid.

(c) Whether any person will be or was harmed by the ratification or validation of the defective corporate action, excluding any harm that would have resulted if the defective corporate action had been valid when approved or effectuated.

(d) Whether any person will be harmed by the failure to ratify or validate the defective corporate action.

(e) Whether the defective corporate action was a conflict of interest transaction.

(f) Any other factors or considerations the court deems just and equitable.

(6) In connection with an action under this section, the court may do any one or more of the following:

(a) Declare that a ratification in accordance with and pursuant to s. 607.0147 is not effective or shall only be effective at a time or upon conditions established by the court.

(b) Validate and declare effective any defective corporate action or putative shares and impose conditions upon such validation.

(c) Require measures to remedy or avoid harm to any person substantially and adversely affected by a ratification in accordance with and pursuant to s. 607.0147 or by any order of the court pursuant to this section, excluding any harm that would have resulted if the defective corporate action had been valid when approved or effectuated.

(d) Order the department to accept an instrument for filing with an effective time specified by the court, which effective time may be before or after the date and time of such order, provided that the filing date of such instrument shall be

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determined in accordance with s. 607.0123.

(e) Approve a stock ledger for the corporation that includes any shares ratified or validated in accordance with this section or s. 607.0147.

(f) Declare that the putative shares are valid shares or require a corporation to issue and deliver valid shares in place of any putative shares.

(g) Order that a meeting of holders of valid shares or putative shares be held and exercise such powers as it deems appropriate with respect to such a meeting.

(h) Declare that a defective corporate action validated by the court shall be effective as of the date and time of the defective corporate action or at such other date and time as determined by the court.

(i) Declare that putative shares validated by the court shall be deemed to be identical valid shares or fractions of valid shares as of the date and time originally issued or purportedly issued or at such other date and time as determined by the court.

(j) Require payment by the corporation of reasonable expenses, including attorney fees and costs, that the court finds just and equitable under the circumstances.

(k) Issue other orders as it deems necessary and proper under the circumstances.

Section 9. Subsection (2) of section 605.115, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

605.0115 Resignation of registered agent.—

(2) After delivering the statement of resignation to the

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department for filing, the registered agent must promptly mail a copy to the limited liability company's or foreign limited liability company's current mailing address; provided however, that if a composite statement of resignation is being filed pursuant to subsection (6), the registered agent must promptly mail a copy of either the composite statement of resignation or a separate notice of resignation for each respective limited liability company, in each case using the respective mailing address of the respective limited liability company that then appears in the records of the department.

(6) (a) If a registered agent is resigning as registered agent from more than one limited liability company that each has been dissolved, either voluntarily, administratively, or by court action, for a continuous period of 10 years or longer, the registered agent may elect to file the statement of resignation separately for each such limited liability company or may elect to file a single composite statement of resignation covering two or more limited liability companies. Any such composite statement of resignation must set forth, for each such limited liability company covered by the statement of resignation, the name of the respective limited liability and the date dissolution became effective for the respective limited liability company.

(b) This subsection is applicable only to resignations from limited liability companies as defined in this chapter.

Section 10. Subsection (2) of section 607.0503, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

607.0503 Resignation of registered agent.—

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(2) After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the corporation at its current mailing address; provided however that if a composite statement of resignation is being filed pursuant to subsection (6), the registered agent must promptly mail a copy of either the composite statement of resignation or a separate notice of resignation for each respective corporation, in each case using the respective mailing address of the respective corporation that then appears in the records of the department.

(6) (a) If a registered agent is resigning as registered agent from more than one corporation that each has been dissolved, either voluntarily, administratively, or by court action, for a continuous period of 10 years or longer, the registered agent may elect to file the statement of resignation separately for each such corporation or may elect to file a single composite statement of resignation covering two or more corporations. Any such composite statement of resignation must set forth, for each such corporation covered by the statement of resignation, the name of the respective corporation and the date that dissolution became effective for the respective corporation.

(b) This subsection is applicable only to resignations by registered agents from domestic corporations.

Section 11. Subsection (2) of section 617.0502, Florida Statutes, is amended to read:

617.0502 Change of registered office or registered agent; resignation of registered agent.—

(2) (a) Any registered agent may resign his or her agency

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639 appointment by signing and delivering for filing with the
 640 Department of State a statement of resignation and mailing a
 641 copy of such statement to the corporation at its mailing address
 642 of the respective corporation that then appears in the records
 643 of the department; provided however that if a composite
 644 statement of resignation is being filed pursuant to paragraph
 645 (b), the registered agent must promptly mail a copy of either
 646 the composite statement of resignation or a separate notice of
 647 resignation for each respective corporation, in each case using
 648 the respective mailing address of the respective corporation
 649 that then appears in the records of the department principal
 650 office address shown in its most recent annual report or, if
 651 none, filed in the articles of incorporation or other most
 652 recently filed document. The statement of resignation shall
 653 state that a copy of such statement of resignation or, if
 654 applicable, notice of resignation, has been mailed to the
 655 corporation at the address so stated. The agency is terminated
 656 as of the 31st day after the date on which the statement was
 657 filed and unless otherwise provided in the statement,
 658 termination of the agency acts as a termination of the
 659 registered office.

660 (b) If a registered agent is resigning as registered agent
 661 from one or more corporations that each have been dissolved,
 662 either voluntarily, administratively, or by court action, for a
 663 continuous period of 10 years or longer, the registered agent
 664 may elect to file the statement of resignation separately for
 665 each such corporation or may elect to file a single composite
 666 statement of resignation covering two or more corporations. Any
 667 such composite statement of resignation must set forth, for each

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668 such corporation covered by the statement of resignation, the
 669 name of the respective corporation and the date that dissolution
 670 became effective for the respective corporation. This subsection
 671 is applicable only to resignations by registered agents from
 672 domestic corporations.

673 Section 12. Subsections (8) and (9) of section 605.0213,
 674 Florida Statutes, are amended to read:

675 605.0213 Fees of the department.—The fees of the department
 676 under this chapter are as follows:

677 (8) For filing a registered agent's statement of
 678 resignation from a an-active limited liability company that has
 679 not been dissolved, \$85.

680 (9) For filing a registered agent's statement of
 681 resignation from a dissolved limited liability company or a
 682 composite statement of resignation from two or more dissolved
 683 limited liability companies pursuant to s. 605.0115(6), \$25.

684 Section 13. Subsections (6) and (7) of section 607.0122,
 685 Florida Statutes, are amended to read:

686 607.0122 Fees for filing documents and issuing
 687 certificates.—The department shall collect the following fees
 688 when the documents described in this section are delivered to
 689 the department for filing:

690 (6) Agent's statement of resignation from a active
 691 corporation that has not been dissolved: \$87.50.

692 (7) Agent's statement of resignation from a an-inactive
 693 dissolved corporation or a composite statement of resignation
 694 from two or more dissolved corporations pursuant to s.
 695 607.0502(6): \$35.

696 Section 14. Subsections (6) and (7) of section 617.0122,

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Florida Statutes, are amended to read:

617.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees on documents delivered to the department for filing:

(6) Agent's statement of resignation from a active corporation that has not been dissolved: \$87.50.

(7) Agent's statement of resignation from a inactive dissolved corporation or a composite statement of resignation from two or more dissolved corporations pursuant to s. 617.0502(2)(b): \$35.

Any citizen support organization that is required by rule of the Department of Environmental Protection to be formed as a nonprofit organization and is under contract with the department is exempt from any fees required for incorporation as a nonprofit organization, and the Secretary of State may not assess any such fees if the citizen support organization is certified by the Department of Environmental Protection to the Secretary of State as being under contract with the Department of Environmental Protection.

Section 15. For the purpose of incorporating the amendments made by this act to section 605.0115, Florida Statutes, in a reference thereto, section 605.0207, Florida Statutes, is reenacted to read:

605.0207 Effective date and time.—Except as otherwise provided in s. 605.0208, and subject to s. 605.0209(3), any document delivered to the department for filing under this chapter may specify an effective time and a delayed effective

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date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within 5 business days before the date of filing. Subject to ss. 605.0114, 605.0115, 605.0208, and 605.0209, a record filed by the department is effective:

(1) If the record filed does not specify an effective time and does not specify a prior or a delayed effective date, on the date and at the time the record is accepted as evidenced by the department's endorsement of the date and time on the filing.

(2) If the record filed specifies an effective time, but not a prior or delayed effective date, on the date the record is accepted, as evidenced by the department's endorsement, and at the time specified in the filing.

(3) If the record filed specifies a delayed effective date, but not an effective time, at 12:01 a.m. on the earlier of:

(a) The specified date; or

(b) The 90th day after the record is filed.

(4) If the record filed specifies a delayed effective date and an effective time, at the specified time on or the earlier of:

(a) The specified date; or

(b) The 90th day after the record is filed.

(5) If the record filed is the initial articles of organization and specifies an effective date before the date of the filing, but no effective time, at 12:01 a.m. on the later of:

(a) The specified date; or

(b) The 5th business day before the record is filed.

(6) If the record filed is the initial articles of

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organization and specifies an effective time and an effective date before the date of the filing, at the specified time on the later of:

(a) The specified date; or

(b) The 5th business day before the record is filed.

(7) If the record filed does not specify the time zone or place at which the date or time, or both, is to be determined, the date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

Section 16. For the purpose of incorporating the amendments made by this act to section 605.0115, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 605.0113, Florida Statutes, is reenacted to read:

605.0113 Registered agent.—

(3) The duties of a registered agent are as follows:

(b) If the registered agent resigns, to provide the notice required under s. 605.0115(2) to the company or foreign limited liability company at the address most recently supplied to the agent by the company or foreign limited liability company.

Section 17. For the purpose of incorporating the amendment made by this act to section 607.0122, Florida Statutes, in a reference thereto, subsection (1) of section 658.23, Florida Statutes, is reenacted to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(1) Within 3 months after approval by the office and the appropriate federal regulatory agency, the applicant shall submit its duly executed articles of incorporation to the

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office, together with the filing fee due the Department of State under s. 607.0122.

Section 18. For the purpose of incorporating the amendment made by this act to section 607.0503, Florida Statutes, in a reference thereto, subsection (4) of section 607.0501, Florida Statutes, is reenacted to read:

607.0501 Registered office and registered agent.—

(4) The duties of a registered agent are:

(a) To forward to the corporation at the address most recently supplied to the registered agent by the corporation, a process, notice, or demand pertaining to the corporation which is served on or received by the registered agent; and

(b) If the registered agent resigns, to provide the notice required under s. 607.0503 to the corporation at the address most recently supplied to the registered agent by the corporation.

Section 19. For the purpose of incorporating the amendments made by this act to sections 605.0213 and 607.0122, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 607.193, Florida Statutes, is reenacted to read:

607.193 Supplemental corporate fee.—

(2)

(b) In addition to the fees levied under ss. 605.0213, 607.0122, and 620.1109 and the supplemental corporate fee, a late charge of \$400 shall be imposed if the supplemental corporate fee is remitted after May 1 except in circumstances in which a business entity was administratively dissolved or its certificate of authority was revoked due to its failure to file an annual report and the entity subsequently applied for

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reinstatement and paid the applicable reinstatement fee.

Section 20. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 39.8298, Florida Statutes, is reenacted to read:

39.8298 Guardian Ad Litem direct-support organization.—

(1) AUTHORITY.—The Statewide Guardian Ad Litem Office created under s. 39.8296 is authorized to create a direct-support organization.

(a) The direct-support organization must be a Florida corporation not for profit, incorporated under the provisions of chapter 617. The direct-support organization shall be exempt from paying fees under s. 617.0122.

Section 21. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 252.71, Florida Statutes, is reenacted to read:

252.71 Florida Emergency Management Assistance Foundation.—

(2) The foundation is hereby created as a direct-support organization of the division to provide assistance, funding, and support to the division in its disaster response, recovery, and relief efforts for natural emergencies.

(a) The foundation must be an organization that is a Florida nonprofit corporation incorporated under chapter 617, approved by the Department of State, and recognized under s. 501(c)(3) of the Internal Revenue Code. The foundation is exempt from paying fees under s. 617.0122.

Section 22. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a

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reference thereto, paragraph (a) of subsection (6) of section 288.012, Florida Statutes, is reenacted to read:

288.012 State of Florida international offices; direct-support organization.—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida international offices. The Legislature further finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between private businesses and state, local, and international governmental entities.

(6) (a) The department shall establish and contract with a direct-support organization, organized as a nonprofit under chapter 617 and recognized under s. 501(c)(3) of the Internal Revenue Code, to carry out the provisions of this section; assist with the coordination of international trade development efforts; and assist in development and planning related to foreign investment, international partnerships, and other international business and trade development. The organization is exempt from paying fees under s. 617.0122.

Section 23. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, section 617.1807, Florida Statutes, is reenacted to read:

617.1807 Conversion to corporation not for profit;

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authority of circuit judge.--If the circuit judge to whom the petition and proposed articles of incorporation are presented finds that the petition and proposed articles are in proper form, he or she shall approve the articles of incorporation and endorse his or her approval thereon; such approval shall provide that all of the property of the petitioning corporation shall become the property of the successor corporation not for profit, subject to all indebtedness and liabilities of the petitioning corporation. The articles of incorporation with such endorsements thereupon shall be sent to the Department of State, which shall, upon receipt thereof and upon payment of all taxes due the state by the petitioning corporation, if any, issue a certificate showing the receipt of the articles of incorporation with the endorsement of approval thereon and of the payment of all taxes to the state. Upon payment of the filing fees specified in s. 617.0122, the Department of State shall file the articles of incorporation, and from thenceforth the petitioning corporation shall become a corporation not for profit under the name adopted in the articles of incorporation and subject to all the rights, powers, immunities, duties, and liabilities of corporations not for profit under state law, and its rights, powers, immunities, duties, and liabilities as a corporation for profit shall cease and determine.

Section 24. For the purpose of incorporating the amendment made by this act to section 617.0122, Florida Statutes, in a reference thereto, subsection (4) of section 617.2006, Florida Statutes, is reenacted to read:

617.2006 Incorporation of labor unions or bodies.--Any group or combination of groups of workers or wage earners, bearing the

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name labor, organized labor, federation of labor, brotherhood of labor, union labor, union labor committee, trade union, trades union, union labor council, building trades council, building trades union, allied trades union, central labor body, central labor union, federated trades council, local union, state union, national union, international union, district labor council, district labor union, American Federation of Labor, Florida Federation of Labor, or any component parts or significant words of such terms, whether the same be used in juxtaposition or with interspace, may be incorporated under this act.

(4) Upon the filing of the articles of incorporation and the petition, and the giving of such notice, the circuit judge to whom such petition may be addressed shall, upon the date stated in such notice, take testimony and inquire into the admissions and purposes of such organization and the necessity therefor, and upon such hearing, if the circuit judge shall be satisfied that the allegations set forth in the petition and articles of incorporation have been substantiated, and shall find that such organization will not be harmful to the community in which it proposes to operate, or to the state, and that it is intended in good faith to carry out the purposes and objects set forth in the articles of incorporation, and that there is a necessity therefor, the judge shall approve the articles of incorporation and endorse his or her approval thereon. Upon the filing of the articles of incorporation with its endorsements thereupon with the Department of State and payment of the filing fees specified in s. 617.0122, the subscribers and their associates and successors shall be a corporation by the name given.

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929 Section 25. For the purpose of incorporating the amendment
930 made by this act to section 617.0502, Florida Statutes, in a
931 reference thereto, subsection (3) of section 617.0501, Florida
932 Statutes, is reenacted to read:

933 617.0501 Registered office and registered agent.—

934 (3) A registered agent appointed pursuant to this section
935 or a successor registered agent appointed pursuant to s.
936 617.0502 on whom process may be served shall each file a
937 statement in writing with the Department of State, in such form
938 and manner as shall be prescribed by the department, accepting
939 the appointment as a registered agent simultaneously with his or
940 her being designated. Such statement of acceptance shall state
941 that the registered agent is familiar with, and accepts, the
942 obligations of that position.

943 Section 26. For the purpose of incorporating the amendment
944 made by this act to section 617.0502, Florida Statutes, in a
945 reference thereto, paragraph (a) of subsection (1) of section
946 617.0503, Florida Statutes, is reenacted to read:

947 617.0503 Registered agent; duties; confidentiality of
948 investigation records.—

949 (1)(a) Each corporation, foreign corporation, or alien
950 business organization that owns real property located in this
951 state, that owns a mortgage on real property located in this
952 state, or that transacts business in this state shall have and
953 continuously maintain in this state a registered office and a
954 registered agent and shall file with the Department of State
955 notice of the registered office and registered agent as provided
956 in ss. 617.0501 and 617.0502. The appointment of a registered
957 agent in compliance with s. 617.0501 or s. 617.0502 is

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

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958 sufficient for purposes of this section if the registered agent
959 so appointed files, in the form and manner prescribed by the
960 Department of State, an acceptance of the obligations provided
961 for in this section.

962 Section 27. This act shall take effect July 1, 2024.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Chair*
Appropriations
Appropriations Committee on Criminal and Civil Justice
Appropriations Committee on Health and Human Services
Community Affairs
Environment and Natural Resources
Ethics and Elections

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JONATHAN MARTIN

33rd District

February 2, 2024

The Honorable Debbie Mayfield
Senate Committee on Rules, Chair
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1198 - An act relating to Corporate Actions

Dear Chair Mayfield:

Please allow this letter to serve as my respectful request to place SB 1198, relating to Corporate Actions, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin
Senate District 33

Cc: Philip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

2/8/24

Meeting Date

Rules

Committee

SB 1198

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

Phone 850-205-9000

Address 119 South Monroe Street #200
Street

Email adl@mhdfirm.com

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:

The Business Law Section of the Florida Bar

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 Rules

BILL: SB 1218

INTRODUCER: Senator Burgess

SUBJECT: Broadband

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schrader	Imhof	RI	Favorable
2. Renner	McKay	CM	Favorable
3. Schrader	Twogood	RC	Favorable

I. Summary:

SB 1218 amends s. 288.9963, F.S., regarding a promotional pole attachment rate required to be offered by municipal utilities to broadband providers to provide broadband service to unserved or underserved areas. The bill extends the date through which municipal electric utilities are required to offer to broadband providers a promotional \$1 per pole, per year, wireline attachment rate for any new pole attachments necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory. The date is extended from July 1, 2024 to December 31, 2028.

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenue.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹ The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² In order to do so, the PSC exercises authority over public utilities³ in one or

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Jan. 22, 2024).

³ Under s. 366.02(8), F.S., a "public utility" is defined "as every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state." There are, however, several exceptions to this definition, which include, "a

more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.⁴ PSC authority over municipal utilities is more limited, however.

Electric Utilities

The PSC monitors the safety and reliability of the electric power grid⁵ and may order the addition or repair of infrastructure as necessary.⁶ The PSC has broad jurisdiction over the rates and service of investor-owned electric.⁷ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC has jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁸ Municipally-owned or operated utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by the governing body elected by the cooperative's membership.

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

A municipal electric or gas utility is an electric or gas utility owned and operated by a unit of local government. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appears throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.⁹ Florida also has 27 municipally-owned gas utilities and four special gas districts.¹⁰

Regulation of Pole Attachments

Utility poles were first deployed in the U.S. in 1844 to extend telegraph service. While they have been in use for over 175 years, utility poles continue to provide the scaffolding for the technology of the twenty-first century. In the mid-nineteenth and early twentieth centuries, many states adopted laws granting rights-of-way (ROW) to construct utility poles, wires, and facilities to transmit electricity and communications signals. First telegraph, then telephone, electricity,

cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; [and] any dependent or independent special natural gas district.” Generally, “public utility” means investor-owned utilities.

⁴ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Jan. 22, 2024).

⁵ Section 366.04(5) and (6), F.S.

⁶ Section 366.05(1) and (8), F.S.

⁷ Section 366.05, F.S.

⁸ Florida Public Service Commission, *About the PSC*, *supra* note 4.

⁹ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Jan. 22, 2024).

¹⁰ Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf>) (last visited Jan. 22, 2024). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

cable, wireless, and Internet service providers have sought to attach facilities to wooden, and later steel or composite, utility poles.¹¹

The term “pole attachment” refers to the process by which communications companies colocate communications infrastructure on existing electric utility poles. Colocation reduces the number of poles that must be built to accommodate utility services, thereby reducing costs to users of both services by allowing providers to share costs. Rules governing pole attachments seek to balance the desire to maximize value for users of both electric and communications services with concerns unique to electric utility poles, such as safety and reliability.¹² The space requested for a pole attachment is typically one foot.¹³

Pole attachments were originally established by mutual agreement. Later, such agreements were regulated by federal statute and administrative regulations. Pole attachments provide non-pole-owning cable and telecommunication service providers (such as cable television providers and local exchange carriers) with access to a pole-owning utility’s distribution poles, conduits, and right-of-way for:

- Installing fiber, coaxial cable or wires, and other equipment;
- Building an interconnected network; and
- Reaching customers.¹⁴

In 1978, Congress passed the “Pole Attachment Act,” which added s. 224 to the Communications Act of 1934, to require the Federal Communications Commission (FCC) to establish rates, terms, and conditions for pole attachments for the cable television industry.¹⁵

The “Telecommunications Act of 1996,” which amended 47 U.S.C. s. 244 to add provisions making access to utility poles mandatory for telecommunications services providers and providing for nondiscriminatory access—unless there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.¹⁶ Municipal owned electric utilities and rural electric cooperatives are exempt from the provisions of 47 U.S.C. s. 224.¹⁷ Specifically, the term “utility” is defined as:

[A]ny person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such

¹¹ Catherine J.K. Sandoval, Contested Places, *Utility Pole Spaces: A Competition and Safety Framework for Analyzing Utility Pole Association Rules, Roles, and Risks*, 69 Cath. U. L. Rev. 473, 474–75 (2020), available at <https://scholarship.law.edu/cgi/viewcontent.cgi?article=3552&context=lawreview> (last visited Jan. 22, 2024).

¹² American Public Power Association, *Issue Brief: Preserving the Municipal Exemption from Federal Pole Attachment Regulations* (Jan. 2021), available at <https://www.publicpower.org/policy/preserving-municipal-exemption-federal-pole-attachment-regulations> (last visited Jan. 22, 2024).

¹³ Evari GIS Consulting, *Joint Use Pole Audit*, available at <https://www.evarigisconsulting.com/joint-use-pole-audit> (last visited Jan. 22, 2024).

¹⁴ *Id.*

¹⁵ Pub. L. No. 95-234, *codified at* 47 U.S.C. s. 224.

¹⁶ Pub. L. No. 104-104, *codified at* 47 U.S.C. s. 224(f).

¹⁷ 47 U.S.C. s. 224(a)(1).

term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.¹⁸

A state, however, can assume regulation of pole attachment through a process known as “reverse preemption.” This requires a state to expressly assert jurisdiction through state legislation, followed by certifying to the FCC that “in so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services.”¹⁹ As of June 13, 2022, 23 states and the District of Columbia have reverse preemption, including Florida.²⁰

Florida assumed regulation of pole attachments for poles owned by a public utility from the FCC after the passage and enactment of SB 1944 in 2021, placing the authority to regulate pole attachments under the PSC.²¹ In 2023, with the passage and enactment of HB 1221, this authority was expanded to the regulation of attachment to poles owned by rural electric cooperatives engaged in the provision of broadband services.²² Presently, s. 366.04(8), F.S., regulates pole attachments for public utilities and such rural electric cooperatives.²³ The PSC does not, however, regulate pole attachments for poles owned by municipal utilities.

Broadband Availability in Rural Areas

Much like with rural electricity distribution, the primary challenge in deploying broadband in rural areas is one of population density. The U.S. Department of Transportation estimates that the average cost of laying fiber is \$27,000 per mile.²⁴ Many rural areas are remote and have geographically dispersed populations, thus more fiber per customer must be laid to serve them. Moreover, rural areas often have harsher terrain than urban areas—such as mountain ranges or ground that is frozen for substantial portions of the year. These features can make it more difficult and costly to serve such areas with fiber.²⁵ Cable networks can also face similar density and terrain issues.

While rural customers still lag behind urban counterparts, the difference in broadband access between these areas is at its lowest ever. In 2015, reflecting advances in technology, the FCC raised benchmark speeds to be considered broadband service to 25 megabits per second (Mbps)

¹⁸ *Id.*

¹⁹ 47 U.S.C. s. 224(c)(2).

²⁰ Federal Communications Commission, *Public Notice: States That Have Certified That They Regulate Pole Attachments*, June 13, 2022, available at <https://www.fcc.gov/document/states-have-certified-they-regulate-pole-attachments-3> (last visited Jan. 22, 2024).

²¹ Chapter 2021-191, Laws of Fla.

²² Chapter 2023-199, Laws of Fla.

²³ Section 364.391, F.S., provides that if a rural electric cooperative engages in the provision of broadband, all poles owned by that cooperative are subject to regulation under s. 366.04(8), F.S., on the same basis as if such cooperative were a public utility under that subsection. Sections 366.04(9) and 366.97, F.S., also provide pole attachment regulations relating to poles owned by public utilities.

²⁴ Congressional Research Service, *Raising the Minimum Fixed Broadband Speed Benchmark: Background and Selected Issues*, July 12, 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11875/2> (last visited Jan. 22, 2024).

²⁵ *Id.*

for downloads and 3 Mbps for uploads (25/3 Mbps service).²⁶ Under this benchmark, the FCC reported that 53 percent of people living in U.S. rural areas lacked access to broadband—as compared to just 8 percent of persons living in U.S. urban areas lacking such access. By 2021, the gap for 25/3 Mbps service with at least one provider had essentially vanished.²⁷ Rural areas still were behind their urban counterparts in choice however; 91 percent of rural customers had access to three or more providers, versus 99 percent of urban customers.²⁸

In 2021, the FCC considered increasing their standard for broadband to 100 Mbps of download and 10 Mbps of upload speed (100/10 Mbps service), but ultimately rejected the change given concerns about whether enough providers could meet such a standard.²⁹

Florida Office of Broadband

Section 288.9961, F.S., establishes the Florida Office of Broadband within the Division of Community Development within the Florida Department of Commerce (DCM).³⁰ The Office of Broadband “works with local and state government agencies, community organizations and private businesses to increase the availability and effectiveness of broadband internet throughout the state, specifically in small and rural communities.”³¹

State and Federal Broadband Growth Programs

Connect America Fund

One of the earliest and most significant federal broadband programs is the Connect America Fund, which is part of the FCC’s Universal Service Fund (USF). Started in 2011, the purpose of the fund is to provide subsidies to telecommunications companies to expand telecommunications infrastructure in rural and remote areas of the United States.³² The Connect America Fund is a “high-cost” program, meaning that it is designed to ensure that consumers in rural, insular, and high cost areas have access to modern telecommunications networks and that services through those networks, like voice and broadband, are available at a cost comparable to that in more developed urban areas.³³ The Connect America Fund is the largest of the USF’s programs, and has an annual budget of \$4.5 billion.³⁴

²⁶ Federal Communications Commission, *Wireline: 2015 Broadband Progress Report*, Feb. 14, 2015, available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2015-broadband-progress-report> (last visited Jan. 22, 2024).

²⁷ USA Facts, *How Many Americans have Broadband Internet Access*, Oct. 5, 2023, available at <https://usafacts.org/articles/how-many-americans-have-broadband-internet-access/#footnote-3> (last visited Jan. 22, 2024).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 288.9963, F.S., actually states that the Florida Office of Broadband is created within the Division of Community Development, however, HB 5 from 2023 (enacted as Chapter 2023-173, L.O.F.), changed the name of the Department of Economic Opportunity to the Department of Commerce.

³¹ Florida Department of Commerce, *Office of Broadband*, <https://www.floridajobs.org/community-planning-and-development/broadband/office-of-broadband> (last visited Jan. 22, 2024).

³² Federal Communications Commission, *Universal Service Monitoring Report*, Feb. 13, 2023, available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports> (last visited Jan. 22, 2024).

³³ Federal Communications Commission, *Universal Service for High Cost Areas-Connect America Fund*, available at <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund#releases> (last visited Jan. 22, 2024).

³⁴ Universal Service Administrative Co., *Program Overview*, available at <https://www.usac.org/high-cost/program-overview/> (last visited Jan. 22, 2024).

Broadband Technology Opportunities Program

The Broadband Technology Opportunities Program (BTOP) is a federal grant program administered by the National Telecommunications and Information Administration (NTIA), part of the U.S. Department of Commerce. The BTOP is funded by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), and has an annual budget of \$4 billion. The purpose of the program is to “bridge the technological divide” and BTOP projects include deploying broadband Internet infrastructure, enhancing and expanding public computer centers, and encouraging the sustainable adoption of broadband service.³⁵

USDA Programs: ReConnect Program and the Rural Broadband Program

The United States Department of Agriculture (USDA) operates two programs aimed at developing broadband in rural areas—the ReConnect Program and the Rural Broadband Program. Though these programs both existed prior to 2021, the Infrastructure Investment and Jobs Act (Public Law 117-58), signed into law on November 15, 2021, provided new funding for both of these programs (and other broadband initiatives). The ReConnect Program received \$1.926 billion in funds for grants and loans and the Rural Broadband Program received \$74 million in funds for loans. This new funding level, starting in 2022, exceeded the fiscal year 2021 levels by \$1.291 billion (an increase of 203 percent) for the ReConnect Program and by \$72 million (an increase of 97 percent) for the Rural Broadband Program.³⁶

The purpose of the ReConnect Program is to offer loans, grants, and loan-grant combinations to facilitate broadband deployment in rural areas that currently do not have sufficient access to broadband. The entities eligible to apply for the Reconnect Program include:

- Corporations, limited liability companies, and limited liability partnerships;
- State and local governments;
- U.S. territories and possessions; and
- Indian tribes, as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. §450b).³⁷

The purposes for which Reconnect grants may be used are:

- Construction or improvement of facilities required to provide fixed terrestrial broadband services;
- Funding of reasonable pre-application expenses; and
- Funding the acquisition of an existing telecommunications system that does not currently provide sufficient access to broadband.³⁸

³⁵ National Telecommunications and Information Administration, *Broadband Technology Opportunities Program*, available at <https://ntia.gov/category/broadband-technology-opportunities-program#:~:text=The%20Broadband%20Technology%20Opportunities%20Program,in%20communities%20across%20the%20country> (last visited Jan. 22, 2024).

³⁶ Congressional Research Service, *Infrastructure Investment and Jobs Act: Funding for USDA Rural Broadband Programs*, Nov. 19, 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11918> (last visited Jan. 22, 2024).

³⁷ United States Department of Agriculture, *ReConnect Program*, available at <https://www.usda.gov/reconnect/program-overview> (last visited Jan. 22, 2024).

³⁸ *Id.*

The Rural Broadband Program offers funds to help construct, improve, or acquire facilities and equipment needed to provide broadband to rural areas. The entities eligible to apply for the program are:

- Corporations;
- Limited liability companies;
- Cooperative or mutual organizations;
- State and local governments; and
- Indian tribes and tribal organizations.³⁹

For the most recent years prior to 2021, Congress only appropriated funds to the Rural Broadband Program for loans. However, with the increase in funding under the Infrastructure Investment and Jobs Act, funding for grants and loan guarantees is also now available in the program.⁴⁰

While the USDA's Reconnect and Rural programs are similar in their purpose, a key distinction lies in the standards for eligible service areas. For the ReConnect Program, eligible service areas are areas where at least 90 percent of households lack sufficient access to broadband with at least 100 Mbps download and 20 Mbps upload speed (100/20 Mbps service). For the Rural Broadband Program, the standard for eligibility is if the area in question does not have at least 50 percent of households with at least 25 Mbps download and 3 Mbps upload speed (25/3 Mbps service).

Florida Broadband Opportunity Program

In 2021, Florida enacted the Florida Broadband Deployment Act of 2021.⁴¹ As part of that act, the Florida Broadband Opportunity Program (BOP) was established under s. 288.9962, F.S. BOP is a competitive reimbursement program within the DCM.⁴² The purpose of the program is to award grants to applicants who seek to expand broadband Internet service to unserved areas of Florida. To operate the program, the Florida Legislature appropriated \$400 million in federally funded State and Local Fiscal Recovery Funds (SLFRF) to increase Floridians' access to reliable, affordable, and high-speed internet service.⁴³

Promotional Rate for Broadband Pole Attachments to Municipal Electric-Owned Poles

Also as part of the Florida Broadband Deployment Act of 2021, s. 288.9963, F.S., was created to increase the availability of broadband Internet access in areas where citizens do not have access to acceptable Internet download and upload speeds, or any access at all.⁴⁴ Section 288.9963(3), F.S., requires that broadband providers must, beginning July 1, 2021, receive a promotional rate of \$1 per wireline attachment per pole per year for any new attachment necessary to make

³⁹ United States Department of Agriculture, *Rural Broadband Loans, Loan/Grant Combinations, and Loan Guarantees*, <https://www.rd.usda.gov/programs-services/telecommunications-programs/rural-broadband-loans-loangrant-combinations-and-loan-guarantees> (last visited Jan. 22, 2024).

⁴⁰ Congressional Research Service, *Infrastructure Investment and Jobs Act: Funding for USDA Rural Broadband Programs*, *supra* note 36.

⁴¹ Chapter 2021-24, Laws of Fla.

⁴² Florida Department of Commerce, *Broadband Opportunity Program*, available at <https://www.floridajobs.org/community-planning-and-development/broadband/broadband-opportunity-program> (last visited Jan. 22, 2024).

⁴³ *Id.*

⁴⁴ See s. 288.9963(1), F.S., which provides the Legislative intent for the section.

broadband service available to an unserved⁴⁵ or underserved⁴⁶ end user within a municipal electric utility service territory until July 1, 2024.

Broadband providers wishing to make wireline attachments subject to this promotional rate must:⁴⁷

- Submit an application, including a route map, to the municipal electric utility specifying which wireline attachments on which utility poles are necessary to extend broadband service to unserved and underserved end users;
- Include with this application the information necessary to identify which unserved or underserved end users within the municipal electric utility's service territory will gain access to broadband service; and
- Provide a copy of both of the above to the Florida Office of Broadband.

A broadband provider making a wireline attachment application under the promotional rate pursuant to s. 288.9963, F.S., must make a reasonable effort to make broadband service available to the unserved or underserved customers identified in the application. A provider who fails to do so within 12 months may be required to pay the prevailing rate for those attachments that failed to make broadband service available to the intended customers to the municipal electric utility.

All wireline attachments made pursuant to s. 288.9963, F.S., must comply with safety and reliability standards.⁴⁸ If a municipal electric utility is required to replace a utility pole due to a pole attachment under the section, the utility may require, as a condition to said attachment, that “the broadband provider reimburse all reasonable and nondiscriminatory costs attributable solely to the new attachment”—minus any positive salvage value of the removed pole.⁴⁹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 288.9963, F.S., to extend the date—from July 1, 2024, to December 31, 2028—through which municipal electric utilities are to offer to broadband providers a promotional \$1 per pole, per year, wireline attachment rate for any new attachments necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory. The bill would also have the effect of extending the \$1 promotional rate for any currently existing wireline attachments made under the existing s. 288.9963, F.S., from July 1, 2024, to December 31, 2028.

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

⁴⁵ Section 288.9963(2)(c), F.S., defines “unserved” as “no retail access to the Internet at speeds of at least 10 megabits per seconds for downloading and 1 megabits per second for uploading.”

⁴⁶ Section 288.9963(2)(d), F.S., defines “underserved” as “no retail access to the Internet at speeds of at least 25 megabits per seconds for downloading and 3 megabits per second for uploading.”

⁴⁷ Section 288.9963(3)(a), F.S.

⁴⁸ Section 288.9963(4), F.S.

⁴⁹ Section 288.9963(5), F.S. With the replacement of such poles, however, “if the replacement is necessary to correct an existing violation, to bring the pole into compliance with any changes in applicable standards, or because the pole is at the end of its useful life, the replacement cost may not be charged to the broadband provider.”

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 or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) Art. VII, s. 18 of 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 fiscal impact^{50, 51} which for Fiscal Year 2024-2025, is forecast at approximately \$2.3 million or less.⁵²

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenues. Therefore, the mandate provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁵⁰ FLA. CONST. art. VII, s. 18(d).

⁵¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 22, 2024).

⁵² Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/230711demographic.pdf> (last visited Jan. 22, 2024).

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

The Revenue Estimating Conference has not reviewed SB 1218. Staff estimates an indeterminate impact to municipal utility revenues.

B. Private Sector Impact:

Broadband service providers may see an adjustment in the pole attachment fees paid to municipal electric utilities for installation of attachments to the utilities' poles. Broadband service providers will be guaranteed access for pole attachment purposes when providing service to underserved or unserved broadband Internet users.

C. Government Sector Impact:

Municipal utilities may see a reduction in the amount of pole attachment fees received from broadband service providers for installation of attachments to the utilities' poles. Municipal utilities will not be able to refuse pole attachments by broadband service providers providing service to underserved or unserved broadband Internet users.

Section 288.9963, F.S., does have reporting requirements to the Florida Office of Broadband within the Division of Community Development of the DCM. To date, staff has not received an analysis of SB 1218 from DCM.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 288.9963 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.

By Senator Burgess

23-01030A-24

20241218__

A bill to be entitled

An act relating to broadband; amending s. 288.9963, F.S.; deleting obsolete language; making technical changes; extending the date through which a promotional rate and related terms for certain wireline attachments of broadband facilities to municipal electric utility poles are effective; providing an effective date.

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

Section 1. Subsection (3) of section 288.9963, Florida Statutes, is amended to read:

288.9963 Attachment of broadband facilities to municipal electric utility poles.—

(3) ~~Beginning July 1, 2021,~~ A broadband provider shall receive a promotional rate of \$1 per wireline attachment per pole per year for any new attachment necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory for the time period specified in this subsection.

(a) A broadband provider ~~that~~ who wishes to make wireline attachments subject to the promotional rate shall submit an application, including a route map, to the municipal electric utility specifying which wireline attachments on which utility poles are necessary to extend broadband service to unserved and underserved end users and therefore qualify for the promotional rate set forth in this subsection, together with such information necessary to identify which unserved or underserved

Page 1 of 3

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

23-01030A-24

20241218__

end users within the municipal electric utility's service territory will gain access to broadband service as a result. The broadband provider shall also submit a copy of the application and plan ~~shall also be submitted~~ simultaneously to the office.

(b) A municipal electric utility shall report to the office which attachments on which utility poles were made available to broadband providers subject to the promotional rate, together with any information available to it regarding which of its municipal electric utility customers do and do not have access to broadband service and whether they are unserved or underserved.

(c) A broadband provider that ~~who~~ makes application for wireline attachments under the promotional rate shall make all reasonable efforts to make broadband service available to the unserved or underserved municipal electric utility customers identified in the application. If a broadband provider fails to make broadband service available to those customers within 12 months, it may be required to pay the prevailing rate for those attachments that failed to make broadband service available to the intended customers.

(d) Except as provided in this section, wireline attachments which are subject to the promotional rate must conform to all other terms and conditions of existing pole attachment agreements between the broadband provider and the municipal electric utility. If an ~~no~~ agreement does not exist ~~exists~~, the parties ~~shall~~ have 90 days to enter into a pole attachment agreement for all other terms and conditions of attachment.

(e) The promotional rate of \$1 per wireline attachment per

Page 2 of 3

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

23-01030A-24

20241218

59 pole per year applies to all pole attachments made pursuant to
60 this subsection until December 31, 2028 ~~July 1, 2024~~.
61 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 31, 2024

I respectfully request that **Senate Bill #1218**, relating to Broadband, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Danny", written in black ink.

Senator Danny Burgess
Florida Senate, District 23

The Florida Senate

APPEARANCE RECORD

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

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)

February 8, 2024

Meeting Date

Committee on Rules

Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1218

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Megan Cannan**

Phone **850-692-7171**

Address **320 W. Park Ave.**
Street

Email **mcannan@floridataxwatch.org**

Tallahassee
City

FL
State

32301
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB1218

Bill Number or Topic

2-8-24

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name Chante' Jones, AARP Florida Phone 850-272-0551

Address 215 S. Monroe St Ste 603 Email cejones@aarp.org

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP 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)

2-8-2024

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 1218

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Floyd Self

Phone

850-566-6347

Address

313 N. Monroe St. 301

Email

fself@bergerSingerLLP.com

Street

TLH

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:

Charter Communications

☐

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 Rules

BILL: SB 1688

INTRODUCER: Senator Osgood

SUBJECT: Career-themed Courses

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2. <u>Baird</u>	<u>McKay</u>	<u>CM</u>	Favorable
3. <u>Brick</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 1688 adds requirements to improve student awareness of career and technical education opportunities. The bill adds requirements for:

- Strategic planning among local education, workforce, and economic development agencies.
- The collection of data in industry-certified career education programs and career-themed courses.
- Student and parent notifications about available career and professional academies and career-themed courses.

The bill takes effect July 1, 2024.

II. Present Situation:

The Career and Professional Education Act

The Florida Career and Professional Education (CAPE) Act provides a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.¹

Each district school board must develop, in collaboration with local workforce development boards, economic development agencies, and postsecondary institutions, a strategic three-year plan to address and meet local and regional workforce demands.² The strategic plan must be constructed and based on elements specified in law that are consistent with the goal of enhancing career and professional education.³ The strategic plan must describe in detail provisions for the efficient transportation of students, the maximum use of shared resources, access to courses

¹ Section 1003.491, F.S.

² Section 1003.491(2), F.S.

³ Section 1003.491(3), F.S.

aligned to state curriculum standards through virtual education providers legislatively authorized to provide part-time instruction to middle school students, and an objective review of proposed career and professional academy courses and other career-themed courses to determine if the courses will lead to the attainment of industry certifications included on the CAPE Industry Certification Funding List. Each strategic plan must be reviewed, updated, and jointly approved every three years by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions.⁴

The Commissioner of Education (commissioner) is required to conduct an annual review of K-12 and postsecondary career and technical education offerings that, at a minimum, must examine:⁵

- Alignment of offerings with the framework of quality that govern inclusion on the Master Credentials List.⁶
- Alignment of offerings at the K-12 and postsecondary levels with credentials or degree programs identified on the Master Credentials List.
- Program utilization and unwarranted duplication across institutions serving the same students in a geographical or service area.
- Institutional performance measured by student outcomes such as academic achievement, college readiness, postsecondary enrollment, credential and certification attainment, job placement, and wages.

The DOE is responsible for collecting student achievement and performance data in industry-certified career education programs and career-themed courses that includes, but is not limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, return on investment, and employer satisfaction.⁷

CAPE Industry Certification Funding List

The SBE is required to adopt, at least annually, based on recommendations by the commissioner, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List that meet a statewide, regional, or local demand.⁸

Certifications included on the CAPE Industry Certification Funding List:⁹

- Require at least 150 hours of instruction; and
- Can be earned in middle and high school.
- Usually require passage of a subject area examination and some combination of work experience, educational attainment, or on-the-job training.

⁴ Section 1003.491(2), F.S.

⁵ Section 1003.491(5)(a), F.S.

⁶ The Master Credentials List is maintained by the Credentials Review Committee, which is appointed by the State Workforce Development Board, to serve as a public and transparent inventory of state-approved credentials of value. Section 445.004(4)(h)1., F.S.

⁷ Section 1003.492(3), F.S.

⁸ Section 1008.44(1), F.S.

⁹ Rule 6A-6.0576(5)-(6), F.S.

Career and Professional Academies and Career-themed Courses

A “career and professional academy” is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the Department of Commerce (DOC).¹⁰ School districts are required to offer a career and professional academy.¹¹

A “career-themed course” is a course, or a course in a series of courses, that leads to an industry certification identified in the CAPE Industry Certification Funding List.¹² Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the local workforce development board or the DOC. School districts must offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state.¹³

Each career and professional academy and secondary school providing a career-themed course is required to:¹⁴

- Provide a rigorous standards-based academic curriculum integrated with a career curriculum;
- Consider multiple styles of student learning;
- Promote learning by doing through application and adaptation;
- Maximize relevance of the subject matter;
- Enhance each student’s capacity to excel;
- Include an emphasis on work habits and work;
- Include one or more partnerships with postsecondary institutions through specified articulation agreements, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community.

Each district school board, in collaboration with local workforce development boards, economic development agencies, and state-approved postsecondary institutions, is required to include plans to implement a career and professional academy or a career-themed course in at least one middle school in the district as part of the strategic 3-year plan.¹⁵

In the 2021-2022 academic year, there were 10,942 registered career-themed courses and 1,842 registered career and professional academies, which served 197,266 students.¹⁶

¹⁰ Section 1003.493(1)(a), F.S. In 2023, the Department of Economic Opportunity was renamed the Department of Commerce. Chapter 2023-173, s. 10, Laws of Fla.

¹¹ Section 1003.493(1)(a), F.S.

¹² Section 1003.493(1)(b), F.S.

¹³ Section 1003.493(1)(b), F.S.

¹⁴ Section 1003.493(4)(a), F.S.

¹⁵ Section 1003.4935(1), F.S.

¹⁶ Florida Department of Education, *State Secondary Career, Technical, and Adult Education: 2021-2022 Summary*, available at <https://www.fldoe.org/core/fileparse.php/9904/urlt/2122secondarycte.pdf>, at 3, (last visited January 29, 2024).

III. Effect of Proposed Changes:

SB 1688 adds requirements to improve student awareness of career and technical education (CTE) opportunities. The bill adds requirements for:

- Strategic planning among local education, workforce, and economic development agencies.
- The collection of data in industry-certified career education programs and career-themed courses.
- Student and parent notifications about available career and professional academies and career-themed courses.

The bill modifies s. 1003.491, F.S., to add to the information required to inform the strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions. The bill adds that the plan must be constructed and based, in part, on strategies to inform and promote the CTE opportunities available in the district to students, parents, the community, and stakeholders.

The bill modifies s. 1003.492, F.S., to align the collection by the DOE of student achievement and performance data in industry-certified career education programs and career-themed courses with the annual review conducted by the Commissioner of Education regarding K-12 and postsecondary CTE offerings.

The bill modifies s. 1003.4935, F.S., to require each district school board inform students and parents during course selection for middle school of the career and professional academy or career-themed courses available within the district.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None 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 the following sections of the Florida Statutes: 1003.491, 1003.492, and 1003.4935.

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 Osgood

32-00981-24

20241688__

A bill to be entitled

An act relating to career-themed courses; amending s. 1003.491, F.S.; revising the requirements for a specified school district strategic plan to include certain information; amending s. 1003.492, F.S.; requiring the Department of Education to include specified data in an annual review of K-12 and postsecondary career and technical education offerings; amending s. 1003.4935, F.S.; requiring school districts to provide specified information to students and parents during middle school course selection; providing an effective date.

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

Section 1. Subsection (3) of section 1003.491, Florida Statutes, is amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(3) The strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions must be constructed and based on:

(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 3 years, using labor

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

32-00981-24

20241688__

projections as identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference as factors in the criteria for the plan;

(b) Strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference;

(c) Strategies to provide shared, maximum use of private sector facilities and personnel;

(d) Strategies to ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Strategies to provide personalized student advisement, including a parent-participation component, and coordination with middle grades to promote and support career-themed courses and education planning;

(f) Alignment of requirements for middle school career planning, middle and high school career and professional academies or career-themed courses leading to industry certification or postsecondary credit, and high school graduation requirements;

(g) Provisions to ensure that career-themed courses and courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

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

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(h) Plans to sustain and improve career-themed courses and career and professional academies;

(i) Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(j) Strategies to recruit students into career-themed courses and career and professional academies which include opportunities for students who have been unsuccessful in traditional classrooms but who are interested in enrolling in career-themed courses or a career and professional academy. School boards shall provide opportunities for students who may be deemed as potential dropouts or whose cumulative grade point average drops below a 2.0 to enroll in career-themed courses or participate in career and professional academies. Such students must be provided in-person academic advising that includes information on career education programs by a certified school counselor or the school principal or his or her designee during any semester the students are at risk of dropping out or have a cumulative grade point average below a 2.0;

(k) Strategies to provide sufficient space within academies to meet workforce needs and to provide access to all interested and qualified students;

(l) Strategies to implement career-themed courses or career and professional academy training that lead to industry certification in juvenile justice education programs;

(m) Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career and technical courses;

(n) Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

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(o) Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career-themed courses and career and professional academy courses and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses;

(p) Strategies to provide professional development for secondary certified school counselors on the benefits of career and professional academies and career-themed courses that lead to industry certification; ~~and~~

(q) Strategies to redirect appropriated career funding in secondary and postsecondary institutions to support career academies and career-themed courses that lead to industry certification; and

(r) Strategies to inform and promote the career and technical education opportunities available in the district to students, parents, the community, and stakeholders.

Section 2. Subsection (3) of section 1003.492, Florida Statutes, is amended to read:

1003.492 Industry-certified career education programs.—

(3) The Department of Education shall collect student achievement and performance data in industry-certified career education programs and career-themed courses as part of the annual review required under s. 1003.491(5) that includes, but need not be limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, return on investment, and employer satisfaction.

Section 3. Subsection (1) of section 1003.4935, Florida

32-00981-24

20241688__

Statutes, is amended to read:

1003.4935 Middle grades career and professional academy courses and career-themed courses.—

(1) ~~Beginning with the 2011-2012 school year,~~ Each district school board, in collaboration with local workforce development boards, economic development agencies, and state-approved postsecondary institutions, shall include plans to implement a career and professional academy or a career-themed course, as defined in s. 1003.493(1)(b), in at least one middle school in the district as part of the strategic 3-year plan pursuant to s. 1003.491(2). The strategic plan must provide students the opportunity to transfer from a middle school career and professional academy or a career-themed course to a high school career and professional academy or a career-themed course currently operating within the school district. Students who complete a middle school career and professional academy or a career-themed course must have the opportunity to earn an industry certificate and high school credit and participate in career planning, job shadowing, and business leadership development activities. The district shall inform students and parents during course selection for middle school of the career and professional academy or career-themed course available within the district.

Section 4. This act shall take effect July 1, 2024.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 30, 2024

I respectfully request that **Senate Bill #1688**, relating to Career-themed Courses, be placed on the:

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

A handwritten signature in cursive script, reading "Rosalind Osgood".

Senator Rosalind Osgood
Florida Senate, District 32

The Florida Senate
APPEARANCE RECORD

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

2/8
Meeting Date
Rules
Committee

1688
Bill Number or Topic
Amendment Barcode (if applicable)

Name Chris Stranburg Phone 813-767-9667

Address 107 E. College Ave Email CStranburg@afpha.org
Street
Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Americans for Prosperity

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

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

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

S-001 (08/10/2021)

February 8, 2024

Meeting Date

Rules

Committee

Name

Pamela Burch Fort

Address

104 S. Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate
APPEARANCE RECORD

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Senate professional staff conducting the meeting

1688

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

850-425-1344

Email

TcgLobby@aol.com

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

NAACP Florida State Conference

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1688

Bill Number or Topic

2/8/24

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

Edward Briggs

Phone

850-933-5994

Address

Street

Email

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:

American Fire Sprinkler Assoc. FL Chapter + FL Redbridgerian + AC Contractors Assoc.

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/8/2024
Meeting Date

Rules
Committee

SB 1688
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shauntel Smith Phone 407-855-7604

Address 1747 Orlando Central Parkway Email legislation@floridapta.org
Street

Orlando FL 32809
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: Florida PTA

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

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 Rules

BILL: SB 1720

INTRODUCER: Senator Rodriguez

SUBJECT: Marine Encroachment on Military Operations

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hunter	Ryon	CA	Favorable
2. Ingram	Proctor	MS	Favorable
3. Hunter	Twogood	RC	Favorable

I. Summary:

SB 1720 adds various annexes and a range to the list of major military installations and ranges that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues with local government planning than others.

These include the annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School. Naval Air Station Key West associated with Monroe County and Key West is currently on the list, however the annexes and range are not.

The bill takes effect July 1, 2024.

II. Present Situation:

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²

¹ Chapter 85-55, Laws of Fla.

² Section 163.3177, F.S.

All development, both public and private, and all development orders³ approved by local governments must be consistent with the local government's comprehensive plan.⁴ Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.⁶

The future land use plan and plan amendments must be based upon surveys, studies, and data regarding the area, as applicable, including the compatibility of uses on lands adjacent to or in close proximity to military installations.⁷

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.⁸ Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."⁹ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Commerce (Commerce), rather than communicated directly to the permitting local government by each individual reviewing agency.

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.¹⁰ Then, the local governing body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.¹¹

If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as "reviewing agencies":

- Commerce, designated as the "state land planning agency";¹²
- The appropriate regional planning council;
- The appropriate water management district;
- The Department of Environmental Protection;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;

³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

⁴ Section 163.3194(3), F.S.

⁵ Section 163.3177(6)(a), F.S.

⁶ *Id.*

⁷ Section 163.3177(6)(2)(f), F.S.

⁸ Chapter 2011-139, s. 17, Laws of Fla.

⁹ Section 163.3184(3) and (4), F.S.

¹⁰ Sections 163.3174(4)(a), F.S.

¹¹ Section 163.3184(11), F.S.

¹² Section 163.3164(44), F.S.

- The commanding officer of an affected military installation;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.¹³

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.¹⁴ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.¹⁵

Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.¹⁶ Alternatively, the state coordinated review requires agencies to provide comments to Commerce.¹⁷ Commerce then has a total of 60 days from receipt to provide the local government with a report containing the state's objections, recommendations, and comments.¹⁸

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by Commerce, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.¹⁹ The second public hearing must be conducted within 180 days after the agency comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.²⁰

Exchange of Information between Local Governments and Military Installations

Section 163.3175, F.S., provides the following legislative findings relating to land use around military installations:

- Incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission;
- Such development also threatens the public safety because of the possibility of accidents occurring within the areas surrounding a military installation;
- The economic vitality of a community is affected when military operations and missions must relocate because of incompatible urban encroachment; and

¹³ Section 163.3184(1)(c) and (3)(b)1., F.S.

¹⁴ Section 163.3184(3)(b)2. and (4)(c), F.S. Commerce has special requirements for providing comments on plans or plan amendments following the state coordinated review process.

¹⁵ *Id.*

¹⁶ Section 163.3184(3)(b)2., F.S.

¹⁷ Section 163.3184(4)(c) and (d), F.S.

¹⁸ Section 163.3184(4)(d), F.S.; see Commerce, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited Jan. 23, 2024).

¹⁹ Section 163.3184(11), F.S.

²⁰ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to Commerce and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

- Therefore, it is desirable for the local governments in the state to cooperate with military installations to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state.

The section identifies sixteen major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others.²¹ It also identifies proximate local governments and requires those local governments to transmit to the commanding officer of the relevant associated installation or installations the following:

- Information relating to proposed changes to the local government's comprehensive plan or land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; and
- At the request of the commanding officer, copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation.²²

Each affected local government must provide the military installation an opportunity to review and comment on the proposed changes.²³ The commanding officer or his or her designee may provide to the affected local government advisory comments, data, and analyses on the effect the proposed changes may have on the mission of the military installation.²⁴ In making a determination on the proposed changes, the affected local government must consider and weigh the strategic mission of the base, public safety, and economic vitality associated with the base's operations, while also respecting private property rights and avoiding undue restrictions on those rights.²⁵

All comments on comprehensive plan amendments must be forwarded to the state land planning agency.²⁶ To facilitate the exchange of information, a representative of a military installation acting on behalf of all military installations within that jurisdiction serves as a nonvoting member of the county's or affected local government's land planning or zoning board.²⁷

III. Effect of Proposed Changes:

The bill amends s. 163.3175, F.S., to add various annexes and a range to the list of major military installations and ranges that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues with local government planning than others.

These include the various annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School. Naval Air Station Key West associated with Monroe County and Key West is currently on the list, however the annexes and range are not.

²¹ Section 163.3175(2)(a)-(p), F.S.

²² Section 163.3175(4), F.S.

²³ *Id.*

²⁴ Section 163.3175(5), F.S.

²⁵ Section 163.3175(6), F.S.

²⁶ *Id.*

²⁷ Section 163.3175(7), F.S.

The bill adds the term “ranges” to clarify that the exchange of information is also between local governments and military ranges. This addition conforms to the new and existing language regarding the list of compatibility and coordination issues with local government planning. Currently, section 163.3175, F.S., speaks to the compatibility of military installations only.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None 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 163.3175 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Rodriguez

40-01071A-24

20241720__

A bill to be entitled

An act relating to marine encroachment on military operations; amending s. 163.3175, F.S.; requiring local governments to cooperate with certain major military installations and ranges to encourage compatible land use in associated areas; making technical changes; providing an effective date.

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

Section 1. Subsection (2) of section 163.3175, Florida Statutes, is amended to read:

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations and ranges.—

(2) Certain major military installations and ranges, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others. Consequently, this section and ~~the provisions in s.~~

163.3177(6)(a), relating to compatibility of land development with military installations, apply to specific affected local governments in proximity to and in association with specific military installations and ranges, as follows:

(a) Avon Park Air Force Range, associated with Highlands, Okeechobee, Osceola, and Polk Counties and Avon Park, Sebring, and Frostproof.

(b) Camp Blanding, associated with Clay, Bradford, and Putnam Counties.

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(c) Eglin Air Force Base and Hurlburt Field, associated with Gulf, Okaloosa, Santa Rosa, and Walton Counties and Cinco Bayou, Crestview, Destin, DeFuniak Springs, Fort Walton Beach, Freeport, Laurel Hill, Mary Esther, Niceville, Shalimar, and Valparaiso.

(d) Homestead Air Reserve Base, associated with Miami-Dade County and Homestead.

(e) Jacksonville Training Range Complex, associated with Lake, Marion, Putnam, and Volusia Counties.

(f) MacDill Air Force Base, associated with Tampa.

(g) Naval Air Station Jacksonville, Marine Corps Support Facility-Blount Island, and outlying landing field Whitehouse, associated with Jacksonville.

(h) Naval Air Station Key West, including various annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School, associated with Monroe County and Key West.

(i) Naval Support Activity Orlando, including Bugg Spring and Naval Ordnance Test Unit, associated with Orange County and Orlando.

(j) Naval Support Activity Panama City, associated with Bay County, Panama City, and Panama City Beach.

(k) Naval Air Station Pensacola, associated with Escambia County.

(l) Naval Air Station Whiting Field and its outlying landing fields, associated with Santa Rosa and Escambia Counties.

(m) Naval Station Mayport, associated with Atlantic Beach

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and Jacksonville.

(n) Patrick Space Force Base and Cape Canaveral Space Force Station, associated with Brevard County and Satellite Beach.

(o) Tyndall Air Force Base, associated with Bay County and Mexico Beach and Parker.

(p) United States Southern Command, associated with Miami-Dade County and Doral.

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

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 Rules

BILL: CS/SB 1746

INTRODUCER: Rules Committee and Senator Ingoglia

SUBJECT: Public Employees

DATE: February 9, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>McVaney</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1746 modifies the requirements for employee organizations and bargaining units to maintain registration and certification requirements. Specifically, the bill:

- Clarifies the Public Employee Relations Commission's (PERC) authority to waive requirements regarding the prohibition on dues and assessment deductions applies only to mass transit employees who have signed membership authorization forms and submitted the forms to the public employer as part of the employees' authorizations for the public employer to deduct amounts from the employees' salaries.
- Requires a public employee to submit the signed membership authorization form to the bargaining agent if the employee wants to join the bargaining unit. Under current law, these forms must be maintained by the employee organization and are subject to inspection by the PERC.
- Exempts from the membership authorization form requirements those bargaining units (not the employee organization generally) the majority of whose employees eligible for representation are employed as law enforcement officers, correctional officers, correctional probation officers, firefighters, 911 public safety telecommunicators, emergency medical technicians or paramedics.
- Clarifies that an employee organization has the right to have its dues and assessments deducted from employees' salaries only if the affected bargaining unit the majority of whose employees eligible for representation are employed in particular occupations. The occupations that are eligible to have union dues and assessments deducted from public salaries are expanded to include 911 public safety telecommunicators, emergency medical technicians and paramedics.

- Modifies the information an employee organization must submit to the PERC during the renewal of registration process to include the frequency of collection of membership dues and data on expenditures. The annual financial statement will no longer be required to be “audited” by a certified public accountant. Instead, the statement must be “prepared” by a certified public accountant.
- Requires an employee organization that has not had 60 percent of its unit employees pay dues during its last registration period and submit membership authorization forms to the employee organization to petition the PERC for recertification as the bargaining agent within 30 days (rather than 1 month) after the date the employee organization applied for renewal of registration. If the employee organization fails to petition timely, the certification as the bargaining agent is revoked.
- Modifies the circumstances under which the PERC may revoke an employee organization’s registration or certification as a bargaining agent to include:
 - The employee organization’s refusal to permit the PERC to inspect membership authorization forms or revocations.
 - The employee organization intentionally misrepresenting any information submitted for its registration renewal rather than just the information submitted to determine whether a bargaining unit has 60 percent of its eligible employees paying dues to the employee organization.
- Modifies the exemption regarding the submission of membership information and the associated consequences if a bargaining unit does not meet the 60 percent threshold. The exemption is applicable to a bargaining unit the majority of whose employees eligible for representation are employed as law enforcement officers, correctional officers, correctional probation officers, firefighters, 911 public safety telecommunicators, emergency medical technicians or paramedics. This clarifies that the exemption is applicable to the bargaining unit rather than the employee organization as a whole. Moreover, the occupations exempted are expanded to include 911 public safety telecommunicators, emergency medical technicians, and paramedics.
- Modifies the requirements placed on each employee organization to make certain information available to its members. The annual financial report will no longer be required to be “audited” by a certified public accountant. Instead, the report must be “prepared” by a certified public accountant. In addition, the PERC is granted authority to prescribe the categories of revenues and expenditures to be included in the annual financial report.
- Requires only a financial statement prepared by a CPA, in lieu of an audited financial statement from an employee organization for a renewal of registration between July 1, 2023 and the effective date of this bill. Consistent with this change, the PERC is prohibited from denying a renewal of registration or revoking a certification as the bargaining agent based solely upon an employee organization’s failure to submit an audited financial statement during the renewal process during this same period.

The fiscal impact on the PERC is indeterminate. The bill is not expected to otherwise impact state or local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Right-to-Work

The State Constitution provides that the “right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.”¹ Based on this constitutional right, Florida is regarded as a “right-to-work” state.

Collective Bargaining

The State Constitution also guarantees that “the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.”² To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.³ Public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.⁴ Regardless of union membership, each employee is subject to the negotiated collective bargaining agreement that is applicable to the employee’s position. Through collective bargaining, public employees⁵ collectively negotiate with their public employer⁶ in the determination of the terms and conditions of their employment.⁷ The Public Employees Relations Commission (PERC) is responsible for assisting in resolving disputes between public employees and public employers.⁸

¹ FLA. CONST. art. 1, s. 6.

² *Id.*

³ Section 447.201, F.S.

⁴ Section 447.301(1) and (2), F.S.

⁵ Section 447.203(3), F.S., defines the term “public employee” to mean any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
 - 1. Federal license requirement.
 - 2. Federal autonomy regarding investigation and disciplining of appointees.
 - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

⁶ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁷ Section 447.301(2), F.S.

⁸ Section 447.201(3), F.S.

Registration of Employee Organization

An employee organization⁹ that seeks to become a certified bargaining agent for public employees must register with the PERC prior to (a) requesting recognition by a public employer for purposes of collective bargaining and (b) submitting a petition to the PERC to request certification as an exclusive bargaining agent.¹⁰ The application for registration must include:

- The name and address of the organization and of any parent organization or organization with which it is affiliated;
- The names and addresses of the principal officers and all representatives of the organization;
- The amount of the initiation fee and of the monthly dues which members must pay;
- The current annual audited financial statement of the organization;
- The name of its business agent, if any; the name of its local agent for service of process, if different from the business agent; and the addresses where such person or persons can be reached;
- A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin;
- A copy of the current constitution and bylaws of the employee organization; and
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption of a rule by the commission, a state or national affiliate or parent organization of any registering labor organization may annually submit a copy of its current constitution and bylaws.¹¹

A registration granted to an employee organization is valid for one year from the date of issuance. A registration must be renewed annually by filing an application for renewal under oath with the PERC. An application for renewal must reflect any changes in the information provided to the PERC in conjunction with the employee organization's preceding application for registration or previous renewal. Each application for renewal of registration must include a current annual financial report with the following information:¹²

- Assets and liabilities at the beginning and end of the fiscal year;
- Receipts of any kind and the sources thereof;
- Salary, allowances, and other direct or indirect disbursements to each officer and to each employee who received during the fiscal year more than \$10,000 in the aggregate from the employee organization and any affiliated employee organization;
- Direct and indirect loans made to any officer, employee, member which aggregated more than \$250 during the fiscal year; and
- Direct and indirect loans to any business enterprise.

⁹ Section 447.203(11), F.S., defines employee organization as any "labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer."

¹⁰ Section 447.305(1), F.S.

¹¹ Section 447.305(1)(a-h), F.S.

¹² Section 447.305(2), F.S.

A registration fee of \$15 must be submitted for each registration and renewal.¹³

In addition to the information above, certain employee organizations¹⁴ must submit the following information for any renewal of registration on or after October 1, 2023:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization.
- The number of employees in the bargaining unit who have submitted signed membership authorization forms without a subsequent revocation of such membership.
- The number of employees in the bargaining unit who paid dues to the employee organization.
- The number of employees in the bargaining unit who did not pay dues to the employee organization.
- Documentation provided by an independent certified public accountant retained by the employee organization which verifies the information provided.¹⁵

Certification of Employee Organization as Bargaining Agent

After registering with the PERC, an employee organization may begin the certification process. Any employee organization that is selected by a majority of public employees in a designated unit as their representative for collective bargaining purposes can request recognition by the public employer.

The employer, if satisfied as to the majority status of the employee organization and the appropriateness of the unit, must recognize the employee organization as the collective bargaining representative of employees in the designated unit. Following recognition by the employer, the employee organization must immediately petition the commission for certification.¹⁶ The PERC will review only the appropriateness of the unit proposed by the employee organization. Appropriateness is defined as the history of employee relations within the organization of the public employer concerning organization and negotiation and the interest of the employees and the employer.¹⁷ If the unit is appropriate, the PERC will immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate, the PERC may dismiss the petition.

If the public employer refuses to recognize the employee organization, the employee organization may file a petition with the PERC for certification as the bargaining agent. The petition has to be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit. The PERC will investigate the petition to determine its sufficiency, and provide for an appropriate hearing upon notice, and may order an election by secret ballot. Any registered employee organization that desires to be placed on the ballot in any election may be permitted by the commission to intervene. If an employee organization is selected by the majority of the employees *who vote* in the election, the commission must certify

¹³ Section 447.305(10), F.S.

¹⁴ Employee organizations that have been certified as the bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, or firefighters are exempt from providing this information. Section 447.305(9), F.S.

¹⁵ Section 447.305(3), F.S.

¹⁶ Section 447.307(1)(a), F.S.

¹⁷ Section 447.307(4)(f), F.S.

the employee organization as the exclusive collective representative for all employees in the unit.¹⁸

Authority of the Certified Bargaining Agent

The certified bargaining agent and the chief executive of the public employer must bargain collectively and in good faith in the determination of wages, hours, and terms and conditions of employment of the employees.¹⁹ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.²⁰ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.²¹ Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.²² The bargaining agent also has the authority to process grievances to settle disputes between the employer and the employees in the bargaining unit.²³

An employee organization which has been certified as the bargaining agent has the right to have its dues and assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and assessments.²⁴

For state agencies, the Department of Financial Services (DFS) must concur with the agencies before deductions are allowed. However, the deductions from salary for the membership dues of a certified bargaining agent does not require the concurrence of the DFS;²⁵ provided the deductions may be permitted only for an organization that has been certified as the exclusive bargaining agent for a unit in which the employee is included.²⁶

Likewise, cities, counties and special districts are permitted in their sole discretion to make wage deductions as authorized and directed by the employee.²⁷

Revocation of Certification

An employee or group of employees who no longer desires to be represented by the certified bargaining agent may file with the PERC a petition to revoke certification. The petition must be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented by the certified bargaining agent. If the PERC finds the petition to be sufficient, it must immediately order an election by secret ballot.²⁸

¹⁸ Section 447.307(3)(a-d), F.S.

¹⁹ Section 447.309(1), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Section 447.309(5), F.S.

²³ Section 447.401, F.S.

²⁴ Section 447.303, F.S.

²⁵ Section 110.114(1), F.S.

²⁶ Section 110.114(3), F.S.

²⁷ Section 112.171, F.S.

²⁸ Section 447.308(1), F.S.

If a majority of voting employees vote against the continuation of representation by the certified bargaining agent, the organization's certification is revoked.²⁹ Otherwise, the employee organization is retained as the exclusive bargaining agent for the unit.³⁰

An employee organization that has applied for a renewal of its registration must petition for recertification as a bargaining unit if it has less than 60 percent of its unit members paying dues during the prior registration period. If the employee organization fails to petition the PERC for recertification as the exclusive representative of the bargaining unit within one month of its application of renewal of registration, the certification is revoked.³¹

The PERC may initiate an investigation to confirm the validity of the information submitted in the registration or renewal of registration. The PERC may revoke or deny an employee organizations registration or certification if the PERC finds that the employee organization failed to cooperate with the investigation intentionally misrepresented the information submitted on the registration or renewal.³²

Federal Transit Act

As a precondition to a grant of federal assistance by the United States Department of Transportation's Federal Transit Administration (FTA), the Federal Transit Act requires fair and equitable protective arrangements be made to protect the labor rights of transit employees affected by such assistance. Specifically, the statute requires the following matters be included in such protective arrangements:

- The preservation of rights, privileges, and benefits under existing collective bargaining agreements;
- The continuation of collective bargaining rights;
- The protection of employees against a worsening of their positions with respect to their employment;
- Assurances of employment to employees of acquired mass transportation systems and priority of reemployment for employees terminated or laid off; and
- Paid training or retraining programs.

The U.S. Department of Labor must certify that protective arrangements are in place and meet the above requirements before the FTA can release grant funds. Accordingly, states and local governments that violate the provisions of this law risk losing access to federal funding for public transportation projects. In 2022, Florida received approximately \$529 million to improve public transportation options throughout the state.

The PERC has discretion to waive certain requirements upon a petition by a public employer that the employer's protective arrangement covering mass transit employees does not meet federal requirements and would jeopardize the public employer's continued eligibility to receive federal

²⁹ Section 447.308(2), F.S.

³⁰ Section 447.308(3), F.S.

³¹ Section 447.305(6), F.S.

³² Section 447.305(8), F.S.

funding. The statutory requirements that the PERC may waive include any of the following for an employee organization that has been certified as a bargaining agent to represent mass transit employees:

- The prohibition on dues and assessment deductions.
- The requirement to petition the commission for recertification if the bargaining unit has fewer than 60 percent of its unit members paying dues during the prior registration period.
- The revocation of certification in certain circumstances.³³

Membership in an Employee Organization

Employees eligible for union representation must sign a membership authorization form in order to be a member of an employee organization beginning July 1, 2023. The form must be prescribed by the PERC and contain certain information and statements. A member of an employee organization must be allowed to revoke membership at any time upon the employee organization's receipt of the written revocation. The PERC is granted rulemaking authority to implement the requirements of the membership authorization form and the revocation of membership.³⁴ The PERC has prescribed a membership authorization form³⁵ which requires certain information regarding the employee organization and other information specific to the employee. The employee organization or another person may assist the employee in completing the form. The employee must sign and date the form.

The requirement for a signed membership form, and the provisions relating to the revocation of membership do not apply to members of an employee organization certified as a bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, and firefighters.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 447.207, F.S., to clarify that the PERC's authority to waive requirements regarding the prohibition on dues and assessment deductions applies only to mass transit employees who have signed membership authorization forms and submitted the forms to the public employer as part of the employees' authorizations for the public employer to deduct amounts from the employees' salaries. This is consistent with the current law requirement for most employees, including mass transit employees, to sign a membership authorization form after July 1, 2023, indicating the employee's intent to join a union. This form will be submitted to the public employer as part of the employee's authorization for dues deduction from the employee's salary.

Section 2 amends s. 447.301, F.S., to require a public employee submit the signed membership authorization form to the bargaining agent. This requirement assists the employee organization in

³³ Section 447.207(12), F.S.

³⁴ Section 447.301(1), F.S.

³⁵ PERC, *Employee Organization Membership Authorization Form*, available at <https://perc.myflorida.com/forms/PERC%20FORM%202023-1.101%20WITH%20INSTRUCTIONS.pdf> (last visited Feb. 9, 2024).

³⁶ Section 447.301(1)(b)6., F.S.

its collection and maintenance of the membership authorization forms which are required to be retained by the employee organization for inspection by the PERC.

Section 2 also exempts those bargaining units (not the employee organization generally) the majority of whose employees eligible for representation are employed as law enforcement officers, correctional officers, correctional probation officers, firefighters, 911 public safety telecommunicators, emergency medical technicians or paramedics. This exemption means that members of these bargaining units will not be required to sign and submit membership authorization forms to the bargaining unit. Thus, the employee organization will not be required to collect and retain membership forms for members of these bargaining units.

Section 3 amends s. 447.303, F.S., to clarify that an employee organization has the right to have its dues and assessments deducted from employees' salaries only if the affected bargaining unit the majority of whose employees eligible for representation are employed in particular occupations. The occupations eligible to have union dues and assessments deducted from public salaries are expanded to include 911 public safety telecommunicators, emergency medical technicians and paramedics.

Section 4 amends s. 447.305, F.S., to modify the information an employee organization must submit to the PERC during the renewal of registration process. In addition to the current information regarding the amount of initiation fees and membership dues, the collection frequency of the membership dues and uniforms must be included. In addition to assets, liabilities and revenues identified on the annual financial statement of the employee organization, the disbursements made during the year must be identified. The annual financial statement will no longer be required to be "audited" by a certified public accountant. Instead, the statement must be "prepared" by a certified public accountant.

Section 4 requires an employee organization that has not had 60 percent of its unit employees pay dues during its last registration period and submit membership authorization forms to the employee organization to petition the PERC for recertification as the bargaining agent within 30 days (rather than one month) after the date the employee organization applied for renewal of registration. If the employee organization fails to petition timely, the certification as the bargaining agent is revoked.

Section 4 modifies the circumstances under which the PERC may revoke an employee organization's registration or certification as a bargaining agent to include:

- The employee organization's refusal to permit the PERC to inspect membership authorization forms or revocations.
- The employee organization intentionally misrepresenting any information submitted for its registration renewal rather than just the information submitted to determine whether a bargaining unit has 60 percent of its eligible employees paying dues to the employee organization.

Section 4 also modifies the exemption regarding the submission of membership information and the associated consequences if a bargaining unit does not meet the 60 percent threshold. This section exempts an employee organization from certain requirements only with respect to a bargaining unit the majority of whose employees eligible for representation are employed as law

enforcement officers, correctional officers, correctional probation officers, firefighters, 911 public safety telecommunicators, emergency medical technicians or paramedics. This clarifies that the exemption is applicable to the bargaining unit rather than the employee organization as a whole. Moreover, the occupations exempted are expanded to include 911 public safety telecommunicators, emergency medical technicians, and paramedics.

Section 4 modifies the requirements placed on each employee organization to make certain information available to its members. The annual financial report will no longer be required to be “audited” by a certified public accountant. Instead, the report must be “prepared” by a certified public accountant. In addition, the PERC is granted authority to prescribe the categories of revenues and expenditures to be included in the annual financial report.

Section 5 provides that in lieu of an audited financial statement being submitted by an employee organization for a renewal of registration between July 1, 2023, and the effective date of this bill, only a financial statement prepared by a CPA is required. This section also prohibits the PERC from denying a renewal of registration or revoking a certification as the bargaining agent based solely upon an employee organization’s failure to submit an audited financial statement during the renewal process.

Section 6 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

An employee organization whose membership fails to submit membership authorization forms to the employee organization will incur additional costs to the extent the employee organization chooses to be recertified as the bargaining agent for the employee unit.

Employee organizations may enjoy reduced costs associated with the new requirement that an independent certified public accountant prepare (rather than audit) certain data submitted to the PERC.

C. Government Sector Impact:

The fiscal impact on the PERC is indeterminate. The bill is not expected to impact other state and local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the sections 447.207, 447.301, 447.303, 447.305 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 Rules on February 8, 2024:

The committee substitute makes the bill effective upon becoming a law. It allows an employee organization to submit an annual financial statement prepared (rather than audited) by a CPA, and prohibits the PERC from denying a renewal registration or revoking a certification solely as a result of the employee organization not submitting an audited annual financial statement. The committee substitute also clarifies that an employee organization is exempt from certain information requirements relating to registration renewals only for those bargaining units the majority of whose employees are employed as public safety workers including EMTs, paramedics, and 911 operators.

B. Amendments:

None.

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



681138

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Ingoglia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 350 - 359
and insert:

(9) An employee organization is exempt from the requirements of subsections (3)-(8) only with respect to the circumstances of each bargaining unit the majority of whose employees eligible for representation are employed as ~~do not apply to an employee organization that has been certified as the bargaining agent to represent law enforcement officers, correctional officers, or correctional probation officers as~~



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those terms are defined in s. 943.10(1), (2), or (3),
respectively, ~~or~~ firefighters as defined in s. 633.102, 911
public safety telecommunicators as defined in s. 401.465(1)(a),
or emergency medical technicians or paramedics as defined in s.
401.23.

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

And the title is amended as follows:

Delete line 30

and insert:

circumstances; exempting certain employee
organizations from specified provisions; revising
requirements for a specified annual financial report;
making technical changes; conforming



197790

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Rules (Ingoglia) recommended the following:

Senate Amendment (with title amendment)

Delete line 377
and insert:

Section 5. (1) For an application for renewal of registration as an employee organization filed pursuant to s. 447.305(2), Florida Statutes, between July 1, 2023, and the effective date of this act, an employee organization may submit a current annual financial statement containing the information required by s. 447.305(2), Florida Statutes, prepared by an independent certified accountant licensed under chapter 473,



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Florida Statutes, and signed by the employee organization's president and treasurer or corresponding principal officers in lieu of an annual audited financial statement certified by an independent certified public account licensed under chapter 473, Florida Statutes.

(2) For applications of renewal of registration of employee organizations filed pursuant to s. 447.305, Florida Statutes, between July 1, 2023, and the effective date of this act, the Public Employees Relations Commission may not deny the renewal or revoke the registration of an employee organization based solely upon the employee organization's failure to submit a current annual audited financial statement certified by an independent certified public accountant licensed under chapter 473, Florida Statutes.

Section 6. This act shall take effect upon becoming law.

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

And the title is amended as follows:

Delete line 31

and insert:

provisions to changes made by the act; providing
transitional provisions regarding the renewal of
registration of employee organizations during a
specified timeframe; prohibiting the commission from
taking certain action on a renewal application;
providing an

By Senator Ingoglia

11-00653B-24

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1 A bill to be entitled
 2 An act relating to public employees; amending s.
 3 447.207, F.S.; revising a prohibition on dues to
 4 certain mass transit employees; amending s. 447.301,
 5 F.S.; deleting obsolete language; requiring certain
 6 public employees of an employee organization to submit
 7 executed forms to the bargaining agent; revising
 8 applicability; amending s. 447.303, F.S.; providing
 9 that specified employee organizations have the right
 10 to have its dues and uniform assessments deducted and
 11 collected by the employer from the salaries of those
 12 employees who authorized such deduction and
 13 collection; amending s. 447.305, F.S.; revising the
 14 application employee organizations must submit to
 15 register as certified bargaining agents; requiring
 16 applications for renewal of registration to include
 17 current annual financial statements prepared by an
 18 independent certified public accountant; revising the
 19 information that must be included in such
 20 applications; revising the timeframe in which a
 21 certain bargaining agents must submit specified
 22 information and documentation; requiring certain
 23 employee organizations to petition the Public
 24 Employees Relations Commission for recertification;
 25 revising applicability; authorizing the commission to,
 26 and in a specified circumstance requiring the
 27 commission to, investigate an employee organization's
 28 application for registration renewal; requiring the
 29 commission to deny such applications under specified

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

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30 circumstances; making technical changes; conforming
 31 provisions to changes made by the act; providing an
 32 effective date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. Paragraph (a) of subsection (12) of section
 37 447.207, Florida Statutes, is amended to read:
 38 447.207 Commission; powers and duties.—
 39 (12) Upon a petition by a public employer after it has been
 40 notified by the Department of Labor that the public employer's
 41 protective arrangement covering mass transit employees does not
 42 meet the requirements of 49 U.S.C. s. 5333(b) and would
 43 jeopardize the employer's continued eligibility to receive
 44 Federal Transit Administration funding, the commission may
 45 waive, to the extent necessary for the public employer to comply
 46 with the requirements of 49 U.S.C. s. 5333(b), any of the
 47 following for an employee organization that has been certified
 48 as a bargaining agent to represent mass transit employees:
 49 (a) The prohibition on dues and assessment deductions
 50 provided in s. 447.303(1) as it applies to a mass transit
 51 employee who has provided a copy of his or her membership
 52 authorization form to the employer as part of the authorization
 53 of dues deduction under a waiver.
 54 Section 2. Section 447.301, Florida Statutes, is amended to
 55 read:
 56 447.301 Public employees' rights; organization and
 57 representation.—
 58 (1)(a) Public employees shall have the right to form, join,

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

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and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

(b)1. ~~Beginning July 1, 2023,~~ A public employee who desires to be a member of an employee organization must sign and date a membership authorization form, as prescribed by the commission, and submit the executed form to with the bargaining agent.

2. The membership authorization form must identify the name of the bargaining agent; the name of the employee; the class code and class title of the employee; the name of the public employer and employing agency, if applicable; the amount of the initiation fee and of the monthly dues which the member must pay; and the name and total amount of salary, allowances, and other direct or indirect disbursements, including reimbursements, paid to each of the five highest compensated officers and employees of the employee organization disclosed under s. 447.305(2) (c).

3. The membership authorization form must contain the following statement in 14-point type:

The State of Florida is a right-to-work state.

Membership or non-membership in a labor union is not required as a condition of employment, and union membership and payment of union dues and assessments are voluntary. Each person has the right to join and pay dues to a labor union or to refrain from joining and paying dues to a labor union. No employee may be discriminated against in any manner for joining and financially supporting a labor union or for refusing

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to join or financially support a labor union.

4. A public employee may revoke membership in the employee organization at any time of the year. Upon receipt of the employee's written revocation of membership, the employee organization must revoke a public employee's membership. The employee organization may not limit an employee's right to revoke membership to certain dates. If a public employee must complete a form to revoke membership in the employee organization, the form may not require a reason for the public employee's decision to revoke his or her membership.

5. An employee organization must retain for inspection by the commission such membership authorization forms and any revocations.

6. This paragraph does not apply to members of a bargaining unit the majority of whose employees eligible for representation are employed as law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10(1), (2), or (3), respectively, firefighters as defined in s. 633.102, 911 public safety telecommunicators as defined in s. 401.465(1) (a), or emergency medical technicians or paramedics as defined in s. 401.23 ~~an employee organization that has been certified as a bargaining agent to represent law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10(1), (2), or (3), respectively, or firefighters as defined in s. 633.102.~~

7. The commission may adopt rules to implement this paragraph.

(2) Public employees shall have the right to be represented

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by any employee organization of their own choosing and to negotiate collectively, through a certified bargaining agent, with their public employer in the determination of the terms and conditions of their employment. Public employees shall have the right to be represented in the determination of grievances on all terms and conditions of their employment. Public employees shall have the right to refrain from exercising the right to be represented.

(3) Public employees shall have the right to engage in concerted activities not prohibited by law, for the purpose of collective bargaining or other mutual aid or protection. Public employees shall also have the right to refrain from engaging in such activities.

(4) Nothing in this part shall be construed to prevent any public employee from presenting, at any time, his or her own grievances, in person or by legal counsel, to his or her public employer and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and if the bargaining agent has been given reasonable opportunity to be present at any meeting called for the resolution of such grievances.

(5) In the case of community colleges and universities, the student government association of each community college or university shall establish procedures for the selection of, and shall select, a student representative to be present, at his or her discretion, at negotiations between the bargaining agent of the employees and the board of trustees. Each student representative shall have access to all written draft agreements

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and all other written documents pertaining to negotiations exchanged by the appropriate public employer and the bargaining agent, including a copy of any prepared written transcripts of any negotiating session. Each student representative shall have the right at reasonable times during the negotiating session to comment to the parties and to the public upon the impact of proposed agreements on the educational environment of students. Each student representative shall have the right to be accompanied by alternates or aides, not to exceed a combined total of two in number. Each student representative shall be obligated to participate in good faith during all negotiations and shall be subject to the rules and regulations of the Public Employees Relations Commission. The student representatives shall have neither voting nor veto power in any negotiation, action, or agreement. The state or any branch, agency, division, agent, or institution of the state, including community colleges and universities, may not expend any moneys from any source for the payment of reimbursement for travel expenses or per diem to aides, alternates, or student representatives participating in, observing, or contributing to any negotiating sessions between the bargaining parties.

Section 3. Section 447.303, Florida Statutes, is amended to read:

447.303 Dues; deduction and collection.—

(1) Except as authorized in subsection (2) or subject to a waiver granted pursuant to s. 447.207(12)(a), an employee organization that has been certified as a bargaining agent may not have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees in the

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unit. A public employee may pay dues and uniform assessments directly to the employee organization that has been certified as the bargaining agent.

(2) (a) An employee organization that has been certified as a bargaining agent to represent a bargaining unit the majority of whose employees eligible for representation are employed as law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10(1), (2), or (3), respectively, ~~or~~ firefighters as defined in s. 633.102, 911 public safety telecommunicators as defined in s. 401.465(1) (a), or emergency medical technicians or paramedics as defined in s. 401.23 has the right to have its dues and uniform assessments for that bargaining unit deducted and collected by the employer from the salaries of those employees who authorize the deduction and collection of said dues and uniform assessments. However, such authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Said deductions shall commence upon the bargaining agent's written request to the employer.

(b) Reasonable costs to the employer of said deductions is a proper subject of collective bargaining.

(c) Such right to deduction, unless revoked under s. 447.507, is in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit.

(3) The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

Section 4. Section 447.305, Florida Statutes, is amended to

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read:

447.305 Registration of employee organization.—

(1) Every employee organization seeking to become a certified bargaining agent for public employees shall register with the commission pursuant to the procedures set forth in s. 120.60 prior to requesting recognition by a public employer for purposes of collective bargaining and prior to submitting a petition to the commission requesting certification as an exclusive bargaining agent. Further, if such employee organization is not registered, it may not participate in a representation hearing, participate in a representation election, or be certified as an exclusive bargaining agent. The application for registration required by this section shall be under oath and in such form as the commission may prescribe and shall include:

(a) The name and address of the organization and of any parent organization or organization with which it is affiliated.

(b) The names and addresses of the principal officers and all representatives of the organization.

(c) The amount of the initiation fee and the amount and collection frequency of the monthly dues and uniform assessments that a member ~~which members~~ must pay.

(d) The current annual ~~audited~~ financial statement of the organization, prepared by an independent certified public accountant licensed under chapter 473.

(e) The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached.

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233 (f) A pledge, in a form prescribed by the commission, that
 234 the employee organization will conform to the laws of the state
 235 and that it will accept members without regard to age, race,
 236 sex, religion, or national origin.

237 (g) A copy of the current constitution and bylaws of the
 238 employee organization.

239 (h) A copy of the current constitution and bylaws of the
 240 state and national groups with which the employee organization
 241 is affiliated or associated. In lieu of this provision, and upon
 242 adoption of a rule by the commission, a state or national
 243 affiliate or parent organization of any registering labor
 244 organization may annually submit a copy of its current
 245 constitution and bylaws.

246 (2) A registration granted to an employee organization
 247 pursuant to the provisions of this section shall run for 1 year
 248 from the date of issuance. A registration shall be renewed
 249 annually by filing an application for renewal under oath with
 250 the commission, which application shall reflect any changes in
 251 the information provided to the commission in conjunction with
 252 the employee organization's preceding application for
 253 registration or previous renewal, whichever is applicable. Each
 254 application for renewal of registration shall include a current
 255 annual ~~audited~~ financial statement, prepared ~~certified~~ by an
 256 independent certified public accountant licensed under chapter
 257 473 and signed by the employee organization's president and
 258 treasurer or corresponding principal officers, containing the
 259 following information in such detail as may be necessary
 260 accurately to disclose its financial condition and operations
 261 for its preceding fiscal year and in such categories as the

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262 commission may prescribe:

263 (a) Assets and liabilities at the beginning and end of the
 264 fiscal year;

265 (b) Receipts of any kind and the sources thereof;

266 (c) Disbursements by category;

267 (d) ~~(e)~~ Salary, allowances, and other direct or indirect
 268 disbursements, including reimbursed expenses, to each officer
 269 and also to each employee who, during such fiscal year, received
 270 more than \$10,000 in the aggregate from such employee
 271 organization and any other employee organization affiliated with
 272 it or with which it is affiliated or which is affiliated with
 273 the same national or international employee organization;

274 (e) ~~(d)~~ Direct and indirect loans made to any officer,
 275 employee, or member which aggregated more than \$250 during the
 276 fiscal year, together with a statement of the purpose, security,
 277 if any, and arrangements for repayment; and

278 (f) ~~(e)~~ Direct and indirect loans to any business
 279 enterprise, together with a statement of the purpose, security,
 280 if any, and arrangements for repayment.

281 (3) In addition to subsection (2), an employee organization
 282 that has been certified as the bargaining agent for public
 283 employees must include for each such certified bargaining unit
 284 the following information and documentation as of the 30th day
 285 immediately preceding the date upon which its current
 286 registration is scheduled to end ~~of renewal in its application~~
 287 for any renewal of registration on or after October 1, 2023:

288 (a) The number of employees in the bargaining unit who are
 289 eligible for representation by the employee organization.

290 (b) The number of employees in the bargaining unit who have

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291 submitted signed membership authorization forms without a
 292 subsequent revocation of such membership.

293 (c) The number of employees in the bargaining unit who paid
 294 dues to the employee organization.

295 (d) The number of employees in the bargaining unit who did
 296 not pay dues to the employee organization.

297 (e) Documentation provided by an independent certified
 298 public accountant retained by the employee organization which
 299 verifies the information provided in paragraphs (a)-(d).

300 (4) The employee organization must provide a copy of its
 301 application for renewal of registration relating to a public
 302 employer's employees to the public employer on the same day the
 303 application is submitted to the commission.

304 (5) An application for renewal of registration is
 305 incomplete and is not eligible for consideration by the
 306 commission if it does not include all of the information and
 307 documentation required in subsection (3). The commission shall
 308 notify the employee organization if the application is
 309 incomplete. An incomplete application must be dismissed if the
 310 required information and documentation are not provided within
 311 10 days after the employee organization receives such notice.

312 (6) Notwithstanding the provisions of this chapter relating
 313 to collective bargaining, an employee organization certified as
 314 a bargaining agent to represent a bargaining unit for which that
 315 had less than 60 percent of the unit employees have submitted
 316 membership authorization forms without subsequent revocation and
 317 paid dues to the organization eligible for representation in the
 318 bargaining unit pay dues during its last registration period
 319 must petition the commission pursuant to s. 447.307(2) and (3)

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

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320 for recertification as the exclusive representative of all
 321 employees in the bargaining unit within 30 days ~~1 month~~ after
 322 the date on which the employee organization applies for renewal
 323 of registration pursuant to subsection (2). The certification of
 324 an employee organization that does not comply with this section
 325 is revoked.

326 (7) The public employer or a bargaining unit employee may
 327 challenge an employee organization's application for renewal of
 328 registration if the public employer or bargaining unit employee
 329 believes that the application is inaccurate. The commission or
 330 one of its designated agents shall review the application to
 331 determine its accuracy and compliance with this section. If the
 332 commission finds that the application is inaccurate or does not
 333 comply with this section, the commission shall revoke the
 334 registration and certification of the employee organization.

335 (8) The commission may conduct an investigation to confirm
 336 the validity of any information submitted pursuant to this
 337 section. The commission may revoke or deny an employee
 338 organization's registration or certification if it finds that
 339 the employee organization:

340 (a) Failed to cooperate with the investigation conducted
 341 pursuant to this subsection, including refusal to permit the
 342 commission to inspect membership authorization forms or
 343 revocations pursuant to s. 447.301(1)(b)5.; or

344 (b) Intentionally misrepresented the information it
 345 submitted pursuant to this section ~~subsection (3)~~.

346
 347 A decision issued by the commission pursuant to this subsection
 348 is a final agency action that is reviewable pursuant to s.

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

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447.504.

(9) Subsections (3)-(8) do not apply to a bargaining unit the majority of whose employees eligible for representation are ~~employed as an employee organization that has been certified as the bargaining agent to represent~~ law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10(1), (2), or (3), respectively, or firefighters as defined in s. 633.102, 911 public safety telecommunicators as defined in s. 401.465(1)(a), or emergency medical technicians or paramedics as defined in s. 401.23.

(10) A registration fee shall accompany each application filed with the commission. The amount charged for an application for registration or renewal of registration shall not exceed \$15. All such money collected by the commission shall be deposited in the General Revenue Fund.

(11) Every employee organization shall keep accurate accounts of its income and expenses, which accounts shall be open for inspection at all reasonable times by any member of the organization or by the commission. In addition, each employee organization that has been certified as a bargaining agent must provide to its members an annual ~~audited~~ financial report prepared by an independent certified public accountant licensed under chapter 473 that includes a detailed breakdown of revenues and expenditures in such categories as the commission may prescribe, and an accounting of membership dues and assessments. The employee organization must notify its members annually of all costs of membership.

Section 5. This act shall take effect July 1, 2024.



THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures
Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

January 23, 2024

The Honorable Debbie Mayfield, Chair
Rules
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: SB 1746 Public Employees

Chair Mayfield,

SB 1746 has been referred to the Rules as its final committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me.
Thank you for your leadership and consideration.

Regards,

A handwritten signature in dark ink, consisting of a series of loops and a long, sweeping horizontal stroke at the end.

Blaise Ingoglia
State Senator, District 11

Cc: Philip Twogood, Staff Director, Shasta W. Kruse, Deputy Staff Director, Cynthia Futch, Committee Administration Assistant

The Florida Senate

APPEARANCE RECORD

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

2/8/2024

Meeting Date

RULES

Committee

1746

Bill Number or Topic

681138

Amendment Barcode (if applicable)

Name

CHRISTIAN CAMARA

Phone

(305) 698-4300

Address

PO Box 122

Street

TALLAHASSEE, FL 32302

City

State

Zip

Email

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:

FREEDOM FOUNDATION

☐ 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)

2/8/24

Meeting Date

Rules

Committee

Name

Stephanie Kunkel

Phone

850-320-4208

Address

213 S. Adams Street

Email

Stephanie.Kunkel@floridaea.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Florida Education Association

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1746

Bill Number or Topic

Amendment Barcode (if applicable)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/24
Meeting Date

SB 1746
Bill Number (if applicable)

Topic Employee Organizations

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe
Street

Phone 850-224-6926

Tallahassee FL 32304
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

2/8/2024

Meeting Date

RULES

Committee

The Florida Senate

APPEARANCE RECORD

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

1746

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CHRISTIAN CAMARA

Phone

(305) 608-4300

Address

PO Box 122

Email

CHRISTIAN@CAMARA CONSULTANTS FL.COM

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:

FREEDOM FOUNDATION

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/8

Meeting Date

1746

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name

Chris Stranburg

Phone

813-767-9667

Address

107 E. College Ave.

Email

CStranburg@alpha.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Americans for prosperity

☐

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

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

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 Rules

BILL: SB 7030

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Agency Personnel Information

DATE: February 7, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Harmsen	McVaney		GO Submitted as Comm. Bill/Fav
1. Harmsen	Twogood	RC	Favorable

I. Summary:

SB 7030 amends s. 119.071(4)(d), F.S., to continue the series of current public records exemptions that protect the personal identifying information of certain state agency personnel and their spouses and children, such as home addresses, telephone numbers, dates of birth, and locations of childcare facilities used. These exemptions are subject to the Open Government Sunset Review Act (OGSR) and are currently scheduled to repeal on October 2, 2024.

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

The bill takes effect on October 1, 2024.

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 acting 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.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

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 relating 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 justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting 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.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
- It protects sensitive, personal information, the release of which 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;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 specified 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 again 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

Public Records Exemptions for Agency Personnel

Specific personal identifying information of enumerated agency personnel is exempt from public inspection and copying requirements. The personal identifying information that is subject to a public records exemption under s. 119.071(4)(d), F.S., varies by an employee's or officer's position but may include some or all of the following information about the employee/officer and his or her spouse and children: name, home address,²⁶ phone number,²⁷ date of birth, photos, and name and location of workplace and school.

The basis for these exemptions rests on the nature of qualifying employment, which may subject the individual to close contact with individuals who may be a threat to them, and may subject them or their family members to harassment, threats, or other harms.²⁸

The agency personnel who are covered by the public records exemption in s. 119.071(4)(d), F.S., are:

- Active or former sworn law enforcement personnel, including correctional and correctional probation officers;
- Department of Children and Families personnel with specific investigative duties;
- Department of Health personnel who support the investigation of child abuse or neglect;
- Department of Revenue or local government employees whose responsibilities include revenue collection and enforcement or child support enforcement;

-
- 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 "Home address" is defined in s. 119.071(4)(d)1.a., F.S., as the "dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address."

²⁷ Telephone numbers include "home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices." Section 119.071(4)(d)1.c., F.S.

²⁸ See, Ch. 2019-12, s. 2, Laws of Fla. (recognizing that "such personnel and their family members are at a heightened risk of physical and emotional harm from disgruntled individuals who have contentious reactions to actions taken by such personnel..."); Ch. 2015-37, s. 2, Laws of Fla. ("...In 2013, a[n impaired practitioner] program participant with a history of alcohol abuse and cocaine dependence traveled 250 miles across the state to confront his compliance monitor in the driveway of her home...As a result of th[is] incident and other telephone threats, the Legislature finds that release of identifying and location information could place an impaired practitioner consultant..., or the spouses and children of such consultants or their employees in danger of being physically or emotionally harmed..."); Ch. 2010-71, s. 2, Laws of Fla. ("Thus, the children of guardians ad litem could become a potential target for acts of revenge.").

- Department of Financial Services personnel with specific investigative duties;
- Office of Financial Regulation's Bureau of Financial Investigations personnel whose duties include specific investigative duties;
- Current or former firefighters;
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors;
- General magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers;
- Current or former local government agency or water management district human resources, labor relations, or employee relations managers or directors, if their employment involves specific personnel-related duties, such as labor negotiations or firing;
- Current or former code enforcement officers;
- Current or former guardians ad litem;
- Current or former juvenile probation officers and their related personnel, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice;
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;
- Current or former Department of Business and Professional Regulation investigators or inspectors;
- County tax collectors;
- Current or former Department of Health personnel whose duties include or result in the determination of social security disability benefits or certain investigative duties;
- Current or former impaired practitioner consultants or their employees, if they were retained by a state agency;
- Current or former emergency medical technicians or paramedics;
- Current or former personnel who are employed in a state agency's office of inspector general or internal audit department, if the employee's duties include the auditing or investigation of specific activities that could lead to criminal or administrative discipline;
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;
- Current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets specific standards and requirements of ch. 39, F.S.; and
- Current or former staff and domestic violence advocates of domestic violence centers that are certified by the Department of Children and Families.

Redacting Personal Identifying Information

Records that include exempt information about the above-specified personnel, their spouses, and their children (minor or adult) may be held by, among others, their employing agency, clerks of court and comptrollers, county tax collectors, property appraisers, school districts, and law enforcement agencies.

Both the employing agency and the employee or officer are authorized to request the redaction of exempt information by submitting a written and notarized request for maintenance of the

exemption to each agency that holds the employee's or officer's, spouse's, or child's information.²⁹

Type of Official Records that may Include Personal Identifying Information ³⁰		
• Affidavits • Agreements • Arrest Photos • Assignments • Bonds • Certificates • Certified Copy of Judgements • Criminal Records • Death Certificates • Deeds	• Easements • Financing Statements • Liens • Lis Pendens • Maps • Marriage Records • Mortgages • Military Discharges • Notices • Orders	• Plats • Powers of Attorney • Probate Documents • Releases • Restitution Orders • Restrictions • Satisfaction • Transfers of Security • Utility Service Documents

There is no stated expiration for this public records exemption when held by agencies. However, such documents, when held by a clerk of the circuit court (Clerk) in the Official Records³¹ may be redacted only until the protected party no longer resides at the dwelling³² or upon his or her death.³³

Each individual eligible for the records exemption may use it individually—including adult children who no longer live with their originally qualifying parent, or whose originally qualifying parent is no longer living.

Open Government Sunset Review of the Public Records Exemptions for Specified Agency Personnel

The staff of the Senate Governmental Oversight and Accountability Committee and the House Ethics, Elections, and Open Government Subcommittee surveyed multiple Florida agencies, property appraisers' offices, clerks of circuit courts, law enforcement agencies, school districts, and state universities and colleges to ascertain whether the public records exemptions in s. 119.071(4)(d), F.S., remain necessary. Staff reviewed the agencies' responses, and a majority of those agencies recommend that the Legislature reenact the public records exemptions without any changes. Many responses cited a continued concern for employee safety as the basis for the recommendation to reenact the public records exemption in s. 119.071(4)(d), F.S.

²⁹ Section 119.071(4)(d)3., F.S.

³⁰ OPPAGA, *A Review of Home Address Redaction Processes and Real Property Interests*, Report No. 20-06, 6 (Dec. 2020), <https://oppaga.fl.gov/Documents/Reports/20-06.pdf> (last visited Jan. 2, 2024).

³¹ Section 28.222(2), F.S.

³² The protected individual must submit a notarized, written request to release the removed information. Section 119.071(4)(d)8., F.S.

³³ A certified copy of a death certificate or court order must be presented with a notarized request to release the information to remove the exemption. Section 119.071(4)(d)9., F.S. Note, the Clerk is also called the "county recorder." See, s. 28.222(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d), F.S., to continue the current public records exemptions for personal identifying information of specified agency personnel and their families.

Section 2 provides that the bill takes effect on October 1, 2024.

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 continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

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 continues a current public records exemption without expansion, and does not require a public necessity statement.

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 purpose of the law is to protect the personal identifying information of public employees and their family whose position may subject them to close contact with individuals who may be a threat to them, and may subject them or their family members to harassment, threats, or other harms. The exemption 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.

By the Committee on Governmental Oversight and Accountability

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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 public records exemptions for certain personal identifying and location information of specified agency personnel, and the spouses and children thereof; abrogating the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

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

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

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2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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59 Constitution.

60 c. The home addresses, telephone numbers, dates of birth,
61 and photographs of current or former nonsworn investigative
62 personnel of the Office of Financial Regulation's Bureau of
63 Financial Investigations whose duties include the investigation
64 of fraud, theft, other related criminal activities, or state
65 regulatory requirement violations; the names, home addresses,
66 telephone numbers, dates of birth, and places of employment of
67 the spouses and children of such personnel; and the names and
68 locations of schools and day care facilities attended by the
69 children of such personnel are exempt from s. 119.07(1) and s.
70 24(a), Art. I of the State Constitution.

71 d. The home addresses, telephone numbers, dates of birth,
72 and photographs of current or former firefighters certified in
73 compliance with s. 633.408; the names, home addresses, telephone
74 numbers, photographs, dates of birth, and places of employment
75 of the spouses and children of such firefighters; and the names
76 and locations of schools and day care facilities attended by the
77 children of such firefighters are exempt from s. 119.07(1) and
78 s. 24(a), Art. I of the State Constitution.

79 e. The home addresses, dates of birth, and telephone
80 numbers of current or former justices of the Supreme Court,
81 district court of appeal judges, circuit court judges, and
82 county court judges, and of current judicial assistants; the
83 names, home addresses, telephone numbers, dates of birth, and
84 places of employment of the spouses and children of current or
85 former justices and judges and of current judicial assistants;
86 and the names and locations of schools and day care facilities
87 attended by the children of current or former justices and

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88 judges and of current judicial assistants are exempt from s.
89 119.07(1) and s. 24(a), Art. I of the State Constitution. This
90 sub-subparagraph is subject to the Open Government Sunset Review
91 Act in accordance with s. 119.15 and shall stand repealed on
92 October 2, 2028, unless reviewed and saved from repeal through
93 reenactment by the Legislature.

94 f. The home addresses, telephone numbers, dates of birth,
95 and photographs of current or former state attorneys, assistant
96 state attorneys, statewide prosecutors, or assistant statewide
97 prosecutors; the names, home addresses, telephone numbers,
98 photographs, dates of birth, and places of employment of the
99 spouses and children of current or former state attorneys,
100 assistant state attorneys, statewide prosecutors, or assistant
101 statewide prosecutors; and the names and locations of schools
102 and day care facilities attended by the children of current or
103 former state attorneys, assistant state attorneys, statewide
104 prosecutors, or assistant statewide prosecutors are exempt from
105 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

106 g. The home addresses, dates of birth, and telephone
107 numbers of general magistrates, special magistrates, judges of
108 compensation claims, administrative law judges of the Division
109 of Administrative Hearings, and child support enforcement
110 hearing officers; the names, home addresses, telephone numbers,
111 dates of birth, and places of employment of the spouses and
112 children of general magistrates, special magistrates, judges of
113 compensation claims, administrative law judges of the Division
114 of Administrative Hearings, and child support enforcement
115 hearing officers; and the names and locations of schools and day
116 care facilities attended by the children of general magistrates,

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special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of

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employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal

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conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health

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care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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233 r. The home addresses, telephone numbers, dates of birth,
 234 and photographs of current or former personnel employed in an
 235 agency's office of inspector general or internal audit
 236 department whose duties include auditing or investigating waste,
 237 fraud, abuse, theft, exploitation, or other activities that
 238 could lead to criminal prosecution or administrative discipline;
 239 the names, home addresses, telephone numbers, dates of birth,
 240 and places of employment of spouses and children of such
 241 personnel; and the names and locations of schools and day care
 242 facilities attended by the children of such personnel are exempt
 243 from s. 119.07(1) and s. 24(a), Art. I of the State
 244 Constitution.

245 s. The home addresses, telephone numbers, dates of birth,
 246 and photographs of current or former directors, managers,
 247 supervisors, nurses, and clinical employees of an addiction
 248 treatment facility; the home addresses, telephone numbers,
 249 photographs, dates of birth, and places of employment of the
 250 spouses and children of such personnel; and the names and
 251 locations of schools and day care facilities attended by the
 252 children of such personnel are exempt from s. 119.07(1) and s.
 253 24(a), Art. I of the State Constitution. For purposes of this
 254 sub-subparagraph, the term "addiction treatment facility" means
 255 a county government, or agency thereof, that is licensed
 256 pursuant to s. 397.401 and provides substance abuse prevention,
 257 intervention, or clinical treatment, including any licensed
 258 service component described in s. 397.311(26).

259 t. The home addresses, telephone numbers, dates of birth,
 260 and photographs of current or former directors, managers,
 261 supervisors, and clinical employees of a child advocacy center

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262 that meets the standards of s. 39.3035(2) and fulfills the
 263 screening requirement of s. 39.3035(3), and the members of a
 264 Child Protection Team as described in s. 39.303 whose duties
 265 include supporting the investigation of child abuse or sexual
 266 abuse, child abandonment, child neglect, and child exploitation
 267 or to provide services as part of a multidisciplinary case
 268 review team; the names, home addresses, telephone numbers,
 269 photographs, dates of birth, and places of employment of the
 270 spouses and children of such personnel and members; and the
 271 names and locations of schools and day care facilities attended
 272 by the children of such personnel and members are exempt from s.
 273 119.07(1) and s. 24(a), Art. I of the State Constitution.

274 u. The home addresses, telephone numbers, places of
 275 employment, dates of birth, and photographs of current or former
 276 staff and domestic violence advocates, as defined in s.
 277 90.5036(1)(b), of domestic violence centers certified by the
 278 Department of Children and Families under chapter 39; the names,
 279 home addresses, telephone numbers, places of employment, dates
 280 of birth, and photographs of the spouses and children of such
 281 personnel; and the names and locations of schools and day care
 282 facilities attended by the children of such personnel are exempt
 283 from s. 119.07(1) and s. 24(a), Art. I of the State
 284 Constitution.

285 v. The home addresses, telephone numbers, dates of birth,
 286 and photographs of current or former inspectors or investigators
 287 of the Department of Agriculture and Consumer Services; the
 288 names, home addresses, telephone numbers, dates of birth, and
 289 places of employment of the spouses and children of current or
 290 former inspectors or investigators; and the names and locations

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of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1,

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2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the

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349 Official Records is maintained only during the period when a
 350 protected party resides at the dwelling location. Upon
 351 conveyance of real property after October 1, 2021, and when such
 352 real property no longer constitutes a protected party's home
 353 address as defined in sub-subparagraph 1.a., the protected party
 354 must submit a written request to release the removed information
 355 to the county recorder. The written request to release the
 356 removed information must be notarized, must confirm that a
 357 protected party's request for release is pursuant to a
 358 conveyance of his or her dwelling location, and must specify the
 359 Official Records book and page, instrument number, or clerk's
 360 file number for each document containing the information to be
 361 released.

362 9. Upon the death of a protected party as verified by a
 363 certified copy of a death certificate or court order, any party
 364 can request the county recorder to release a protected
 365 decedent's removed information unless there is a related request
 366 on file with the county recorder for continued removal of the
 367 decedent's information or unless such removal is otherwise
 368 prohibited by statute or by court order. The written request to
 369 release the removed information upon the death of a protected
 370 party must attach the certified copy of a death certificate or
 371 court order and must be notarized, must confirm the request for
 372 release is due to the death of a protected party, and must
 373 specify the Official Records book and page number, instrument
 374 number, or clerk's file number for each document containing the
 375 information to be released. A fee may not be charged for the
 376 release of any document pursuant to such request.

377 ~~10. Except as otherwise expressly provided in this~~

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378 ~~paragraph, this paragraph is subject to the Open Government~~
 379 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 380 ~~repealed on October 2, 2024, unless reviewed and saved from~~
 381 ~~repeal through reenactment by the Legislature.~~

382 Section 2. This act shall take effect October 1, 2024.

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CourtSmart Tag Report

Room: KB 412
Caption: Senate Rules Committee

Case No.: -
Judge:

Type:

Started: 2/8/2024 8:31:42 AM

Ends: 2/8/2024 10:18:07 AM

Length: 01:46:26

8:31:41 AM	Chair Mayfield calls meeting to order
8:31:48 AM	Chair Mayfield with comments
8:31:49 AM	Roll call
8:31:52 AM	Quorum announced
8:32:25 AM	Pledge of Allegiance led by Senator Osgood
8:32:43 AM	Chair with opening comments
8:33:09 AM	SB 814 by Senator Yarborough is Temporarily Postponed
8:33:16 AM	Tab 18 SB 1112 Health Care Practitioner Titles and Designations
8:33:23 AM	Senator Harrell explains the bill
8:36:31 AM	No Questions
8:37:34 AM	Appearance Form
8:37:36 AM	Jack Hebert, Florida Chiropractic Association, waives
8:37:42 AM	Jo Anne Hart, Florida Dental Association, waives
8:37:48 AM	No debate
8:37:50 AM	Senator Harrell closes
8:37:57 AM	Roll call
8:38:07 AM	CS/SB 1112 is reported favorably
8:39:02 AM	Tab 4 SB 534 Equitable Distribution of Marital Assets and Liabilities
8:39:10 AM	Senator Grall explains the bill
8:39:17 AM	No Questions
8:40:17 AM	Appearance Form
8:40:19 AM	Shannon Novey, Florida Bar Family Law Section, waives
8:40:25 AM	No Debate
8:40:26 AM	Senator Grall waives close
8:40:34 AM	Roll call
8:41:08 AM	SB 534 is reported favorably
8:41:12 AM	Tab 5 SB 554 Hot Car Death Prevention
8:41:22 AM	Senator Bradley explains the bill
8:41:42 AM	No Questions
8:42:27 AM	Amendment Barcode 365202
8:42:32 AM	Senator Bradley explains the amendment
8:42:40 AM	No Questions
8:42:52 AM	Senator Bradley waives
8:42:53 AM	Amendment is adopted
8:43:00 AM	Back on the Bill
8:43:03 AM	Questions
8:43:06 AM	Appearance Form
8:43:08 AM	Pamela Paige speaks
8:47:53 AM	Shauntel Smith, Florida PTA, waives
8:48:02 AM	Wayne Bernoski, Florida Professional Firefighters, waives
8:48:19 AM	Debate
8:48:22 AM	Senator Torres
8:49:01 AM	Chair Mayfield
8:49:09 AM	Senator Bradley closes
8:49:24 AM	Roll call
8:49:36 AM	CS/SB 554 is reported favorably
8:50:06 AM	Tab 13 SB 832 Employment of Individuals with Disabilities
8:50:47 AM	Senator Calatayud explains the bill
8:51:03 AM	Questions
8:52:10 AM	Senator Calatayud waives close
8:52:12 AM	Roll call
8:52:43 AM	SB 832 is reported favorably

8:52:49 AM Tab 25 SB 7030 OGS/Agency Personnel Information
8:53:05 AM Senator Avila explains the bill
8:53:40 AM No Questions
8:53:42 AM Senator Avila waives close
8:53:46 AM Roll call
8:54:22 AM SB 7030 is reported favorably
8:54:26 AM Tab 19 CS/SB 1136 Regulation of Water Resources
8:54:46 AM Senator Trumbull explains the bill
8:55:15 AM Amendment Barcode 564856
8:55:23 AM Senator Trumbull explains the amendment
8:55:26 AM Questions
8:55:43 AM Senator Trumbull waives close
8:55:44 AM Amendment is adopted
8:55:50 AM Back on the Bill
8:55:55 AM No Questions
8:55:57 AM Appearance Form
8:55:59 AM Ryan Matthews, FGWA, waives
8:56:09 AM Senator Trumbull waives close
8:56:10 AM Roll call
8:56:43 AM CS/SB 1136 is reported favorably
8:56:51 AM Tab 17 SB 1082 is Temporarily Postponed
8:57:02 AM Tab 24 SB 1746 Public Employees
8:57:27 AM Senator Ingoglia explains the bill
8:57:46 AM Chair moves to Amendment
8:57:49 AM Amendment Barcode 681138
8:57:56 AM Senator Ingoglia explains the amendment
8:58:07 AM No Questions
8:58:11 AM Appearance Form
8:58:16 AM Christian Camara, Freedom Foundation, waives
8:58:29 AM Amendment is adopted
8:58:37 AM Amendment Barcode 197790
8:58:43 AM Senator Ingoglia explains the amendment
8:58:50 AM Questions
8:59:07 AM Senator Book
8:59:25 AM Senator Ingoglia
9:00:04 AM Senator Torres
9:00:23 AM Senator Ingoglia
9:00:34 AM Senator Book
9:00:49 AM Senator Ingoglia
9:01:29 AM Amendment is adopted
9:01:30 AM Back on the bill
9:01:36 AM Questions
9:01:38 AM Senator Osgood
9:01:53 AM Senator Ingoglia
9:02:24 AM Senator Jones
9:02:49 AM Senator Ingoglia
9:03:03 AM Senator Jones
9:03:08 AM Senator Ingoglia
9:03:27 AM Senator Jones
9:03:54 AM Senator Ingoglia
9:04:07 AM Senator Jones
9:04:10 AM Senator Ingoglia
9:04:28 AM Appearance Forms
9:04:33 AM Stephanie Kunkel, Florida Education Association, speaks
9:07:45 AM Chair Mayfield
9:07:49 AM Ms. Kunkel
9:07:59 AM Senator Burton
9:08:28 AM Ms. Kunkel
9:08:42 AM Senator Burton
9:08:51 AM Ms. Kunkel
9:08:54 AM Senator Burton
9:09:13 AM Ms. Kunkel

9:09:32 AM Senator Burton
9:10:03 AM Ms. Kunkel
9:10:42 AM Senator Burton
9:10:51 AM Ms. Kunkel
9:11:04 AM Dr. Rich Templin, Florida AFL-CIO, speaks
9:11:27 AM Chair Mayfield
9:11:29 AM Dr. Templin
9:16:24 AM Senator Torres
9:16:49 AM Dr. Templin
9:17:58 AM Christian Camara, Freedom Foundation, waives
9:18:05 AM Chris Stranburg, Americans for Prosperity, waives
9:18:21 AM Senator Ingoglia closes on the bill
9:20:55 AM Roll call
9:21:35 AM CS/SB 1746 is reported favorably
9:21:41 AM Tab 3 CS/CS/SB 312 Offenses Involving Children
9:21:55 AM Senator Collins explains the bill
9:22:31 AM No Questions
9:22:34 AM Appearance Form
9:22:38 AM Shauntel Smith, Florida PTA, waives
9:22:51 AM Senator Collins waives close
9:22:53 AM Roll call
9:23:28 AM CS/CS/SB 312 is reported favorably
9:23:35 AM Tab 8 SB 682 Lost or Abandoned Property
9:23:42 AM Senator Martin explains the bill
9:24:35 AM No Questions
9:24:43 AM Appearance Form
9:24:48 AM Jess Melkun, FWC, waives
9:24:55 AM Debate
9:24:57 AM Senator Boyd
9:25:20 AM Chair Mayfield
9:25:40 AM Senator Rodriguez
9:25:54 AM Senator Martin waives close
9:25:56 AM Roll call
9:26:27 AM SB 682 is reported favorably
9:26:33 AM Tab 10 CS/SB 758 Tracking Devices and Applications
9:26:42 AM Senator Martin explains the bill
9:27:12 AM No Questions
9:27:38 AM Senator Martin waives close
9:27:40 AM Roll call
9:28:13 AM CS/SB 758 is reported favorably
9:28:18 AM Tab 16 CS/SB 988 Public Records/My Safe Florida Home Program
9:28:29 AM Senator Martin explains the bill
9:28:56 AM Amendment Barcode 665166
9:29:08 AM Senator Martin explains amendment
9:29:14 AM No Questions
9:29:19 AM Senator Martin waives close
9:29:24 AM Amendment is adopted
9:29:28 AM Back on the bill
9:29:31 AM No Questions
9:29:33 AM Appearance Forms
9:29:35 AM Chase Mitchell, Department of Financial Services, waives
9:29:41 AM Tasha Carter, Office of the Insurance Consumer Advocate, waives
9:29:51 AM Senator Martin waives close
9:29:55 AM Roll Call
9:30:27 AM CS/SB 988 is reported favorably
9:30:36 AM Tab 20 CS/SB 1198 Corporate Actions
9:30:43 AM Senator Martin explains the bill
9:31:58 AM Without objection - Late-filed Amendment Barcode 422858
9:32:10 AM Senator Martin explains the amendment
9:32:11 AM No Questions
9:32:34 AM Senator Martin waives close
9:32:35 AM Amendment is adopted

9:32:38 AM Back on the bill
9:32:41 AM No Questions
9:32:43 AM Appearance Form
9:32:47 AM Aimee Diaz-Lyon, The Business Law Section of the Florida Bar, waives
9:32:57 AM Senator Martin waives close
9:33:01 AM Roll call
9:33:33 AM CS/CS/SB 1198 is reported favorably
9:33:49 AM Tab 1 CS/SB 234 Disclosure of Grand Jury Testimony
9:34:04 AM Senator Polsky explains the bill
9:34:43 AM Without objection late-filed Amendment Barcode 408730
9:35:48 AM Senator Polsky explains the amendment
9:35:52 AM No Questions
9:36:03 AM Senator Polsky waives close
9:36:04 AM Amendment is adopted
9:36:07 AM Back on the bill
9:36:10 AM No Questions
9:36:12 AM Appearance Form
9:36:16 AM Mat Forrest, representing Joseph Abruzzo, Palm Beach County Clerk of the Circuit Court, waives
9:36:35 AM Senator Polsky waives close
9:36:37 AM Roll call
9:37:09 AM CSCS/SB 234 is reported favorably
9:37:16 AM Tab 2 SB 258 Interstate Safety
9:37:25 AM Senator Perry explains the bill
9:37:34 AM No Questions
9:38:22 AM Senator Perry waives close - Roll call
9:38:54 AM SB 258 is reported favorably
9:38:57 AM Tab 9 CS/SB 756 Timeshare Properties
9:39:06 AM Senator Perry explains the bill
9:39:35 AM Without objection Late-filed amendment Barcode 214912
9:39:44 AM Senator Perry explains the amendment
9:39:45 AM No Questions
9:40:04 AM Senator Perry waives close
9:40:05 AM Amendment is adopted
9:40:07 AM Back on the bill
9:40:15 AM No Questions
9:40:17 AM Appearance Form
9:40:19 AM Gary Hunter, American Resort Development Association, waives
9:40:29 AM Senator Perry waives close
9:40:30 AM Roll call
9:41:05 AM CS/CS/SB 756 is reported favorably
9:41:12 AM Tab 15 CS/SB 984 Judgment Liens
9:41:22 AM Senator Rouson explains the bill
9:41:32 AM No Questions
9:42:08 AM Appearance Forms
9:42:10 AM Kenneth Pratt, Florida Bankers Association, waives
9:42:16 AM Aimee Diaz-Lyon, The Business Law Section of the Florida Bar, waives
9:42:27 AM Senator Rouson waives close
9:42:29 AM Roll call
9:43:02 AM CS/SB 984 is reported favorably
9:43:08 AM Tab 23 SB 1720 Marine Encroachment on Military Operations
9:43:18 AM Senator Rodriguez explains the bill
9:43:31 AM No Questions
9:44:10 AM Senator Rodriguez waives close
9:44:11 AM Roll call
9:44:46 AM SB 1720 is reported favorably
9:44:50 AM Tab 6 SB 648 License or Permit to Operate a Vehicle for Hire
9:45:00 AM Senator DiCeglie explains the bill
9:45:08 AM No Questions
9:45:34 AM Senator DiCeglie waives close
9:45:36 AM Roll call
9:46:17 AM SB 648 is reported favorably
9:46:22 AM Christian Camara, Institute for Justice waives

9:46:32 AM Tab 7 SB 660 Public Records/Animal Shelter or Animal Control Agency
9:46:44 AM Senator DiCeglie explains the bill
9:46:52 AM No Questions
9:47:08 AM Appearance Forms
9:47:17 AM Macie Codina, The Animal Law Section of the Florida Bar, waives
9:47:22 AM Diana Ferguson, FL Animal Control Association, waives
9:47:36 AM Senator DiCeglie waives close
9:47:38 AM Roll call
9:48:12 AM SB 660 is reported favorably
9:48:16 AM Tab 14 CS/SB 850 Use of Artificial Intelligence in Political Advertising
9:48:27 AM Senator DiCeglie explains the bill
9:49:38 AM Amendment Barcode 223070
9:49:44 AM Senator DiCeglie explains the amendment
9:49:52 AM Questions
9:50:35 AM Senator Rouson
9:50:44 AM Senator DiCeglie
9:51:27 AM Senator Rouson
9:52:48 AM Senator DiCeglie
9:53:33 AM Senator Book
9:53:56 AM Senator DiCeglie
9:55:08 AM Senator Book
9:55:14 AM Senator DiCeglie
9:55:15 AM Senator Book
9:55:29 AM Senator DiCeglie
9:56:33 AM Senator Book
9:56:55 AM Senator DiCeglie
9:58:11 AM Senator Book
9:58:23 AM Senator DiCeglie
9:58:33 AM Senator Baxley
9:58:54 AM Senator DiCeglie
9:59:49 AM Senator Book
10:00:16 AM Senator DiCeglie
10:00:40 AM Chair Mayfield
10:01:06 AM Senator DiCeglie waives close
10:01:07 AM Amendment is adopted
10:01:10 AM Back on the bill
10:01:12 AM No Questions
10:01:15 AM Appearance Form
10:01:19 AM Amy Keith, Common Cause Florida, speaks
10:05:16 AM Senator Brodeur
10:05:32 AM Ms. Keith
10:05:44 AM Pamela Burch Fort, NAACP Florida State Conference, waives
10:06:05 AM Senator DiCeglie closes
10:07:09 AM Roll call
10:07:42 AM CS/CS/SB 850 is reported favorably
10:07:49 AM Tab 11 SB 790 Surrendered Infants
10:07:56 AM Senator Yarborough explains the bill
10:08:25 AM No Questions
10:09:17 AM Appearance forms
10:09:20 AM Lynda Bell waives
10:09:24 AM Erin Collins, Junior Leagues of Florida, waives
10:09:36 AM Senator Yarborough waives close
10:09:38 AM Roll call
10:10:12 AM SB 790 is reported favorably
10:10:24 AM Tab 21 SB 1218 Broadband
10:10:33 AM Senator Burgess explains the bill
10:10:43 AM No Questions
10:10:49 AM Appearance Forms
10:10:55 AM Adam Basford, Associated Industries of FL, waives
10:11:00 AM Megan Cannan, Florida Tax Watch, waives
10:11:14 AM Chante Jones, AARP Florida, waives
10:11:19 AM Floyd Self, Charter Communications, waives

10:11:30 AM Senator Burgess waives close
10:11:32 AM Roll call
10:12:06 AM SB 1218 is reported favorably
10:12:09 AM Tab 22 SB 1688 Career-themed Courses
10:12:20 AM Senator Osgood explains the bill
10:13:43 AM No Questions
10:14:43 AM Appearance Forms
10:14:50 AM Chris Stranburg, Americans for Prosperity, waives
10:14:56 AM Pamela Burch Fort, NAACP Florida State Conference, waives
10:15:03 AM Edward Briggs, American Fire Sprinkler Assoc. FL Chapter/FL Refrigeration Assoc./AC Contractor Assoc., waives
10:15:11 AM Shauntel Smith, Florida PTA, waives
10:15:22 AM Senator Osgood waives close
10:15:24 AM Roll call
10:15:58 AM SB 1688 is reported favorably
10:16:05 AM Motions to Vote After
10:16:13 AM Senator Boyd
10:16:25 AM Senator Burgess
10:16:37 AM Senator Burton
10:16:48 AM Senator Jones
10:17:02 AM Senator Simon
10:17:30 AM Senator Garcia
10:17:44 AM Without objection -Motion favorable
10:17:52 AM Senator Osgood moves to adjourn
10:17:58 AM Meeting adjourned