

Tab 2	SB 196 by Berman; (Identical to H 00887) Lactation Spaces in Courthouses					
733590	D	S	RCS	GO, Berman	Delete everything after	03/24 02:30 PM
Tab 3	SB 770 by Burgess; (Similar to CS/H 00873) Military Affairs					
Tab 4	SB 836 by Jones (CO-INTRODUCERS) Pizzo, Polsky, Farmer, Stewart, Book; (Identical to H 00455) Gun Violence Reduction					
303242	D	S	RCS	GO, Jones	Delete everything after	03/24 02:30 PM
Tab 5	SB 972 by Rodriguez; (Identical to H 01019) Administrative Entity Telecommunication Meetings					
167190	A	S	RCS	GO, Rodriguez	Delete L.20 - 23:	03/24 02:30 PM
Tab 6	SR 1074 by Jones; White Nationalism and White Supremacy					
Tab 7	SB 1136 by Rodrigues; (Identical to H 00861) Board of Directors of Florida ABLE, Inc.					
Tab 8	SB 1232 by Book; Death Benefits					
181490	D	S	RCS	GO, Book	Delete everything after	03/24 02:30 PM
Tab 9	SB 1448 by Jones; (Similar to CS/H 01137) Information Technology Procurement					
720732	D	S	RCS	GO, Jones	Delete everything after	03/24 02:30 PM
Tab 10	SB 1512 by Wright; (Identical to H 01201) Space Florida Board of Directors					
Tab 11	SB 1570 by Rodriguez; (Similar to H 01083) Quasi-public Entities					
243780	D	S	RCS	GO, Rodriguez	Delete everything after	03/24 02:30 PM
Tab 12	SB 1606 by Rodriguez (CO-INTRODUCERS) Garcia, Hutson, Rodrigues; (Compare to CS/H 01553) Victims of Communism					
260444	A	S	RCS	GO, Rodriguez	btw L.50 - 51:	03/24 02:30 PM
Tab 13	SB 1616 by Brodeur; (Compare to CS/H 01079) Agency Contracts for Commodities and Contractual Services					
104964	D	S	WD	GO, Brodeur	Delete everything after	03/24 01:18 PM
409402	D	S	RCS	GO, Brodeur	Delete everything after	03/24 02:32 PM
Tab 14	SB 1626 by Albritton; (Compare to CS/H 01145) Administrative Procedures					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Rodrigues, Chair
Senator Gruters, Vice Chair

MEETING DATE: Wednesday, March 24, 2021
TIME: 11:30 a.m.—2:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Rodrigues, Chair; Senator Gruters, Vice Chair; Senators Mayfield, Stargel, Stewart, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Director and Chief Judge, Division of Administrative Hearings

1	Antonacci, Peter ()	Pleasure of Admin Commission	Recommend Confirm Yeas 6 Nays 0
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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2	SB 196 Berman (Identical H 887)	Lactation Spaces in Courthouses; Revising the definition of the term "facility" to require at least one dedicated lactation space be provided in county courthouses by a specified date; specifying minimum requirements for the lactation space; requiring that counties designated as the official headquarters of a district court of appeal be responsible for providing a lactation space in that court's facility, etc.	Fav/CS Yeas 6 Nays 0
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GO 03/24/2021 Fav/CS
 ACJ
 AP

3	SB 770 Burgess (Similar CS/H 873)	Military Affairs; Deleting a provision requiring that certain military personnel have the same salary and benefits as career service employees; modifying minimum qualifications and duties of the Adjutant General; specifying that a court-martial is an administrative procedure under the executive branch of state government; authorizing the Adjutant General, the Adjutant General's designee, or a military judge to issue and execute search authorizations under specified circumstances, etc.	Favorable Yeas 6 Nays 0
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MS 03/09/2021 Favorable
 GO 03/24/2021 Favorable
 AP

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, March 24, 2021, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 836 Jones (Identical H 455)	Gun Violence Reduction; Creating the Urban Core Gun Violence Task Force; authorizing the task force to seek assistance from state agencies; creating the Florida Firearm Violence Reduction Pilot Program; authorizing the Department of Law Enforcement to provide grants to a specified number of counties to implement the pilot program, subject to appropriation, etc. GO 03/24/2021 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0
5	SB 972 Rodriguez (Identical H 1019)	Administrative Entity Telecommunication Meetings; Authorizing certain legal or administrative entities to conduct public meetings and workshops by means of communications media technology; revising criteria under which legal entities may conduct public meetings and workshops, etc. CA 03/03/2021 Favorable GO 03/24/2021 Fav/CS RC	Fav/CS Yeas 6 Nays 0
6	SR 1074 Jones	White Nationalism and White Supremacy; Rejecting and condemning white nationalism and white supremacy as hateful expressions of intolerance which contradict the values that define the people of Florida and the United States, etc. GO 03/24/2021 Favorable JU RC	Favorable Yeas 6 Nays 0
7	SB 1136 Rodrigues (Identical H 861)	Board of Directors of Florida ABLE, Inc.; Revising the composition of the membership of the Florida ABLE, Inc., board of directors; removing a limit on the number of terms that certain reappointed members may serve, etc. CF 03/09/2021 Favorable GO 03/24/2021 Favorable RC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, March 24, 2021, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1232 Book	Death Benefits; Requiring an employer of law enforcement, correctional, or correctional probation officers to extend paid health insurance benefits to a surviving spouse and each dependent child as a result of the death of the officer from a pandemic disease or an infectious disease that is the subject of a declared public health emergency if that officer was exposed in the line of duty, etc. GO 03/24/2021 Fav/CS CA AP	Fav/CS Yeas 6 Nays 0
9	SB 1448 Jones (Similar CS/H 1137)	Information Technology Procurement; Requiring the Department of Management Services, through the Florida Digital Service, to establish certain project management and oversight standards for state agency compliance; requiring the department to perform project oversight on information technology projects that have total project costs of a certain amount or more; authorizing the department to execute certain contracts if the Secretary of Management Services and the state chief information officer certify certain information in writing, etc. GO 03/24/2021 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0
10	SB 1512 Wright (Identical H 1201)	Space Florida Board of Directors; Revising the membership of the board of directors of Space Florida to include two ex officio, nonvoting members appointed by the Legislature, etc. MS 03/09/2021 Favorable GO 03/24/2021 Favorable RC	Favorable Yeas 6 Nays 0
11	SB 1570 Rodriguez (Similar H 1083)	Quasi-public Entities; Requiring the Governor to specify affiliated departments for certain quasi-public entities by a certain date; providing for the repeal of a quasi-public entity on a certain date unless reviewed and saved from repeal through reenactment by the Legislature; requiring a quasi-public entity to maintain a website that includes certain information; prohibiting a quasi-public entity from using public funds to retain a lobbyist; requiring a quasi-public entity to post and update certain information on the secure contract tracking system established and maintained by the Chief Financial Officer, etc. GO 03/17/2021 Temporarily Postponed GO 03/24/2021 Fav/CS AP RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, March 24, 2021, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1606 Rodriguez (Compare CS/H 1553)	Victims of Communism; Establishing November 7 as the Victims of Communism legal holiday; requiring the Legislature to annually observe a moment of silence in observance of the victims of communism, etc. CA 03/16/2021 Favorable GO 03/24/2021 Fav/CS RC	Fav/CS Yeas 6 Nays 0
13	SB 1616 Brodeur (Compare CS/H 1079)	Agency Contracts for Commodities and Contractual Services; Providing that the Department of Management Services may enter into an agreement authorizing an agency to make purchases under certain contracts if the Secretary of Management Services makes a certain determination; providing that an agency must issue a request for quote to certain approved vendors when it issues a request for quote for commodities or contractual services; revising the timeframe during which an agency must electronically post a description of certain services in certain circumstances; requiring each agency inspector general to complete certain audits of executed contracts at certain intervals, etc. GO 03/24/2021 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0
14	SB 1626 Albritton (Compare CS/H 1145)	Administrative Procedures; Applying certain provisions applicable to all rules other than emergency rules to repromulgated rules; requiring an agency to provide a copy of a regulatory alternative to the Administrative Procedures Committee; requiring emergency rules to be published in the Florida Administrative Code; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; requiring an agency to publish a notice of repromulgation in the Florida Administrative Register and file a rule for promulgation with the department within a specified timeframe, etc. GO 03/24/2021 Favorable JU RC	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Peter Antonacci
Director and Chief Judge, Division of Administrative Hearings


NOTICE OF HEARING

TO: Judge Peter Antonacci

YOU ARE HEREBY NOTIFIED that the Committee on Governmental Oversight and Accountability of the Florida Senate will conduct a hearing on your executive appointment on Wednesday, March 24, 2021, in the Mallory Horne Committee Room, 37 Senate Building, commencing at 11:30 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 19th day of March, 2021

Committee on Governmental Oversight and
Accountability



Senator Ray Rodrigues
As Chair and by authority of the committee

cc: Members, Committee on Governmental Oversight and Accountability
Office of the Sergeant at Arms

30

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Peter Antonacci

is duly appointed

**Director and Chief Judge,
Division of Administrative Hearings**

for a term beginning on the Fifteenth day of December, A.D.,
2020, to serve at the pleasure of the Administration Commission
and is subject to be confirmed by the Senate during the next
regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Fifth day of January, A.D., 2021.*



Secretary of State

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

If photocopied or chemically altered, the word "VOID" will appear.

RECEIVED
JAN 29 2021

CERTIFICATION

STATE OF FLORIDA
COUNTY OF Leon

COMMITTEE ON
ETHICS AND ELECTIONS

Before me, the undersigned Notary Public of Florida, personally appeared

Peter Antonacci

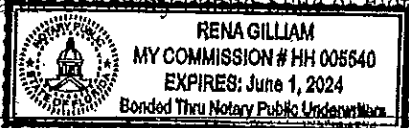
who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 28th day of January, 2021.

Rena Gilliam

Signature of Notary Public, State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: June 1, 2024

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

HAND DELIVERED

RECEIVED

CERTIFICATION

2021 JAN -5 AM 8:30

STATE OF FLORIDA
COUNTY OF Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared

PETER ANTONACCI

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 4th day of January, 2021.

Loretta D. Sloan
Signature of Notary Public-State of Florida

Loretta D. Sloan
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: September 24, 2024

Personally Known OR Produced Identification

Type of Identification Produced _____



(seal)



RON DeSANTIS
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2020 DEC 23 PM 1:45
DIVISION OF ELECTIONS
TALLAHASSEE, FL

December 23, 2020

The Honorable Laurel Lee
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised that in accordance with section 120.65, Florida Statutes, on December 15, 2020 the Florida Administration Commission voted to approve the appointment of Peter Antonacci as Florida's Chief Administrative Law Judge, subject to confirmation by the Florida Senate. This appointment is effective December 15, 2020, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

HAND DELIVERED

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2021 JAN -5 AM 8:29

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Director & Chief Judge, Division of Administrative Hearings
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signature

Sworn to and subscribed before me by means of physical presence or online notarization, this 4th day of January, 2021.

Loretta D. Sloan

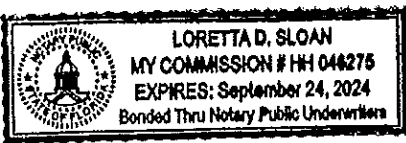
Signature of Officer Administering Oath or of Notary Public

Loretta D. Sloan

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Street or Post Office Box

Peter Antonacci
Print Name

City, State, Zip Code

Signature

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Peter Antonacci

ANSWER: "I do."

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Governmental Oversight & Accountability

DATE: MARCH 24, 2021

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24

Meeting Date

Bill Number (if applicable)

Topic Confirmation

Amendment Barcode (if applicable)

Name Peter Antonacci

Job Title Chief Judge - DOAH

Address Tallahassee

Phone 850 510 7754

City

State

Zip

Email ANTONACCI@DOAH.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

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.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 196

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Berman

SUBJECT: Lactation Spaces in Courthouses

DATE: March 24, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 196 requires each county courthouse to provide at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private by January 1, 2022.

The bill authorizes the person responsible for the operation of the facility housing each district court of appeal to use state-appropriated funds or private funding to provide a dedicated lactation space.

The requirements to provide a dedicated lactation space do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that the courthouse does not contain a lactation space for employees which may be used by the members of the public or new construction would be required to create the lactation space.

The bill contains a legislative finding that the bill fulfills an important state interest.

Each county and the state may incur costs associated with funding a dedicated lactation space.

This bill takes effect July 1, 2021.

II. Present Situation:

Funding Requirements for Court Related Functions

Article V, Section 14 of the State Constitution requires counties to fund the cost of communication services, existing radio systems, existing multi-agency information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.¹ Counties are not required to fund the state courts system, state attorney's office, public defenders offices, court-appointed counsel or the offices of the clerks of the circuit performing court related functions.² Section 29.008, F.S., defines the term "facility" to mean reasonable and necessary buildings, office space, equipment, furnishings, structures, real estate, easements, and related interests in real estate.³ The county is responsible for the funding of physical modifications and improvements to all facilities in order to comply with the American with Disabilities Act.

Section 29.004, F.S., provides that the construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court are funded through state revenues.⁴ The state currently funds district courts of appeal (DCA) facility upgrade expenses through Specific Appropriation 3212 – District Courts of Appeal Expenses.⁵

Courthouse Lactation Room Handbook

The Florida Association of Women Lawyers (FAWL) established guidelines to provide accessibility to lactation rooms for women in the legal field. These guidelines are being used across the state by local governments in order to implement lactation rooms for courthouses. The FAWL handbook establishes best practices for implementing lactation rooms, such as room access, room naming, room specifications, amenities, and ways to fund the room. The implementation of these rooms allows access to women jurors, witnesses, and other actors who partake in the legal process.⁶

According to the Florida Bar, 38 percent of Florida attorneys are women,⁷ and 39 percent of Florida judges are women.⁸ The percentage of women attorneys in the state is expected to rise in the coming years due to women accounting for almost 50 percent of the total number of law school students in Florida.⁹

¹ Section 29.008, F.S.

² Fla. Const. art. V, s. 14

³ Section 29.008(1), F.S.

⁴ Section 29.004(4), F.S.

⁵ See Florida Legislature, *General Appropriations Act SA-3212*, available at <https://www.flsenate.gov/Session/Bill/2020/5001/BillText/er/PDF>, (last visited March 18, 2021)

⁶ *Id.*

⁷ The Florida Bar, *Board Issue Paper – Women in the Law/Gender Bias*, (Feb. 13, 2017), available at <https://www.floridabar.org/news/resources/issue-04/#IV.%20Facts%20and%20Statistics> (last visited January 7, 2021).

⁸ *Id.*

⁹ *Id.*

Breastfeeding in Florida

Florida became one of the first states to pass legislation that supports women breast feeding in any location. Section 383.015, F.S., provides that the breastfeeding of a baby is an important and basic act of nurture which must be encouraged in the interests of maternal, child health, and family values. A mother may breastfeed her baby in any location, public or private, regardless of whether the nipple of the mother is uncovered during or incidental to the breastfeeding.¹⁰ Further, any facility providing maternity services such as breastfeeding can be designated as “baby-friendly.”

Lactation Space in Florida Courthouses

Currently, 24 counties host a courthouse with a lactation space. These courthouses include:

- 1st Judicial Circuit Court (Okaloosa County Courthouse; Santa Rosa County is currently constructing a new courthouse with a lactation space in the plans);
- 2nd Judicial Circuit Court (Leon County Courthouse);
- 4th Judicial Circuit Court (Duval County Courthouse);
- 5th Judicial Circuit Court (Hernando County Courthouse, Lake County Courthouse, and Sumter County Courthouse);
- 6th Judicial Circuit Court (St. Petersburg Judicial Building);
- 7th Judicial Circuit Court (St. Johns County Courthouse);
- 8th Judicial Circuit Court (Alachua County Courthouse);
- 9th Judicial Circuit Court (Orange County Courthouse and Osceola County Courthouse);
- 10th Judicial Circuit Court (Polk County Courthouse);
- 11th Judicial Circuit Courts (including the Coral Gables Courthouse, Dade County Courthouse, Joseph Caleb Center, Lawson E. Courthouse Center, Miami Dade Children’s Courthouse, Richard E. Gerstein Justice Building and the South Dade Justice Center)¹¹;
- 12th Judicial Circuit Court (Sarasota County Courthouse and Manatee County Judicial Center);
- 13th Judicial Circuit Court (Edgecomb Courthouse);
- 15th Judicial Circuit Court (West Palm Beach Main Courthouse and Delray Beach South County Courthouse);
- 17th Judicial Circuit Court (Broward County Courthouse);
- 18th Judicial Circuit Court (Brevard County Courthouse and Seminole County Courthouse);
- 19th Judicial Circuit Court (two of four county courthouses have lactation spaces); and
- 20th Judicial Circuit Court (Lee County Courthouse and Collier County Courthouse).

Counties Designated as Headquarters for District Courts of Appeal

The following is location of the headquarters for each DCA:

- First Appellate District in the Second Judicial Circuit , Tallahassee, Leon County;
- Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County;
- Third Appellate District in the Eleventh Judicial Circuit, Miami-Dade County;

¹⁰ Section 383.015, F.S.

¹¹ Florida’s Eleventh Judicial Circuit, *Courthouse Amenities – Lactations Rooms, available at* <https://www.jud11.flcourts.org/About-the-Court/Courthouse-Amenities/Lactation-Rooms>, (last visited January 7, 2021).

- Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and
- Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.¹²

A DCA may designate other locations within its district as branch headquarters to conduct the business of the court and as the official headquarters of its officers or employees.¹³

Currently, there are no DCAs that have an established dedicated lactation space within its courthouse.

III. Effect of Proposed Changes:

Section 1 creates s. 29.24, F.S., to require each county courthouse to provide at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private by January 1, 2022. The dedicated space must be hygienic, shielded from public view, free from intrusion while occupied, and contain an electrical outlet.

This section authorizes the person responsible for the operation of the facility housing each district court of appeal to use state-appropriated funds or private funding to provide a dedicated lactation space.

This section establishes that the requirements to provide a dedicated lactation space do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that:

- The courthouse does not contain a lactation space for employees which may be used by the members of the public and the courthouse does not have:
 - A space that could be repurposed as a lactation space open to the public; or
 - A space that could be made private at a reasonable cost using portable materials, contingent upon private funding being made available for those costs.
- New construction would be required to create the lactation space.

Section 2 contains a legislative finding that the bill fulfills an important state interest.

Section 3 provides the bill take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the legislature....

¹² Section 35.05, F.S.

¹³ *Id.*

Counties will incur costs in complying with the space requirements set forth in the bill. As drafted, the bill contains a finding that the bill fulfills an important state interest.

The mandate requirements do not apply to laws having an insignificant impact which, for Fiscal Year 2021-2022, is forecast at \$2.2 million.^{14,15,16} The fiscal impact of this bill on cities or counties is indeterminate. If costs imposed by the bill do not exceed \$2.2 million, then the mandate requirements (legislative finding and 2/3 vote) do not apply and the bill will be binding on the counties.

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:

If a county courthouse or a DCA uses private funding to provide a dedicated lactation space, the private entity providing the funds will incur a negative fiscal impact.

¹⁴ FLA. CONST. art. VII, s. 18(d).

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited February 25, 2021).

¹⁶ Based on the Florida Demographic Estimating Conference's November 3, 2020, population forecast for 2021 of 21,830,364. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited February 25, 2021).

C. **Government Sector Impact:**

Each county will incur costs associated with providing a dedicated lactation space in its county courthouses. Also, the state may incur costs associated with providing a dedicated lactation space within the DCA courthouses.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 29.008 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The following provisions of the CS are additions made to the underlying bill:

- The person responsible for the operation of the facility housing each DCA is authorized to use state-appropriated funds or private funding to provide a dedicated lactation space.
- The requirements to provide a dedicated lactation space do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that:
 - The courthouse house does not contain a lactation space for employees which may be used by the members of the public.
 - New construction would be required to create the lactation space.
- The CS contains a legislative finding that the bill fulfills an important state interest.

B. **Amendments:**

None.

By Senator Berman

31-00136-21

2021196__

A bill to be entitled

An act relating to lactation spaces in courthouses; amending s. 29.008, F.S.; revising the definition of the term "facility" to require at least one dedicated lactation space be provided in county courthouses by a specified date; specifying minimum requirements for the lactation space; requiring that counties designated as the official headquarters of a district court of appeal be responsible for providing a lactation space in that court's facility; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 29.008, Florida Statutes, is amended to read:

29.008 County funding of court-related functions.—

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of this section, the term "circuit and county courts" includes the offices and staffing of the guardian ad litem programs, and the term "public defenders' offices" includes the offices of criminal conflict and civil

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

31-00136-21

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regional counsel. The county designated under s. 35.05(1) as the headquarters for each appellate district shall fund these costs for the appellate division of the public defender's office in that county. For purposes of implementing these requirements, the term:

(a) "Facility" means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services, except this requirement applies only to facilities that are leased, or on which construction commences, after June 30, 2003. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services.

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

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59 1. As of July 1, 2005, equipment and furnishings shall be
60 limited to that appropriate and customary for courtrooms,
61 hearing rooms, jury facilities, and other public areas in
62 courthouses and any other facility occupied by the courts, state
63 attorneys, public defenders, guardians ad litem, and criminal
64 conflict and civil regional counsel. Court reporting equipment
65 in these areas or facilities is not a responsibility of the
66 county.

67 2. Equipment and furnishings under this paragraph in
68 existence and owned by counties on July 1, 2005, except for that
69 in the possession of the clerks, for areas other than
70 courtrooms, hearing rooms, jury facilities, and other public
71 areas in courthouses and any other facility occupied by the
72 courts, state attorneys, and public defenders, shall be
73 transferred to the state at no charge. This provision does not
74 apply to any communications services as defined in paragraph
75 (f).

76 3. By January 1, 2022, each county courthouse must provide
77 at least one dedicated lactation space outside of the confines
78 of a restroom for members of the public to express breast milk
79 or breastfeed in private. The space must be hygienic, be
80 shielded from public view, be free from intrusion while
81 occupied, and contain an electrical outlet. Additionally, the
82 county designated under s. 35.05(1) as the headquarters for each
83 appellate district shall be responsible for providing at least
84 one lactation space, in accordance with the requirements
85 specified in this subparagraph, for the facility housing the
86 district court of appeal within that county.

87 Section 2. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Chair Ray Rodrigues
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 4, 2021

I respectfully request that **Senate Bill #196**, relating to Lactation Spaces in Courthouses, be placed on the:

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

A handwritten signature in cursive script that reads "Lori Berman".

Senator Lori Berman
Florida Senate, District 31

CC: Vice Chair Joe Gruters
Staff Director Joe McVaney



733590

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 29.24, Florida Statutes, is created to
read:

29.24 Lactation space in courthouses.-

(1) Except as otherwise provided in this section, by
January 1, 2022, each county courthouse must provide at least
one dedicated lactation space, outside of the confines of a



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11 restroom, for members of the public to express breast milk or
12 breastfeed in private. The space must be hygienic, be shielded
13 from public view, be free from intrusion while occupied, and
14 contain an electrical outlet.

15 (2) The person responsible for the operation of the
16 facility housing each district court of appeal is authorized to
17 use state-appropriated funds or private funding to provide a
18 lactation space as set forth in subsection (1).

19 (3) The requirements of subsection (1) do not apply to a
20 courthouse if the person who is responsible for the operation of
21 the courthouse determines that:

22 (a) The courthouse does not contain a lactation space for
23 employees which may be used by the members of the public and the
24 courthouse does not have:

25 1. A space that could be repurposed as a lactation space
26 open to the public; or

27 2. A space that could be made private at a reasonable cost
28 using portable materials, contingent upon private funding being
29 made available for those costs.

30 (b) New construction would be required to create the
31 lactation space.

32 Section 2. The Legislature finds that this act fulfills an
33 important state interest.

34 Section 3. This act shall take effect July 1, 2021.

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

37 And the title is amended as follows:

38 Delete everything before the enacting clause
39 and insert:



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40 A bill to be entitled
41 An act relating to lactation space; creating s. 29.24,
42 F.S.; requiring each county to provide lactation space
43 in each county courthouse; providing exceptions;
44 authorizing the use of state or private funds to
45 provide lactation space in appellate courthouses;
46 declaring that this act fulfills an important state
47 interest; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 770

INTRODUCER: Senator Burgess

SUBJECT: Military Affairs

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 770 revises several provisions relating ch. 250, F.S., relating to military affairs, including:

- Removing requirements for military police chiefs, military police officers, firefighter trainers, firefighter rescuers, and electronic security system technicians from having the same salary and benefits as career service employees;
- Revising certain military positions required to participate in the Senior Management Service Class;
- Specifying that the Adjutant General must serve as the Commanding General of the state's organized militia.
- Revising the requirements for appointment as Adjutant General to provide that the Adjutant General must have served in the Florida National Guard (FLNG) for at least five years, rather than the preceding five years in current law;
- Revising the requirements for the Assistant Adjutant General for the Army, second Assistant Adjutant General for the Army, and Assistant Adjutant General for Air to provide that each person must have served for at least three years, rather than the preceding five years in current law;
- Updating the outdated version of the Manual for Courts-Martial (MCM) to the 2019 edition and establishes the Florida Code of Military Justice (FCMJ);
- Specifying that a court-martial in this state is an administrative procedure of the executive branch and not a court under the control of the judicial branch;
- Revising the procedures for convening general and special courts-martial to provide they must be tried pursuant to the MCM, except as otherwise provided by FLNG regulations;
- Revising procedures and personnel qualifications for convening and trial of general, special, and summary courts-martial as well as punishments that may be adjudged by these courts;
- Revising provisions relating to the imposition of nonjudicial punishment and specifying the types of nonjudicial punishment;
- Authorizing certain commanders to reduce personnel pay grades;

- Providing that the Adjutant General or a military judge may issue and execute search authorizations under certain conditions;
- Revising the provisions regarding medical officer authorization;
- Revising the membership and excusal requirements of the Armory Board; and
- Providing that members of the FLNG are subject to the FCMJ whether in civilian or military status.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill takes effect July 1, 2021.

II. Present Situation:

Career Service

The Florida Constitution requires the Legislature to create a civil service system for state employees.¹ The Department of Management Services (DMS) is responsible for developing uniform personnel rules, guidelines, records, and reports relating to employees and positions in the career service.² All state employees generally fall into one of four categories:

- Career service system;³
- Senior management system;⁴
- Volunteers;⁵ or
- Selected exempt service system.⁶

All non-exempt employees belong to the career service system.⁷ Military police chiefs, military police officers, firefighter trainers, firefighter rescuers, and electronic security system technicians in the Department of Military Affairs (DMA) are exempt from the career service system.⁸

Senior Management Service Class

Any officer or employee who is elected, appointed, or employed by the state is covered by the Florida Retirement System (FRS).⁹ The FRS is administered by DMS and participation is compulsory unless the position held is exempted by law.¹⁰

The Senior Management Service Class (SMSC) is a separate class of membership within the FRS and is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible Senior Management Service

¹ Article III, s. 14, Fla. Const.

² Section 110.201(1)(a), F.S.

³ Ch. 110, Part II, F.S.

⁴ Ch. 110, Part III, F.S.

⁵ Ch. 110, Part IV, F.S.

⁶ Ch. 110, Part V, F.S.

⁷ Section 110.205, F.S.

⁸ Section 110.205(2)(p), F.S.

⁹ Section 121.011(2)(a), F.S.

¹⁰ Section 121.051, F.S.

designation.¹¹ Participation in the SMSC is mandated by statute.¹² The Adjutant General, Assistant Adjutant General-Army, Assistant Adjutant General-Air, State Quartermaster, Director of Military Personnel, Director of Administration, and additional directors in DMA are required to participate in the SMSC.¹³

The Florida National Guard

The Florida National Guard (FLNG) is the organized militia of the state.¹⁴ Its mission includes maintaining readiness to support national and state security efforts, as well as leading or assisting in humanitarian and logistical operations. These operations include hurricane preparation and recovery, as well as the pandemic response. The Governor is the commander in chief of the FLNG and the Adjutant General is its chief of staff.¹⁵ The FLNG has an Army component and an Air component, each of which has an Assistant Adjutant General who is also its Commander.¹⁶

A servicemember of the FLNG who violates the Uniform Code of Military Justice (UCMJ) is subject to discipline in a military court called a court-martial.¹⁷ There are three main types of court-martial: general, special, and summary.¹⁸ The first two hear the more serious cases, and a servicemember who is found guilty and is sentenced in a general or special court-martial may appeal his or her case to the First District Court of Appeal.¹⁹

Adjutant General

The Adjutant General is the head of the Department of Military Affairs (DMA)²⁰ and the chief of staff of the Florida National Guard. The Adjutant General is appointed by the Governor, subject to Senate confirmation.²¹ The Adjutant General may, upon delegation of authority by the Governor, convene a general court-martial.²²

¹¹ Section 121.055, F.S.

¹² Section 121.055(1)(a), F.S.

¹³ Section 121.055(1)(g), F.S.

¹⁴ Section 250.02(2), F.S. The nonorganized militia is composed of all ablebodied inhabitants of the state are or have declared their intention to become citizens of the United States. FLA. CONST. art. X, sec. 2(a).

¹⁵ Section 250.06(1), F.S.

¹⁶ Florida National Guard, *Assistant Adjutant General—Army and Commander*, <https://fl.ng.mil/leadership/Pages/Assistant-Adjutant-General-Army.aspx> (last visited March 3, 2021); Florida National Guard, *Assistant Adjutant General—Air and Commander*, <https://fl.ng.mil/leadership/Pages/Assistant-Adjutant-General-Air.aspx> (last visited March 3, 2021).

¹⁷ Section 250.35, F.S.

¹⁸ Section 250.35, F.S.

¹⁹ Section 250.35(10)(b), F.S.

²⁰ Section 250.05(3), F.S. The Department of Military Affairs provides management oversight and administrative support to the FLNG. Florida National Guard, *Florida Department of Military Affairs*, <https://fl.ng.mil/about/Pages/Florida-Department-of-Military-Affairs.aspx>, (last visited Feb. 18, 2021).

²¹ Section 250.10(1), F.S.

²² Section 250.06(6), F.S.

The Florida Statutes provide the minimum qualifications for a candidate to be Adjutant General.²³ He or she must be a federally recognized officer of the Florida National Guard who has served for the preceding 5 years.²⁴

Federal Uniform Code of Military Justice & Manual for Courts-Martial

The United States Constitution²⁵ grants Congress the power to raise and support armies, provide and maintain a navy, and provide for organizing and disciplining their members. Pursuant to its constitutional authority, Congress enacted the federal Uniform Code of Military Justice²⁶ (UCMJ), which contains the substantive and procedural laws governing the military justice system. Jurisdiction under the UCMJ does not depend on where the offense was committed but only on the status of the accused, including an active duty servicemember of the Armed Forces or a National Guard member when in federal service.²⁷ Presidents have implemented the UCMJ through the Manual for Courts-Martial (MCM).²⁸ The MCM outlines procedural rules and punishments for violations of crimes and contains the Rules for Courts-Martial, the Military Rules of Evidence, and the punitive articles of the UCMJ.²⁹

There are three types of courts-martial: summary courts-martial, special courts-martial, and general courts-martial. A summary courts-martial is designed to dispose of minor offenses. Only enlisted servicemembers may be tried by summary courts-martial. A single officer presides over the hearing.³⁰

A special courts-martial is an intermediate level composed of either a military judge alone, or at least three members and a judge. An enlisted servicemember may ask that at least one-third of the court members be enlisted. There is both a prosecutor, commonly referred to as the trial counsel, and a defense counsel. In addition, the accused may be represented by civilian counsel, at no expense to the government, or by an individually requested military counsel. A judge presiding in a special courts-martial must be a qualified military judge.³¹

A general courts-martial is the military's highest level trial court. This court tries servicemembers for the most serious crimes. The punishment authority of the general court-

²³ See s. 250.10(1), F.S.

²⁴ *Id.*

²⁵ U.S. Const. art. I, s. XIII

²⁶ 10 U.S.C. s. 801 et seq.

²⁷ 10 U.S.C. s. 802. The Armed Forces includes the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. See 10 U.S.C. §101(a).

²⁸ Executive Order 12473 (July 13, 1984).

²⁹ 10 U.S.C. s. 816 et seq. See also Congressional Research Service, *Defense Primer: The Uniform Code of Military Justice*, p. 1 (Nov. 16, 2016), file:///S:/Local%20Administration%20&%20Veterans%20Affairs%20Subcommittee/Staff/Staff%20-%20Jen%20Renner/2021%20session/HB%20873%20Military%20Affairs/Defense%20Primer%20on%20Uniform%20Code%20of%20Military%20Justice.pdf (last visited Feb. 15, 2021).

³⁰ 10 U.S.C. s. 816(d) See also Congressional Research Service, *Military Courts-Martial Under the Military Justice Act of 2016*, p. 6 (Aug. 28, 2020), <https://fas.org/sgp/crs/natsec/R46503.pdf> (last visited Feb. 16, 2021)

³¹ 10 U.S.C. s. 816(c) See also Congressional Research Service, *Military Courts-Martial Under the Military Justice Act of 2016*, p. 6 (Aug. 28, 2020), <https://fas.org/sgp/crs/natsec/R46503.pdf> (last visited Feb. 16, 2021).

martial is limited by the maximum authorized punishment for each offense in the MCM. A judge presiding in a general courts-martial must be a qualified military judge.³²

Florida Courts-Martial

Article I, s. 18, of the Florida Constitution specifies that the qualifications of members of the Florida National Guard (FLNG), and “the grounds and proceedings for their discipline and removal.” All provisions of federal law which relate to the FLNG and which are not inconsistent with the state constitution, are part of the military laws of Florida.³³ Members of the FLNG are subject to the UCMJ at all times during their enlistment or appointment, and ch. 250, F.S., applies to such members whether serving in-state or in another state.³⁴ Only the DMA, in an appropriately convened courts-martial action provided by law, may impose a sentence of imprisonment.³⁵ A courts-martial or court of inquiry may be held in a unit of the FLNG serving outside the state, and such court has the same jurisdiction and powers as if the courts-martial or court of inquiry were held in Florida.³⁶ However, a service member may not be tried for offenses committed while in civilian status.³⁷

The MCM is updated periodically. Current law, s. 250.35, F.S., references the 2012 edition.

Courts-martial are authorized to try a servicemember of the FLNG for any crime or offense made punishable by the UCMJ. However, a commissioned officer, warrant officer, or cadet may not be tried by summary courts-martial.³⁸

Similar to federal law, Florida has general, special, and summary, courts-martial.³⁹ General courts-martial and special courts-martial must be tried by a military judge⁴⁰ and a panel of officers as designated in regulations of the FLNG. However, a panel may include enlisted members, at the request of an enlisted defendant.⁴¹ The military judge must be qualified by attendance at appropriate Judge Advocate General (JAG) schools and must be certified as qualified by the Adjutant General of Florida.⁴² In a general and special courts-martial, the defendant may waive trial by panel and request trial by military judge alone. The granting of the waiver is in the military judge’s discretion.⁴³

³² 10 U.S.C. s. 816(b) *See also* Congressional Research Service, *Military Courts-Martial Under the Military Justice Act of 2016*, p. 7 (Aug. 28, 2020), <https://fas.org/sgp/crs/natsec/R46503.pdf> (last visited Feb. 16, 2021).

³³ Section 250.03, F.S.; 32 U.S.C is the primary federal law addressing the organization of the state National Guards.

³⁴ Section 250.351(2), F.S.

³⁵ Art. I, s. 18, Fla. Const.

³⁶ Section 250.351(2), F.S.

³⁷ *See Id.*; *see generally*, *U.S. v. Wolpert* 75 M.J. 777, 781 (U.S. Army Ct. of Mil. App. 2016).

³⁸ Section 250.35(2), F.S.

³⁹ Section 250.35(3), F.S.

⁴⁰ Section 250.01(11), F.S., defines a “military judge” as the presiding officer of a general or special court-martial. Except as otherwise expressly provided, in the context of a summary court-martial, “military judge” includes the summary court-martial officer.

⁴¹ Section 250.35(3), F.S.

⁴² *Id.*

⁴³ *Id.*

General courts-martial in the FLNG may be convened by order of the President of the United States, the Governor, or the Adjutant General as delegated by the Governor.⁴⁴ Punishment may include:

- A fine of \$500 or less.
- Confinement of 200 days or less.
- Forfeiture of all pay and allowances.
- Reprimand, dismissal, or dishonorable discharge from the service.
- Reduction to the lowest enlisted grade or any intermediate grade for enlisted personnel.⁴⁵

Any two or more of the punishments may be combined.

A special courts-martial may be convened by a commanding officer of the FLNG, or a superior commander, when not in active federal service. Special courts-martial with bad conduct discharge authority have the same powers of punishment as general courts-martial, except that fines may not exceed \$300 and confinement may not exceed 100 days. Additionally, special courts martial with bad conduct discharge authority may adjudicate a bad conduct discharge from the service, but cannot adjudicate a dismissal or dishonorable discharge from the service.⁴⁶ Commanding officers of a garrison, fort, post, camp, air base, auxiliary air base, or any other place where troops are on duty, may also convene special courts-martial for his or her command. These special courts-martial may be convened by a superior commander when advisable.⁴⁷

A summary court-martial may be convened by a he commanding officer of each battalion, higher headquarters, or similar type unit when not in active federal service.⁴⁸ Punishment may include:

- A fine of \$200 or less per offense.
- Confinement of 25 days or less.
- Forfeiture of pay and allowances.
- Reduction by one grade.⁴⁹

Any two or more punishments may be combined; however, confinement may not be combined with a fine.⁵⁰

Appeals

Article V, s. 1, of the Florida Constitution provides that the “legislature may, by general law, authorize a military court-martial to be conducted by military judges of the Florida National Guard, with direct appeal of a decision to the District Court of Appeal, First District.”

Accordingly, s. 250.35(1)(a), F.S., provides that a servicemember who is found guilty and is sentenced to imprisonment under a general or special court-martial may appeal the decision to the First District Court of Appeal. Any “dismissal of a general or special court-martial by the

⁴⁴ Section 250.35(3), F.S.

⁴⁵ Section 250.35(4), F.S.

⁴⁶ Section 250.35(5), F.S.

⁴⁷ Section 250.35(5), F.S.

⁴⁸ Section 250.35(7), F.S.

⁴⁹ *Id.*

⁵⁰ *Id.*

military judge which does not violate the defendant's constitutional rights may be appealed by the Florida National Guard to the First District Court of Appeal."⁵¹

In a summary court-martial, a servicemember may appeal a finding of guilt or sentence to the convening authority. And a servicemember who is sentenced to imprisonment may appeal the finding of guilt or the sentence to the Adjutant General.⁵²

Nonjudicial Punishment

As an alternative to a court-martial, a commander may impose nonjudicial punishment. This punishment may not exceed:

- Oral or written reprimand.
- Extra duty for 14 days.
- Restriction for 14 days.
- Fines of \$200.
- Reduction by one grade of a member whom the commander had the authority to promote.⁵³

These punishments may be combined, however a combination of extra duty and restriction may not exceed 14 days.⁵⁴

Mandates & Process for Military Courts - Searches

Military courts may issue all process and mandates, including writs, warrants, and subpoenas, necessary to carry out the powers vested in the courts.⁵⁵ The mandates and process may be directed to a sheriff and must be in a form prescribed by the Adjutant General.⁵⁶

When not in active federal service, the Adjutant General, or his or her designee, or a military judge of the FLNG, may issue a pretrial confinement warrant to secure the presence of an accused at trial⁵⁷ as well as subpoenas and subpoenas duces tecum to require witnesses to produce documents.⁵⁸

When a servicemember is sentenced to confinement by court-martial, the sheriff or jailer must provide the same care as provided to other prisoners properly committed for custody under the sentence of any civil court.⁵⁹

Neither the Florida Statutes nor the UCMJ specify who may authorize a search or which areas may be searched. However, the Military Rules of Evidence authorize a commander or military judge to issue a search authorization, which is the military law equivalent of a search warrant.⁶⁰

⁵¹ Section 250.35(1)(b), F.S.

⁵² Section 250.35(9), F.S.

⁵³ Section 250.35(8), F.S.

⁵⁴ *Id.*

⁵⁵ Section 250.36, F.S.

⁵⁶ *Id.*

⁵⁷ Section 250.36(2), F.S.

⁵⁸ Section 250.36(3), F.S.

⁵⁹ Section 250.36(4), F.S.

⁶⁰ Mil. R. Evid. 316.

Under the Fourth Amendment to the Constitution, a search generally must be conducted pursuant to a search warrant that is supported by probable cause.⁶¹

Medical Officer Authorization

Section 250.375, F.S., provides that physicians holding an active license to practice medicine in any other state or Puerto Rico, while serving as medical officers in the FLNG pursuant to federal or state orders, are expressly authorized to practice medicine on military personnel or civilians during an emergency, declared disaster, or during federal military training.

Armory Board

Section 250.01(5), F.S., defines the term “armory” as a building or group of buildings, used primarily for housing and training troops or for storing military property, supplies, or records. Section 255.40(1), F.S., creates the Armory Board which is charged with the supervision and control of all FLNG armories, facilities, and real property within the state used for military purposes. Voting members of the Armory Board include the Governor as Commander in Chief and chair of the Armory Board, Adjutant General as vice chair, Assistant Adjutants General, and major command commanders reporting directly to the Adjutant General, in the active FLNG.⁶² Any member of the Armory Board may delegate his or her deputy commander to attend the meeting as an alternate member with voting privileges in the Armory Board member’s absence.⁶³ Board member terms are for the period during which the member possesses the qualifications for the membership.⁶⁴

III. Effect of Proposed Changes:

Section 1 amends s. 110.205, F.S., to remove obsolete job titles. Specifically, this section removes the requirements for military police chiefs, military police officers, firefighter trainers, firefighter rescuers, and electronic security system technicians in the DMA from having the same salary and benefits as career services employees.

Section 2 amends s. 121.055, F.S., to revise certain military positions required to participate in the SMSC. This section adds the DMA Inspector General and Executive Officer to the class positions and renames the Director of Military Personnel to Director of Human Resources and the Director of Administration to the Director of Legislative Affairs.

Section 3 amends s. 250.10, F.S., to revise the requirements for appointment as Adjutant General to require the Adjutant General to have served in the FLNG for at least 5 years, rather than the “preceding five years” as provided under current law. This section specifies that the Adjunct General must serve as the commanding general of Florida’s organized militia. This section also provides that the Assistant Adjutant General for the Army and the Second Assistant Adjutant General for the Army must have served for at least three years in the FLNG, rather than the “preceding five year” in current law.

⁶¹ See *California v. Carney*, 471 U.S. 386, 390-91 (1985).

⁶² Section 250.40(2)(a), F.S.

⁶³ *Id.*

⁶⁴ Section 250.40(3), F.S.

Section 4 amends 250.35, F.S., to update the outdated version of the MCM to the 2019 edition and provides that the Uniform Code of Military Justice (UCMJ), together with chapter 250, F.S., is to be referred to as the Florida Code of Military Justice (FCMJ). This section specifies that a court-martial in this state is an administrative procedure of the executive branch and not a court under the control of the judicial branch. This section revises the procedures for convening general and special courts-martial to provide servicemembers must be tried pursuant to the MCM, except as otherwise provided by FLNG regulations.

Current law provides that a panel of officers may include enlisted members, at the request of an enlisted defendant. The bill strikes the word defendant (this conforms to the UCMJ's replacement of the term defendant with accused) and provides that such a panel may include enlisted members, at the request of an enlisted person who is accused of a crime or an offense. This section clarifies the qualifications of a military judge in a general or special court-martial and requires that a military judge in a summary court-martial must be a commissioned officer who is appointed by the Summary Courts-Martial Convening Authority or any higher authority.

Current law allows for the Governor to delegate to convene a general courts-martial to the Adjutant General. The bill authorizes the President, the Governor, or the Adjutant General to convene a general courts-martial and prohibits the delegation of that duty. The bill also revises provisions relating to the imposition of nonjudicial punishment by providing that courts, upon the finding of guilt, may adjudge no punishment or adjudge one or more of the following punishments:

- Confinement in an appropriate penal institution for up to 367 days.
- Dismissal or discharge from the FLNG with the characterization of service deemed appropriate by the military judge or panel members, including a dishonorable or bad conduct discharge.
- A fine of up to \$500 per specification.
- Forfeiture of all or just a portion of pay and allowances.
- Reduction to the lowest enlisted pay grade or any intermediate pay grade for enlisted personnel (current law does not specify pay grade).
- A written reprimand, which must be included in the accused's official military personnel file.

This section provides that special courts-martial authorized to adjudicate a bad conduct discharge in the FLNG, may be convened by order of commanding officers of the FLNG who are in the accused's chain of command and hold the rank of colonel, or any person who is authorized to convene a general court-martial. The bill prohibits the delegation of this duty. This section provides that a court-martial may, upon the finding of guilt, adjudge no punishment or adjudge one or more of the following punishments:

- Confinement in an appropriate penal institution for a period not to exceed 100 days.
- Discharge from the Florida National Guard with a bad conduct discharge.
- A fine not to exceed \$400 per violation.
- Forfeiture of all pay and allowances, or a portion thereof, for a period not to exceed 1 year.
- Reduction to the lowest or any intermediate pay grade of enlisted persons.
- A written reprimand filed in the official military personnel file of the person found guilty.

The bill provides that special courts-martial not authorized to adjudicate a bad conduct discharge in the FLNG may be convened by order of the commanding officers of the FLNG who are in the accused's chain of command and hold the rank of a lieutenant colonel, or any person who is authorized to convene a general court-martial or special court-martial that is authorized to adjudicate a bad conduct discharge. The bill prohibits the delegation of this duty. Punishment is the same as special courts-martial authorized to adjudicate a bad conduct discharge *except* that (i) no punishment by discharge is provided; (ii) the fine may not exceed \$300; and (iii) forfeiture of pay may not exceed 60 days.

This section specifies that summary court-martial in the FLNG may be convened by order of commanding officers of the FLNG who are in the accused's chain of command and hold the rank of lieutenant colonel, or any person authorized to convene a general court-martial or special court-martial. The bill prohibits the delegation of this duty. Punishment includes confinement for up to 25 days, a fine up to \$200, forfeiture of pay for up to 60 days, reduction by no more than two pay grades, or a reprimand.

This section clarifies that commanding officers may impose nonjudicial punishment in accordance with FLNG regulations. It also provides greater specificity as to which commanders are authorized to impose a nonjudicial punishment as follows:

- A unit commander or superior commander may punish enlisted personnel;
- Field grade commanders or general officers may punish warrant officers; and
- General officers may punish field grade officer.

The bill revises the nonjudicial punishment provisions to:

- Clarify extra duty may not exceed a period of 14 days of active duty, whether state active duty, annual training, or any similar duty, or 14 unit training assemblies.
- Provide that restriction to the armory, training site, or any other specified limitations, with or without suspension from duty, may not exceed a period of 14 days of active duty, whether state active duty, annual training or any similar duty, or 14 unit training assemblies.
- Provide a fine cap of \$200 per violation.
- Provide for reduction by no more than two pay grades for enlisted personnel in the E-4 pay grade or below and reduction of one grade of enlisted personnel in the E-5 pay grade or above.
- Forfeiture of base pay for a period not to exceed 14 days of active duty, whether state active duty, annual training, or any similar duty, or 14 unit training assemblies.

The bill provides that a commander, or a successor in command over the person punished, may, at any time, suspend any part or amount of the punishment subject to the following conditions:

- Any unexecuted punishment may be suspended at any time;
- Any executed punishment of any grade reduction, fine, or forfeiture of pay, may only be suspended within eight months after the date of execution; and
- The suspension cannot be longer than 12 months from the date of suspension, but the expiration of the current enlistment or term of service of the servicemember involved automatically terminates the period of suspension.

The bill specifies that the regulations adopted by the FLNG may provide for plenary and summarized nonjudicial punishment.

The bill provides which commanders have the authority to reduce certain enlisted servicemember pay grades.

The bill provides that in addition to a dismissal of a general or special courts-martial case, a dismissal of any specific charge or offense may be appealed by the FLNG to the First District Court of Appeal.

The bill specifies that a finding of guilt and the sentence of a nonjudicial punishment may be appealed only to the next highest commander in the accused's chain of command and any such appeal is final.

Section 5 amends s. 250.351, F.S., regarding court-martial jurisdiction, to provide that members of the FLNG are subject to ch. 250, F.S., regardless of whether in civilian or military status. Jurisdiction is based exclusively on membership in the FLNG and is not subject to additional requirements.

This section provides that subject matter jurisdiction is established if a nexus exists between an offense, either military or nonmilitary, and the state military force. The bill specifies that courts-martial under the FCMJ have primary jurisdiction of military offenses committed when the member is not in the active service. If a nonmilitary offense violates both the FCMJ and local criminal law (foreign or domestic), a proper civilian court has primary jurisdiction. In such cases, a court-martial may be initiated only after the civilian authority has declined to prosecute or dismissed the charge, provided jeopardy has not attached.

This section also provides that jurisdiction over attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be determined by the underlying offense. Courts-martial under the FCMJ may be initiated for offenses committed by a FLNG member while in the active service only after the commander with authority over the offense under the UCMJ has declined to prosecute or dismissed the charge, provided jeopardy has not attached.

Section 6 amends s. 250.36, F.S., to provide for the issuance and execution of search authorizations by the Adjutant General, when not in active service, or his or her designee, or a military judge, when the FLNG or the Department of Military Affairs has control over the location where property or the person to be searched is situated or found. If the location is not under military control, the commander has control over such property of persons subject to military law or law of war.

Section 7 amends s. 250.375, F.S., to provide that in addition to any state, a physician who holds a license to practice medicine in any territory of the United State or the District of Columbia, while serving as a medical officer with or in support of the FLNG, may practice medicine on military personnel or civilians during an emergency, declared disaster, or during federal military training.

Section 8 amends s. 250.40, F.S., to revise the Armory Board membership to specify that the Assistant Adjutant General must be from the Army. The bill provides that a member of the Armory Board may request excusal from a board meeting by the Adjutant General or his or her designee. The excused member may delegate the authority to a deputy commander or executive officer to attend the meeting as an alternate member with voting privileges.

Section 9 provides that the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

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:

Lines 253 to 255 state “[a] court-martial in this state is an administrative *procedure* of the executive branch and not a court under the control of the judicial branch.” The constitution and ch. 255, F.S., expressly provides for judicial review in the First District Court of Appeal. The current language is a bit confusing as worded and may be read to be in conflict with the authority for judicial review. It is suggested that amendment be considered to expressly state that courts-martial are a *proceeding* within the executive branch and not a court as established under article V of the state constitution.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.205, 121.055, 250.10, 250.35, 250.351, 250.36, 250.375, and 250.40.

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

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1 A bill to be entitled
 2 An act relating to military affairs; amending s.
 3 110.205, F.S.; deleting a provision requiring that
 4 certain military personnel have the same salary and
 5 benefits as career service employees; amending s.
 6 121.055, F.S.; revising the list of positions in the
 7 Department of Military Affairs subject to compulsory
 8 membership in the Senior Management Service Class of
 9 the Florida Retirement System; amending s. 250.10,
 10 F.S.; modifying minimum qualifications and duties of
 11 the Adjutant General; modifying the minimum
 12 qualifications for additional officers appointed by
 13 the Adjutant General; amending s. 250.35, F.S.;
 14 designating the provisions of ch. 250, F.S., and the
 15 Uniform Code of Military Justice as the Florida Code
 16 of Military Justice; specifying that a court-martial
 17 is an administrative procedure under the executive
 18 branch of state government; revising procedures
 19 applicable to various court-martial proceedings;
 20 revising the types of punishments a person found
 21 guilty in a court-martial proceeding is subject to;
 22 authorizing certain commanders to suspend punishment,
 23 subject to specified limitations; authorizing Florida
 24 National Guard regulations to provide for nonjudicial
 25 punishment; specifying the authority of certain
 26 commanders to reduce grades of enlisted personnel,
 27 subject to specified limitations; modifying procedures
 28 governing appeals of a court-martial finding and
 29 sentence; amending s. 250.351, F.S.; revising

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30 provisions governing the applicability of ch. 250,
 31 F.S., and the Florida Code of Military Justice;
 32 specifying conditions under which subject matter
 33 jurisdiction is established in certain cases; amending
 34 s. 250.36, F.S.; authorizing the Adjutant General, the
 35 Adjutant General's designee, or a military judge to
 36 issue and execute search authorizations under
 37 specified circumstances; amending s. 250.375, F.S.;
 38 revising authorization for certain physicians serving
 39 as medical officers with, or in support of, the
 40 Florida National Guard to practice medicine under
 41 certain circumstances; amending s. 250.40, F.S.;
 42 revising the composition of the Armory Board;
 43 authorizing board members to request excusal from an
 44 Armory Board meeting; providing for the designation of
 45 an alternate board member in the event of an excusal;
 46 modifying a provision governing the length of the term
 47 of board members; conforming a cross-reference;
 48 providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Paragraph (p) of subsection (2) of section
 53 110.205, Florida Statutes, is amended to read:
 54 110.205 Career service; exemptions.—
 55 (2) EXEMPT POSITIONS.—The exempt positions that are not
 56 covered by this part include the following:
 57 (p)~~1~~ All military personnel of the Department of Military
 58 Affairs. Unless otherwise fixed by law, the salary and benefits

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59 for such military personnel shall be set by the Department of
60 Military Affairs in accordance with the appropriate military pay
61 schedule.

62 ~~2. The military police chiefs, military police officers,
63 firefighter trainers, firefighter rescuers, and electronic
64 security system technicians shall have salary and benefits the
65 same as career service employees.~~

66 Section 2. Paragraph (g) of subsection (1) of section
67 121.055, Florida Statutes, is amended to read:

68 121.055 Senior Management Service Class.—There is hereby
69 established a separate class of membership within the Florida
70 Retirement System to be known as the "Senior Management Service
71 Class," which shall become effective February 1, 1987.

72 (1)

73 (g) Effective July 1, 1996, participation in the Senior
74 Management Service Class is shall be compulsory for any member
75 of the Florida Retirement System employed with the Department of
76 Military Affairs in the positions of the Adjutant General,
77 Assistant Adjutant General-Army, Assistant Adjutant General-Air,
78 State Quartermaster, Director of Human Resources, Director of
79 Legislative Affairs, Inspector General, Executive Officer
80 ~~Military Personnel, Director of Administration~~, and additional
81 directors as designated by the agency head, not to exceed a
82 total of 10 positions. In lieu of participation in the Senior
83 Management Service Class, such members may participate in the
84 Senior Management Service Optional Annuity Program ~~as~~
85 established in subsection (6) if enrolled in the program before
86 July 1, 2017.

87 Section 3. Subsections (1), (2), (4), and (5) of section

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88 250.10, Florida Statutes, are amended to read:

89 250.10 Appointment and duties of the Adjutant General.—

90 (1) In case of a vacancy, the Governor shall, subject to
91 confirmation by the Senate, appoint a federally recognized
92 officer of the Florida National Guard, who has served in the
93 Florida National Guard for at least ~~the preceding~~ 5 years and
94 attained the rank of colonel or higher, to be the Adjutant
95 General of the state with the rank of not less than brigadier
96 general or such higher rank as authorized by applicable tables
97 of organization of the Department of the Army or the Department
98 of the Air Force. The Adjutant General and all other military
99 personnel of the Florida National Guard on full-time military
100 duty with the Department of Military Affairs, except military
101 police and firefighters, who are paid from state funds shall
102 receive the pay and allowances of their respective grade as
103 prescribed by applicable pay tables of the national military
104 establishment for similar grade and period of service of
105 personnel, unless a different rate of pay and allowances is
106 specified in an appropriation act of the Legislature. An
107 officer, with his or her consent, may be ordered to state active
108 duty for administrative duty with the Department of Military
109 Affairs at a grade lower than the officer currently holds.

110 (2) The Adjutant General shall:

111 (a) Serve as the commanding general of Florida's organized
112 militia.

113 (b) Supervise the receipt, preservation, repair,
114 distribution, issue, and collection of all arms and military
115 equipment of the state.

116 (c) ~~(b)~~ Supervise all troops and branches of the Florida

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117 National Guard, including their organization, armament,
 118 discipline, training, recruiting, inspection, instruction, pay,
 119 subsistence, and supplies.

120 (d)~~(e)~~ Maintain records of all military personnel of the
 121 Florida National Guard, and maintain copies of all orders,
 122 reports, and communications received and issued by him or her.

123 (e)~~(d)~~ Cause the law and orders relating to the Florida
 124 National Guard to be indexed, printed, and bound, and prepare
 125 and publish blank books, forms, and stationery when necessary,
 126 and furnish them at the expense of the state.

127 (f)~~1.(e)1.~~ Prepare and publish by order of the Governor
 128 orders, rules, and regulations, consistent with law, to bring
 129 the organization, armament, equipment, training, and discipline
 130 of the Florida National Guard to a state of efficiency as near
 131 as possible to that of the regular United States Army and Air
 132 Force, and the Adjutant General shall attest all orders of the
 133 commander in chief relating to the Florida National Guard.

134 2. Establish by directive an organized and supervised
 135 physical fitness program for military personnel of the
 136 Department of Military Affairs, provided that the program does
 137 not exceed 1 hour per day, for a maximum of 3 hours per week,
 138 and originates and terminates at the normal worksite. All fees,
 139 membership dues, equipment, and clothing relating to such
 140 physical fitness program shall be at no cost to the state.
 141 Administrative leave, not to exceed 3 hours per week, shall be
 142 provided by the department to all personnel authorized to
 143 participate in the physical fitness program.

144 3. Establish by directive a post exchange store for members
 145 of the Florida National Guard, their families, guests, and other

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146 authorized users. The post exchange store shall be located at
 147 the Camp Blanding Training Site. The primary purpose of the
 148 store is to provide for the morale, recreation, and welfare of
 149 all servicemembers training at the Camp Blanding Training Site.
 150 The operation of the post exchange store must be in accordance
 151 with state and federal laws, rules, and regulations. Profits of
 152 the post exchange store, if any, shall be deposited in the Camp
 153 Blanding Management Trust Fund and shall be used to enhance the
 154 facilities and services provided by the Camp Blanding Training
 155 Site. The Adjutant General may establish an account with a
 156 federally insured financial institution in the state to
 157 facilitate the operations of the post exchange store.

158 (g)~~(f)~~ Prepare reports required by the Secretary of
 159 Defense.

160 (h)~~(g)~~ Perform other duties required of the Adjutant
 161 General by the commander in chief.

162 (i)~~(h)~~ Employ personnel as necessary for the proper conduct
 163 of the Department of Military Affairs. The Adjutant General may
 164 accept personnel provided by the Federal Government.

165 (j)~~(i)~~ Establish and maintain as part of the Adjutant
 166 General's office a repository of records of the services of
 167 Florida troops during all wars, and be the custodian of all
 168 records, relics, trophies, colors, and histories relating to
 169 such wars which are possessed or acquired by the state.

170 (k)~~(j)~~ Maintain a seal of office, approved by the commander
 171 in chief, and all copies of papers in his or her office, duly
 172 certified and authenticated under the seal, are admissible in
 173 evidence in all cases in like manner as if the original were
 174 produced.

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175 (l)~~(k)~~ Provide, upon request, a summary to the Governor on
 176 the number and condition of the Florida National Guard and the
 177 number and condition of the arms and property in the custody of
 178 the state, and transmit to the Governor at that time a detailed
 179 report of all funds and moneys received and disbursed by the
 180 Department of Military Affairs. The Adjutant General may also
 181 recommend needed legislation as he or she deems proper.

182 (m)~~(l)~~ Subject to annual appropriations, administer youth
 183 About Face programs and adult Forward March programs at sites to
 184 be selected by the Adjutant General. Both programs must provide
 185 schoolwork assistance, focusing on the skills needed to master
 186 basic high school competencies and functional life skills,
 187 including teaching students to work effectively in groups;
 188 providing basic instruction in computer skills; teaching basic
 189 problem-solving, decisionmaking, and reasoning skills; teaching
 190 how the business world and free enterprise work through computer
 191 simulations; and teaching home finance and budgeting and other
 192 daily living skills.

193 1. About Face is a summer and year-round after-school life-
 194 preparation program for economically disadvantaged and at-risk
 195 youths from 13 through 17 years of age. The program must provide
 196 training in academic study skills, and the basic skills that
 197 businesses require for employment consideration.

198 2. Forward March is a job-readiness program for
 199 economically disadvantaged participants who are directed to
 200 Forward March by the local workforce development boards. The
 201 Forward March program shall provide training on topics that
 202 directly relate to the skills required for real-world success.
 203 The program shall emphasize functional life skills, computer

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204 literacy, interpersonal relationships, critical-thinking skills,
 205 business skills, preemployment and work maturity skills, job-
 206 search skills, exploring careers activities, how to be a
 207 successful and effective employee, and some job-specific skills.
 208 The program also shall provide extensive opportunities for
 209 participants to practice generic job skills in a supervised work
 210 setting. Upon completion of the program, Forward March shall
 211 return participants to the local workforce development boards
 212 for placement in a job placement pool.

213 (n)~~(m)~~ Order troops to state active duty for training,
 214 subject to approved appropriations or grants.

215 (o)~~(n)~~ Issue decorations and awards pursuant to military
 216 regulations and instructions.

217 (4) (a) The Adjutant General shall, subject to confirmation
 218 by the Senate, employ a federally recognized officer of the
 219 Florida National Guard, who has served in the Florida Army Guard
 220 for at least 3 ~~the preceding 5~~ years and attained the rank of
 221 colonel or higher at the time of appointment, to be the
 222 Assistant Adjutant General for Army.

223 (b) The Adjutant General may, subject to confirmation by
 224 the Senate, employ an additional, federally recognized officer
 225 of the Florida National Guard, who has served in the Florida
 226 Army Guard for at least 3 ~~the preceding 5~~ years and attained the
 227 rank of colonel or higher at the time of appointment, to be a
 228 second Assistant Adjutant General for Army.

229
 230 Each officer shall perform the duties required by the Adjutant
 231 General.

232 (5) The Adjutant General shall, subject to confirmation by

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 233 the Senate, employ a federally recognized officer of the Florida
 234 National Guard, who has served in the Florida Air Guard for at
 235 least 3 ~~the preceding 5~~ years and attained the rank of colonel
 236 or higher at the time of appointment, to be the Assistant
 237 Adjutant General for Air. The officer shall perform the duties
 238 required by the Adjutant General.

239 Section 4. Section 250.35, Florida Statutes, is amended to
 240 read:

241 250.35 Florida Code of Military Justice Courts-martial.-
 242 (1) The Uniform Code of Military Justice (UCMJ), 10 U.S.C.
 243 ss. 801 et seq., and the Manual for Courts-Martial (2019 ~~2012~~
 244 Edition) are adopted for use by the Florida National Guard,
 245 except as otherwise provided by this chapter. The UCMJ, together
 246 with the provisions of this chapter, shall be referred to as the
 247 Florida Code of Military Justice (FCMJ).

248 (2) Courts-martial may try a member of the Florida National
 249 Guard for any crime or offense made punishable under the FCMJ by
 250 the Uniform Code of Military Justice (2012 Edition), except that
 251 a commissioned officer, warrant officer, or cadet may not be
 252 tried by summary courts-martial.

253 (3) A court-martial in this state is an administrative
 254 procedure of the executive branch and not a court under the
 255 control of the judicial branch.

256 (4) Courts-martial in the state ~~shall be of~~
 257 ~~three kinds, namely:~~ general courts-martial, special courts-
 258 martial, and summary courts-martial. General courts-martial and
 259 special courts-martial shall be tried by a military judge and a
 260 panel of officers pursuant to the Manual for Courts-Martial,
 261 except as otherwise provided by Florida as designated in

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 262 ~~applicable~~ National Guard regulations. However, a panel may
 263 include enlisted members, at the request of an enlisted person
 264 who is accused of a crime or an offense defendant. The military
 265 judge in a general court-martial or special court-martial must
 266 be qualified by attendance at appropriate Judge Advocate General
 267 schools ~~or and~~ must be certified as qualified by the Adjutant
 268 General of Florida. In a general and special court-martial, the
 269 ~~accused defendant~~ may waive trial by panel and request trial by
 270 military judge alone. The granting of such waiver is shall be in
 271 the military judge's discretion. The military judge in a summary
 272 court-martial must be a commissioned officer who is appointed by
 273 the Summary Courts-Martial Convening Authority or any higher
 274 authority.

275 (5) ~~(4)~~ General courts-martial in the Florida National Guard
 276 may be convened by order of the President of the United States,
 277 the Governor, or the Adjutant General. This duty may not be
 278 delegated. as delegated by the Governor, and Such courts may,
 279 upon a finding of guilt, adjudge no punishment or adjudge any
 280 one or more of the following punishments:

281 (a) Confinement in an appropriate penal institution for a
 282 period not to exceed 367 days.

283 (b) Dismissal or discharge from the Florida National Guard
 284 with a characterization of service deemed appropriate by the
 285 military judge or enlisted members, including a dishonorable or
 286 bad conduct discharge.

287 (c) A fine not to exceed \$500 per violation.

288 (d) Forfeiture of all pay and allowances, or a portion
 289 thereof.

290 (e) Reduction to the lowest or any intermediate pay grade

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291 of enlisted persons.

292 (f) A written reprimand filed in the official military
 293 personnel file of the person found guilty adjudge a fine not
 294 exceeding \$500, confinement not in excess of 200 days,
 295 forfeiture of all pay and allowances, reprimand, dismissal, or
 296 dishonorable discharge from the service, and reduction to the
 297 lowest enlisted grade or any intermediate grade for enlisted
 298 personnel. Any two or more of such punishments may be combined
 299 in the sentence authorized in this section.

300 (6)(5) Special courts-martial authorized to adjudicate a
 301 bad conduct discharge in When not in the active service of the
 302 United States, the commanding officer of each major command of
 303 the Florida National Guard or his or her superior commander may
 304 be convened by order of commanding officers of the Florida
 305 National Guard who are in the accused's chain of command and
 306 hold the rank of colonel, or any person who is authorized to
 307 convene a general court-martial ~~convene special courts-martial~~
 308 ~~empowered to adjudicate a bad conduct discharge from the~~
 309 ~~service, subject to the procedural protections provided in 10~~
 310 ~~U.S.C. s. 819. This duty may not be delegated. Such a court-~~
 311 ~~martial may, upon a finding of guilt, adjudge no punishment or~~
 312 ~~adjudge any one or more of the following punishments:~~

313 (a) Confinement in an appropriate penal institution for a
 314 period not to exceed 100 days.

315 (b) Discharge from the Florida National Guard with a bad
 316 conduct discharge.

317 (c) A fine not to exceed \$400 per violation.

318 (d) Forfeiture of all pay and allowances, or a portion
 319 thereof, for a period not to exceed 1 year.

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320 (e) Reduction to the lowest or any intermediate pay grade
 321 of enlisted persons.

322 (f) A written reprimand filed in the official military
 323 personnel file of the person found guilty ~~Special courts-martial~~
 324 ~~with bad conduct discharge authority have the same powers of~~
 325 ~~punishment as do general courts-martial, except that fines~~
 326 ~~adjudged by special courts-martial may not exceed \$300 and~~
 327 ~~confinement may not exceed 100 days. Special courts-martial with~~
 328 ~~bad conduct discharge authority may adjudicate a bad conduct~~
 329 ~~discharge from the service, but may not adjudicate a dismissal~~
 330 ~~or dishonorable discharge from the service.~~

331 (7)(6) Special courts-martial not authorized to adjudicate
 332 a bad conduct discharge in the Florida National Guard may be
 333 convened by order of the commanding officers of the Florida
 334 National Guard who are in the accused's chain of command and
 335 hold the rank of lieutenant colonel, or any person who is
 336 authorized to convene a general court-martial or special court-
 337 martial that is authorized to adjudicate a bad conduct
 338 discharge. This duty may not be delegated. Such a court-martial
 339 may, upon a finding of guilt, adjudge no punishment or adjudge
 340 one or more of the following punishments:

341 (a) Confinement in an appropriate penal institution for a
 342 period not to exceed 100 days.

343 (b) A fine not to exceed \$300 per violation.

344 (c) Forfeiture of all pay and allowances, or a portion
 345 thereof, for a period not to exceed 60 days.

346 (d) Reduction to the lowest or any intermediate pay grade
 347 of enlisted persons.

348 (e) A written reprimand filed in the official military

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349 ~~personnel file of the person found guilty~~ When not in the active
 350 ~~service of the United States, the commanding officer of each~~
 351 ~~garrison, fort, post, camp, air base, auxiliary air base, any~~
 352 ~~other place where troops are on duty, division, brigade, group,~~
 353 ~~regiment, battalion, wing, or squadron may convene special~~
 354 ~~courts-martial for his or her command; but such special courts-~~
 355 ~~martial may be convened by superior commanders when advisable.~~
 356 ~~Special courts-martial have the same powers of punishment as~~
 357 ~~general courts-martial, except that fines adjudged by special~~
 358 ~~courts-martial may not exceed \$300 and confinement may not~~
 359 ~~exceed 100 days, and dismissal or discharge from the service may~~
 360 ~~not be adjudicated.~~

361 (8)(7) Summary courts-martial in the Florida National Guard
 362 may be convened by order of commanding officers of the Florida
 363 National Guard who are in the accused's chain of command and
 364 hold the rank of lieutenant colonel, or any person authorized to
 365 convene a general court-martial or special court-martial. This
 366 duty may not be delegated. Such courts-martial may, upon a
 367 finding of guilt, adjudge no punishment or adjudge any one or
 368 more of the following punishments:

369 (a) Confinement in an appropriate penal institution for a
 370 period not to exceed 25 days.

371 (b) A fine not to exceed \$200 per violation.

372 (c) Forfeiture of all pay and allowances, or a portion
 373 thereof, for a period not to exceed 60 days.

374 (d) Reduction to no more than two pay grades below the
 375 person's current pay grade.

376 (e) A reprimand ~~When not in the active service of the~~
 377 ~~United States, the commanding officer of each battalion, higher~~

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378 ~~headquarters, or similar type unit may convene summary courts-~~
 379 ~~martial for such place or command. Any person who may convene a~~
 380 ~~general court-martial or special court-martial may convene a~~
 381 ~~summary court-martial. Summary courts-martial may adjudge a fine~~
 382 ~~not in excess of \$200 per offense, confinement not in excess of~~
 383 ~~25 days, forfeiture of pay and allowances, and reduction by one~~
 384 ~~grade of members whom the convening authority had the authority~~
 385 ~~to promote to their present grade. Any two or more of such~~
 386 ~~punishments may be combined in the sentence authorized to be~~
 387 ~~imposed by such courts, except that confinement may not be~~
 388 ~~combined with a fine.~~

389 (9)(8) Commanding officers ~~When not in the active service~~
 390 ~~of the United States, commanders may impose nonjudicial~~
 391 ~~punishment in accordance with Florida National Guard~~
 392 ~~regulations. Enlisted personnel may receive nonjudicial~~
 393 ~~punishment from the unit commander or from any higher commander~~
 394 ~~in their chain of command. Company grade and warrant officers~~
 395 ~~may receive nonjudicial punishment from any commander who is a~~
 396 ~~field grade or general officer in their chain of command. Field~~
 397 ~~grade officers may receive nonjudicial punishment from any~~
 398 ~~commander who is a general officer in their chain of command.~~
 399 ~~Such commanders may, upon a finding of guilt, adjudge no~~
 400 ~~punishment or adjudge one or more of the following punishments~~
 401 ~~10 U.S.C. s. 815, except that punishment may not exceed:~~

402 (a) Oral or written reprimand.

403 (b) Extra duty for a period not to exceed 14 days of active
 404 duty, whether state active duty, annual training, or any similar
 405 duty, or 14 unit training assemblies.

406 (c) Restriction to the armory, training site, or any other

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407 specified limitations, with or without suspension from duty, for
 408 a period not to exceed 14 days of active duty, whether state
 409 active duty, annual training, or any similar duty, or 14 unit
 410 training assemblies.

411 (d) A fine not to exceed ~~Fines of~~ \$200 per violation.

412 (e) Reduction of up to two grades for enlisted personnel in
 413 the E-4 pay grade or below and reduction of one grade of
 414 enlisted personnel in the E-5 pay grade or above ~~by one grade of~~
 415 a member whom the commander had the authority to promote.

416 (f) Forfeiture of base pay for a period not to exceed 14
 417 days of active duty, whether state active duty, annual training,
 418 or any similar duty, or 14 unit training assemblies.

419 (g) Any combination of paragraphs (a)-(f) ~~(a) (e)~~, except
 420 that a combination of punishment imposed under paragraphs (b)
 421 and (c) may not exceed 14 days or 14 unit training assemblies.

422 (10) The commander who imposes nonjudicial punishment, or a
 423 successor in command over the person being punished, may suspend
 424 any part or amount of the punishment at any time, subject to the
 425 following conditions:

426 (a) Any unexecuted punishment may be suspended at any time.

427 (b) An executed punishment of any grade reduction, fine, or
 428 forfeiture of pay may only be suspended within a period of 8
 429 months after the date of execution.

430 (c) A punishment may not be suspended for a period
 431 exceeding 12 months from the date of suspension, and the
 432 expiration of the affected servicemember's current enlistment or
 433 term of service automatically terminates the period of
 434 suspension.

435 (11) Florida National Guard regulations may provide for

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436 plenary and summarized nonjudicial punishment.

437 (12) A commander is authorized to reduce the grade of
 438 enlisted personnel in ranks through courts-martial or
 439 nonjudicial punishment, subject to the following conditions:

440 (a) Unless jurisdiction is withheld by a higher level
 441 commander, commanders in command positions with the rank of
 442 captain are authorized to reduce grades of personnel serving in
 443 grades E-2 through E-4.

444 (b) Unless jurisdiction is withheld by a higher level
 445 commander, commanders in command positions with the rank of
 446 lieutenant colonel are authorized to reduce grades of personnel
 447 serving in grades E-2 through E-6.

448 (c) Unless jurisdiction is withheld by a higher level
 449 commander, commanders in command positions with the rank of
 450 colonel and above are authorized to reduce grades of personnel
 451 serving in grades E-2 through E-9.

452 (13) (a)-(9) A finding of guilt and the sentence of a summary
 453 court-martial may be appealed to the convening authority. If a
 454 sentence of imprisonment has been adjudged, the findings and
 455 sentence may be appealed to the Adjutant General.

456 (b) ~~(10)~~ (a) A finding of guilt and the sentence of a court-
 457 martial convened under this chapter, as approved by the
 458 convening authority and the Adjutant General if a sentence of
 459 imprisonment has been adjudged, may be appealed to the First
 460 District Court of Appeal.

461 (c) ~~(b)~~ Any dismissal of a general or special court-martial
 462 case, or any specific charge or offense, by the military judge
 463 which does not violate the ~~accused's~~ ~~defendant's~~ constitutional
 464 rights may be appealed by the Florida National Guard to the

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465 First District Court of Appeal.

466 (d) A finding of guilt and the sentence of a nonjudicial
 467 punishment may be appealed only to the next highest commander in
 468 the accused's chain of command. Any such appeal is final.

469 ~~(14)(11)~~ When the Florida National Guard is not in the
 470 active service of the United States, a sentence of dismissal
 471 from the service or dishonorable discharge from the service,
 472 imposed by court-martial, may not be executed until approved by
 473 the Governor.

474 Section 5. Section 250.351, Florida Statutes, is amended to
 475 read:

476 250.351 Court-martial; jurisdiction.—

477 (1) Members of the Florida National Guard are subject to
 478 this chapter and the Florida Uniform Code of Military Justice,
 479 including any provision authorizing punishment, at all times
 480 during their enlistment or appointment, regardless of whether in
 481 civilian or military status or serving in this state or outside
 482 the state. Jurisdiction is based exclusively on membership in
 483 the Florida National Guard and is not subject to any additional
 484 requirements.

485 (2) Subject matter jurisdiction is established if a nexus
 486 exists between an offense, either military or nonmilitary, and
 487 the state military force. Courts-martial under the Florida Code
 488 of Military Justice have primary jurisdiction of military
 489 offenses committed when the member is not in the active service
 490 of the United States. A proper civilian court has primary
 491 jurisdiction of a nonmilitary offense when an act or omission
 492 violates both the Florida Code of Military Justice and local
 493 criminal law, foreign or domestic. In such cases, a court-

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494 martial may be initiated only after the civilian authority has
 495 declined to prosecute or has dismissed the charge, provided
 496 jeopardy has not attached. Jurisdiction over attempted crimes,
 497 conspiracy crimes, solicitation, and accessory crimes must be
 498 determined by the underlying offense. Courts-martial under the
 499 Florida Code of Military Justice may be initiated for offenses
 500 committed by a Florida National Guard member while in the active
 501 service of the United States only after the commander with
 502 authority over the offense under the Uniform Code of Military
 503 Justice has declined to prosecute or dismissed the charge,
 504 provided jeopardy has not attached.

505 (3) Courts-martial ~~A court martial or court of inquiry~~ may
 506 be convened and held in a unit of the Florida National Guard
 507 serving outside the state, and the court has the same
 508 jurisdiction and powers as if the court-martial ~~or court of~~
 509 ~~inquiry~~ were held within the state. An offense committed outside
 510 the state may be tried and punished outside the state or within
 511 the state.

512 Section 6. Section 250.36, Florida Statutes, is amended to
 513 read:

514 250.36 Mandates and process.—

515 (1) Military courts may issue all process and mandates,
 516 including writs, warrants, and subpoenas, necessary to carry out
 517 the powers vested in the courts. Such mandates and process may
 518 be directed to the sheriff of any county and must be in the form
 519 prescribed by the Adjutant General in the rules issued by him or
 520 her under this chapter. All officers to whom such mandates and
 521 process are directed must execute the same and make returns of
 522 their acts thereunder according to the requirements of the form

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523 of process. Any sheriff or other officer who neglects or refuses
524 to perform the duty enjoined upon him or her by this chapter is
525 subject to the same liabilities, penalties, and punishments as
526 are prescribed by the law for neglect or refusal to perform any
527 other duty of his or her office.

528 (2) When not in the active service of the United States,
529 the Adjutant General, or his or her designee, or a military
530 judge ~~of the Florida National Guard~~ may issue a pretrial
531 confinement warrant for the purpose of securing the presence of
532 an accused at trial. The warrant must be directed to the sheriff
533 of the county, directing the sheriff to arrest the accused and
534 bring the accused before the court for trial if the accused has
535 disobeyed an order in writing to appear before the court which
536 was delivered to the accused in person or mailed to the
537 accused's last known address, along with a copy of the charges.
538 Pretrial confinement may not exceed 48 hours. However, the
539 Adjutant General or military judge may extend pretrial
540 confinement for not more than 15 days in order to facilitate the
541 presence of the accused at trial. For purposes of this
542 subsection, the term "military judge" does not include a summary
543 court-martial officer who is not qualified to act as a military
544 judge in general or special courts-martial.

545 (3) When not in the active service of the United States,
546 the Adjutant General, or his or her designee, or a military
547 judge ~~of the Florida National Guard~~ may issue subpoenas and
548 subpoenas duces tecum and enforce by attachment the attendance
549 of witnesses and the production of documents and other items of
550 evidentiary value.

551 (4) When not in the active service of the United States,

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552 the Adjutant General, or his or her designee, or a military
553 judge may issue and execute search authorizations when the
554 Florida National Guard or the Department of Military Affairs has
555 control over the location where the property or the person to be
556 searched is situated or found. If the location is not under
557 military control, the commander has control over such property
558 or persons subject to military law or law of war.

559 (5) When a sentence of confinement is imposed by any court-
560 martial of the Florida National Guard, the Adjutant General or
561 his or her designee whose approval makes effective the sentence
562 imposed by the court-martial shall issue a warrant directing the
563 sheriff of the appropriate county to take the convicted person
564 into custody and confine him or her in the jail of such county
565 for the period specified in the sentence of the court. Any
566 sheriff receiving such warrant must promptly execute the warrant
567 by taking the convicted person into custody and confining him or
568 her in jail. The sheriff or jailer in charge of any county jail
569 shall receive any person committed for confinement in such jail
570 under proper process from a court-martial, and provide for the
571 care, subsistence, and safekeeping of such prisoner just as the
572 sheriff or jailer would a prisoner properly committed for
573 custody under the sentence of any civil or criminal court.

574 ~~(6)-(5)~~ All sums of money collected through fines adjudged
575 by a general, special, or summary court-martial or through the
576 imposition of nonjudicial punishment of the Florida National
577 Guard shall be paid over at once by the officer collecting the
578 fine to the commanding officer of the organization to which the
579 member belongs and be deposited in accordance with s.
580 250.40(5)(c)1.

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581 Section 7. Section 250.375, Florida Statutes, is amended to
582 read:

583 250.375 Medical officer authorization.—Physicians who hold
584 an active license to practice medicine in any ~~other~~ state, any
585 territory of the United States, or the District of Columbia
586 Puerto Rico, while serving as medical officers with, or in
587 support of, in the Florida National Guard, pursuant to federal
588 or state orders, are expressly authorized to practice medicine
589 on military personnel or civilians during an emergency, declared
590 disaster, or during federal military training.

591 Section 8. Subsections (2) and (3) and paragraph (c) of
592 subsection (5) of section 250.40, Florida Statutes, are amended
593 to read:

594 250.40 Armory Board; creation; membership, terms, and
595 compensation; duties and responsibilities.—

596 (2) (a) Voting members of the Armory Board include the
597 Governor as Commander in Chief and chair of the board, the
598 Adjutant General as vice chair, the Assistant Adjutants General
599 of the Army, and major subordinate command commanders reporting
600 directly to the Adjutant General, in the active Florida National
601 Guard. ~~If necessary due to exigencies of military duty, any~~
602 ~~member of the board may delegate his or her deputy commander to~~
603 ~~attend the meetings as an alternate member with voting~~
604 ~~privileges.~~

605 (b) Any member of the Armory Board may request excusal from
606 a meeting from the Adjutant General or his or her designee. Any
607 excused member may delegate his or her deputy commander or
608 executive officer to attend such meeting as an alternate member
609 with voting privileges.

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610 (c) The Governor may appoint one representative from his or
611 her staff to attend meetings of the Armory Board. The appointee
612 shall serve as a nonvoting advisory member and liaison to the
613 board.

614 ~~(d) (e)~~ The State Quartermaster shall act as the recorder
615 and secretary of the Armory Board. In addition, the State
616 Quartermaster shall execute the policy, decisions, and official
617 actions of the board. When the board is in recess, the State
618 Quartermaster shall conduct the day-to-day business of the
619 board. The State Quartermaster and his or her staff are not
620 liable, civilly or criminally, for any lawful act done by them
621 in the performance of their duty, while acting in good faith,
622 and while acting in the scope of either state or federal duty.

623 (3) The term of each member of the Armory Board is the
624 period during which the member possesses the title and
625 qualifications for such membership as provided in this chapter
626 ~~under subsection (1).~~

627 (5) The Armory Board must:

628 (c) Receive from counties, municipalities, and other
629 sources donations of land, services, or money to aid in
630 providing, operating, improving, and maintaining armories and
631 other facilities used for military purposes. The national
632 military policy recognizes the Florida National Guard as an
633 important component of the United States Army and Air Force, and
634 a member of the total force, sharing in the defense of the
635 country. The Florida National Guard is available to assist the
636 state and local governments in the event of an emergency.
637 Therefore, it is reasonable and equitable that the expense of
638 maintaining the Florida National Guard be shared by the federal,

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639 state, and local governments. As the Federal Government is
 640 providing liberally for the equipment and training of the
 641 Florida National Guard and the state for its administration,
 642 management, and maintenance, local governments are encouraged to
 643 provide services at no cost to Florida National Guard armories.

644 1. Any contributions of money, any moneys derived from the
 645 rental of armories and other facilities, the armory-operations
 646 allowances provided in s. 250.20, and all money collected
 647 through fines imposed by a court-martial or nonjudicial
 648 proceeding of the Florida National Guard, as provided in s.
 649 250.36(6) ~~s. 250.36(5)~~, shall be received on behalf of the
 650 Armory Board by the post commander of such facility and must be
 651 deposited into a federal depository, approved by the Department
 652 of Military Affairs, in an account in a banking institution in
 653 the county in which such facility is located.

654 2. The funds received shall be disbursed for the purposes
 655 enumerated in this subsection at the discretion of the post
 656 commander.

657 3. Any real property donated shall be held as other
 658 property for use by the state, and counties and municipalities
 659 may make donations of lands by deed or long-term lease and
 660 contributions of moneys for the purposes set forth in this
 661 section, and may issue bonds or certificates of indebtedness to
 662 provide funds for such purposes. Boards of county commissioners
 663 may levy taxes, not to exceed 1 mill, to provide funds for the
 664 construction of armories or for the retirement of bonds or
 665 certificates of indebtedness issued to provide funds for the
 666 construction of armories. Counties and municipalities may
 667 construct armories upon state-owned land, which may be made

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668 available for such purpose by action of the Armory Board.
 669 Counties and municipalities may also grant to the Armory Board,
 670 by deed or long-term leases, property that is acquired or
 671 buildings that are constructed for military purposes. Each local
 672 government is encouraged to provide economic incentives to
 673 reduce the cost of locating Florida National Guard facilities in
 674 its jurisdiction. A local government may appropriate funds to
 675 pay expenses of the Florida National Guard unit in its
 676 jurisdiction. Such funds will be received, accounted for, and
 677 dispersed as other funds received by the unit.

678 Section 9. This act shall take effect July 1, 2021.

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The Florida Senate

Committee Agenda Request

To: Senator Ray Wesley Rodrigues, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 12, 2021

I respectfully request that **Senate Bill #770**, relating to Military Affairs, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

24 MARCH

Meeting Date

SB 770

Bill Number (if applicable)

Topic SB 770 Provide Information if Required By Sponsor

Amendment Barcode (if applicable)

Name LTC TERRENEE GORMAN

Job Title Dept of Military Affairs

Address 84 MARINE STREET

Street

Phone 850-414-9049

ST Augustine FL

City

State

32084

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA DEPARTMENT OF MILITARY AFFAIRS

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)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 836

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Jones and others

SUBJECT: Gun Violence Reduction

DATE: March 24, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 836 creates the Urban Core Crime and Violence Task Force (Task Force) within the Florida Department of Law Enforcement (FDLE) to:

- Review system failures and the causes of high crime rates and violence in urban core neighborhoods and communities; and
- Develop recommendations for solutions, programs, services, and strategies for improved interagency communications between local and state government agencies to help reduce crime and violence in urban core neighborhoods and communities.

The task force is repealed June 30, 2023.

FDLE will likely incur increases in workload and associated costs. See V. Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

Task Force

Under Florida law, a task force is an advisory body created without specific statutory enactment for a time not to exceed one year, or created by specific statutory enactment for a time not to

exceed three years, and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.¹ The existence of a task force terminates upon the completion of its assignment.²

A statutorily created advisory body may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.³ Florida law requires an advisory body to inform the Legislature and the public of the body's purposes, memberships, activities, and expenses.⁴ Moreover, unless expressly permitted in statute, Florida law prohibits advisory board member compensation. Members may receive per diem and reimbursement of travel expenses.⁵

Firearm Violence

In 2017, firearms killed 39,773 people nationally; however, these shootings are disproportionately concentrated in urban areas that suffer from high rates of unemployment, poverty, and racial segregation.⁶ In American urban centers with significant minority populations, like New Orleans, Detroit, and Baltimore, the homicide rate is up to 10 times higher than the national average.⁷ Firearm homicide is the leading cause of death for black males ages 15 to 34.⁸

In 2018, 1,107 people in Florida died by firearm homicide at a rate of 5.3 homicides per 100,000 people.⁹ Firearms are the second leading cause of death among children and teens in Florida. An average of 175 children and teens die by firearms in Florida every year, and 68 percent of those deaths are homicides.¹⁰

Urban cores are areas that have high population densities of 7,500 people or more per square mile and higher transit, walking, and cycling rates. Urban cores also include non-rural communities with median house construction dates before 1945.¹¹

Although law enforcement agencies do not specifically isolate urban core firearm violence statistics in Florida, statistics are available for areas in Florida with higher population densities. For example, Ocala has experienced one of the highest percentage increases in the number of firearm violence incidents between 2014 and 2018 in the nation. Ocala experienced 26 firearm violence incidents in 2014 and 141 incidents in 2018, representing a 442.3 percent increase.¹²

¹ Section 20.03(8), F.S.

² *Id.*

³ Section 20.052(1), F.S.

⁴ Section 20.052(3), F.S.

⁵ Section 20.052(4)(d), F.S.

⁶ Melissa Chan, *How Likely is the Risk of Being Shot in America? It Depends*, Time Magazine (Aug. 19, 2019), <https://time.com/5476998/risk-of-guns-america/> (last visited March 19, 2021).

⁷ Ted Henrich, *Problem Management: The Federal Role in Reducing Urban Violence* (2012).

⁸ Garen J. Wintemute, *The Epidemiology of Firearm Violence in the Twenty-First Century United States*, Annual Review of Public Health (2015), <http://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-031914-122535> (last visited March 19, 2021).

⁹ Florida Department of Law Enforcement, *Florida Statewide Murder by Firearm* (2019), https://www.fdle.state.fl.us/FSAC/Documents/PDF/1971_fwd_murder_firearms.aspx (last visited March 19, 2021).

¹⁰ Centers for Disease Control, *Firearm Mortality by State* (2019) https://www.cdc.gov/nchs/pressroom/sosmap/firearm_mortality/firearm.htm (last visited March 19, 2021).

¹¹ Wendell Cox, *Urban Cores, Core Cities and Principal Cities*, Newgeography, (Aug. 1, 2014), <http://www.newgeography.com/content/004453-urban-cores-core-cities-and-principal-cities> (last visited March 19, 2021).

¹² Howard Cohen, *This Major Florida City Has the Most Gun Violence in the Country, Survey Says*, Miami Herald (Nov. 15, 2019), <https://www.miamiherald.com/news/state/florida/article237395479.html> (last visited March 19, 2021).

Evidence-Based Firearm Violence Reduction Models

Evidence-based violence intervention models apply a localized approach to gun violence prevention in neighborhoods disproportionately affected by gun violence.¹³ These programs identify individuals who are at the highest risk of becoming the victim or perpetrator of firearm violence, and work to reduce violence through targeted interventions.¹⁴ All evidence-based violence intervention programs are based on the premise that a small percentage of the population is responsible for the vast majority of violence.¹⁵ Intervening directly with those at highest risk for perpetrating shootings or being shot themselves has proven to reduce violence significantly.¹⁶

Group Violence Intervention Program

The Group Violence Intervention (GVI) Program, which first operated as Operation Ceasefire in Boston, Massachusetts, relies on direct communication with violent groups through a partnership of law enforcement, social service providers, and community figures.¹⁷ Law enforcement coordinates meetings with gang members and communicates that they will be targets of expanded law enforcement tactics if violent gang activity continues.¹⁸ Social service providers are also available during the meeting to help provide referrals for education, job training, counseling, and other services.¹⁹

Gun violence in Boston declined quickly after GVI was initiated in 1996.²⁰ Murders in Boston, which had reached a high in 1990 of 151, fell from 95 in 1995, to 43 in 1997. By 1999, Boston had only 31 murders, which was lower than the national rate.²¹ Boston's murder rate remained low until 2000, when the city abandoned the program.²² In 2001, murders in Boston increased to 65.²³

Cure Violence Program

Cure Violence, founded in 1995 at the University of Illinois at Chicago's School of Public Health, was designed to mediate high-risk conflicts before they became violent.²⁴ The Cure Violence program is based on the World Health Organization's approach to reversing the epidemic spread of infectious diseases.²⁵ In this program, outreach workers work in the community to reduce violence by:

- Directly communicating with those at the highest risk of engaging in violent behavior;
- Discussing the physical, economic, and psychological costs of engaging in violence; and

¹³ Henrich, *supra* note 7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 26-28.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Cure Violence Global, *Creating a World Without Violence* (2019), https://1vp6u534z5kr2qmr0w11t7ub-wpengine.netdna-ssl.com/wp-content/uploads/2019/09/CVGBrochure_2019_v5.pdf (last visited March 19, 2021).

²⁵ *Id.* at 2.

- Helping high-risk participants obtain support and social services such as:
 - Education;
 - Job training; and
 - Drug treatment.²⁶

Research has shown large reductions in violence where the Cure Violence model is applied.²⁷ When Cure Violence was implemented in Chicago, the city experienced a 100 percent reduction in retaliatory killings and 48 percent fewer shootings during the pilot program.²⁸ Loiza, Puerto Rico, experienced a 50 percent decrease in killings in the first year of implementation.²⁹ Three counties in Baltimore, Maryland, went without a shooting during the one-year period the program was implemented.³⁰

Hospital-Based Violence Intervention Program

A hospital-based violence intervention program (HVIP) includes a brief intervention in the emergency department or at the hospital bedside, followed by intensive community-based case management services in the months following a violent injury.³¹ HVIP services are provided by intervention specialists who often also serve as mentors to the injured participants.³² The HVIP model is based on evidence suggesting that, in the immediate aftermath of a violent assault, victims are receptive to making life changes and altering behavior to prevent future injury, giving intervention specialists an opportunity to break cycles of violence.³³

Program participants in an Indianapolis, Indiana, HVIP experienced a 4.4 percent violent reinjury rate³⁴ after the program was implemented.³⁵ The median violent reinjury rate nationally is 27.3 percent.³⁶ Moreover, predominantly African American men with a history of a previous violent injury receiving HVIP services were half as likely to be convicted of any crime, four times less likely to be convicted of a violent crime, and six times less likely to be hospitalized for a violent injury than those in a control group.³⁷

III. Effect of Proposed Changes:

Section 1 to creates the Urban Core Crime and Violence Task Force (Task Force) within the FDLE to:

- Review system failures and the causes of high crime rates and violence in urban core neighborhoods and communities; and

²⁶ *Id.* at 2.

²⁷ *Id.* at 4.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ National Network of Hospital-based Violence Intervention Programs, *Hospital-based Violence Intervention: Practices and Policies to End the Cycle of Violence* (Mar. 2019), <https://static1.squarespace.com/static/5d6f61730a2b610001135b79/t/5d83c0d9056f4d4cbdb9acd9/1568915699707/NNHVIP+White+Paper.pdf> (last visited March 19, 2021).

³² *Id.* at 2.

³³ *Id.*

³⁴ A violent reinjury rate is the rate at which violent injury victims experience subsequent violent injuries.

³⁵ *Id.* at 8.

³⁶ *Id.*

³⁷ *Id.*

- Develop recommendations for solutions, programs, services, and strategies for improved interagency communications between local and state government agencies to help reduce crime and violence in urban core neighborhoods and communities.

The Task Force will be comprised of 15 members who will serve at the pleasure of the officer who appointed him or her. The Task Force must be composed of four members appointed by each of the following, the:

- President of the Senate;
- Speaker of the House of Representatives; and
- Governor.

The Governor will appoint the chair from among the Governor's four appointees.

The other three members of the task force will include a representative of the Florida Police Chiefs Association, a representative of the Florida Sheriffs Association, and the Secretary of Children and Families or his or her designee.

All appointments must be made by August 1, 2021. The Task Force will meet at the call of the chair, at a time and location in the state designated by the chair. The Task Force may not conduct its meetings through teleconferences or other similar means. Members of the Task Force are authorized to receive reimbursement for per diem and travel expenses.

The Task Force is also authorized to request professional assistance from appropriate state agencies in performing its duties. The bill requires those state agencies to provide any requested assistance in a timely manner. The bill specifies that the Task Force may request, and must be provided with, access to any information or records that pertain to crime and firearm violence incidents in urban core neighborhoods and communities. The bill recognizes some information or records requested by the Task Force may be otherwise exempt or confidential and exempt. Such information and records retain their exempt or confidential and exempt status and may not be disclosed to a third party.

The Task Force must submit its report on its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 20, 2023.

The section of law created by the bill is repealed on June 30, 2023.

Section 2 provides the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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:

None.

C. Government Sector Impact:

FDLE will likely incur significant increases in workload and associated costs. FDLE estimates, based on the number of hours committed by the FDLE to the Marjory Stoneman Douglas Commission for similar support efforts, it will incur initial costs of \$414,183 and recurring costs of \$394,708 to support the Task Force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS creates the Urban Core Crime and Violence Task Force within the Department of Law Enforcement. This 15 member task force will review system failures and the causes of high crime rates and violence in urban core neighborhoods and communities. The task force will make recommendations and submit its report by June 30, 2023.

The CS deletes the Florida Firearm Violence Reduction Pilot Program and the Urban Core Gun Violence Task Force from the bill.

- B. **Amendments:**

None.

By Senator Jones

35-00849-21

2021836__

1 A bill to be entitled
 2 An act relating to gun violence reduction; creating s.
 3 943.6872, F.S.; creating the Urban Core Gun Violence
 4 Task Force; requiring the task force to comply with
 5 specified requirements; providing for membership;
 6 providing for staff support; providing requirements
 7 for meetings; specifying duties and powers of the task
 8 force; authorizing the task force to seek assistance
 9 from state agencies; providing for access to certain
 10 information and records; requiring an initial report;
 11 authorizing annual reports; providing for repeal of
 12 the task force; creating s. 943.6873, F.S.; creating
 13 the Florida Firearm Violence Reduction Pilot Program;
 14 providing the purpose of the pilot program; defining
 15 terms; providing program eligibility and application
 16 requirements; authorizing the Department of Law
 17 Enforcement to provide grants to a specified number of
 18 counties to implement the pilot program, subject to
 19 appropriation; requiring the department to evaluate
 20 the effectiveness of the pilot program, submit an
 21 annual report to the Governor and Legislature, and
 22 publish the report on its website; authorizing the
 23 department to adopt rules; providing funding
 24 requirements; requiring each county participating in
 25 the pilot program to appoint a program steering
 26 committee to implement an evidence-based firearm
 27 violence reduction model and to submit an annual
 28 report to the department; providing requirements for
 29 the report; providing for expiration of the pilot

Page 1 of 8

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

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30 program; providing an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Section 943.6872, Florida Statutes, is created
 35 to read:
 36 943.6872 Urban Core Gun Violence Task Force.—
 37 (1) The Urban Core Gun Violence Task Force, a task force as
 38 defined in s. 20.03, is created within the Department of Law
 39 Enforcement. Except as otherwise provided in this section, the
 40 task force shall comply with the requirements of s. 20.052.
 41 (2) (a) The 10-member task force shall convene no later than
 42 September 1, 2021, and must be composed of two members appointed
 43 by each of the following: the President of the Senate, the
 44 Minority Leader of the Senate, the Speaker of the House of
 45 Representatives, the Minority Leader of the House of
 46 Representatives, and the Governor. Appointments must be made by
 47 August 1, 2021. The Governor shall appoint a chair from among
 48 the members. Members serve at the pleasure of the officer who
 49 appointed them. A vacancy on the task force must be filled in
 50 the same manner as the original appointment.
 51 (b) The General Counsel of the Department of Law
 52 Enforcement shall serve as the general counsel for the task
 53 force.
 54 (c) The chair shall assign staff from the Department of Law
 55 Enforcement and the Department of Juvenile Justice to assist the
 56 task force in performing its duties.
 57 (d) The task force shall meet quarterly or at the call of
 58 the chair, as necessary to conduct its work, at a time and

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

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59 location in this state designated by the chair. The task force
60 may not conduct its meetings through teleconferences or other
61 similar means.

62 (3) The task force shall investigate system failures and
63 the causes of high crime rates and gun violence incidents in
64 urban core neighborhoods and communities. In addition, the task
65 force shall develop recommendations for solutions, programs,
66 services, and strategies for improved interagency communications
67 between local and state government agencies which will help
68 facilitate the reduction of crime and gun violence in urban core
69 neighborhoods and communities.

70 (4) The task force may call upon appropriate state
71 government agencies for such professional assistance as may be
72 needed in the discharge of its duties, and such agencies shall
73 provide such assistance in a timely manner.

74 (5) Notwithstanding any other law to the contrary, the task
75 force may request and shall be provided with access to any
76 information or records that pertain to crime and gun violence
77 incidents in this state's urban core neighborhoods and
78 communities. Information or records obtained by the task force
79 which are otherwise exempt or confidential and exempt shall
80 retain such exempt or confidential and exempt status, and the
81 task force may not disclose any such information or records.

82 (6) The task force shall submit an initial report on its
83 findings and recommendations to the Governor, the President of
84 the Senate, and the Speaker of the House of Representatives by
85 January 1, 2022, and may issue reports annually thereafter.

86 (7) This section is repealed on June 30, 2024.

87 Section 2. Section 943.6873, Florida Statutes, is created

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88 to read:

89 943.6873 Florida Firearm Violence Reduction Pilot Program.—

90 (1) CREATION.—Beginning July 1, 2021, the Florida Firearm
91 Violence Reduction Pilot Program is created within the
92 department for a period of 3 years. The purpose of the pilot
93 program is to improve public health and safety by supporting
94 evidence-based firearm violence reduction models in counties
95 that are disproportionately impacted by firearm violence.

96 (2) DEFINITIONS.—As used in this section, the term:

97 (a) "Disproportionately impacted by firearm violence" means
98 the county experienced 20 or more firearm-related homicides per
99 calendar year during at least 2 of the 3 calendar years
100 immediately preceding the application, or the county experienced
101 at least 10 firearm-related homicides per calendar year and had
102 a homicide rate that was at least 50 percent higher than the
103 statewide homicide rate during at least 2 of the 3 calendar
104 years immediately preceding the application.

105 (b) "Evidence-based firearm violence reduction model" means
106 a program, proven through empirical evidence, to reduce firearm
107 violence through focused deterrence or recidivism reduction
108 strategies.

109 (c) "Program implementation organization" means an
110 organization with experience implementing an evidence-based
111 firearm violence reduction model including providing training,
112 collecting and analyzing data, and conducting program
113 evaluations.

114 (3) ELIGIBILITY REQUIREMENTS; APPLICATIONS.—To be eligible
115 to participate in the pilot program, a county must submit an
116 application in a form prescribed by the department by October 1,

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117 2021. At a minimum, the application must include:

118 (a) A statement and any empirical evidence indicating that
 119 the county is disproportionately impacted by firearm violence or
 120 otherwise demonstrating the county's compelling need for
 121 additional resources to address the impact of firearm violence.

122 (b) A statement of the estimated fiscal impact of firearm
 123 violence in the county including the costs incurred by the
 124 county investigating, prosecuting, incarcerating, and treating
 125 individuals related to firearm violence in the 3 calendar years
 126 immediately preceding the application.

127 (c) A description of the evidence-based firearm violence
 128 reduction model the county will implement during the pilot
 129 program. A county must implement one of the following evidence-
 130 based firearm violence reduction models: the Group Violence
 131 Intervention program, the Cure Violence program, or a hospital-
 132 based violence intervention program.

133 (d) A statement identifying a program implementation
 134 organization the county will consult to implement the evidence-
 135 based firearm violence reduction model and a description of the
 136 organization's experience implementing such programs.

137 (e) A description of any public or private organization the
 138 county intends to collaborate with to provide services. Such
 139 organizations may include faith-based service groups that offer
 140 community support services including, but not limited to,
 141 substance abuse counseling, mental health counseling, housing
 142 support programs, and employment support programs.

143 (f) A description of the criteria the county will use to
 144 identify eligible participants. A participant must be an
 145 individual who has been identified as being at a high risk for

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146 becoming a victim or perpetrator of firearm violence.

147 (g) A statement describing how the county proposes to
 148 coordinate the evidence-based firearm violence reduction model
 149 and any existing violence prevention and intervention programs
 150 operating in the county to minimize duplication of services.

151 (4) DEPARTMENT DUTIES.—

152 (a) The department shall develop and make available an
 153 application form to be used by counties seeking to participate
 154 in the pilot program.

155 (b) Subject to an appropriation in the General
 156 Appropriations Act, the department shall use program funds to
 157 provide grants for up to six counties to implement the pilot
 158 program. Each county must meet the eligibility and application
 159 requirements provided in subsection (3). The department may
 160 develop other needs-based criteria for pilot program selection
 161 and to determine the appropriate grant amount to award to each
 162 county based on such needs-based criteria.

163 (c) The department shall evaluate the effectiveness of the
 164 pilot program by measuring firearm violence reduction in the
 165 participating counties. The department shall compile the
 166 information required under subsection (5), and by June 30, 2023,
 167 and each June 30 thereafter, submit a report to the Governor,
 168 the President of the Senate, and the Speaker of the House of
 169 Representatives on the impact of the pilot program. The
 170 department shall publish the report on its website.

171 (d) The department may adopt rules to administer this
 172 section.

173 (5) DUTIES OF PARTICIPATING COUNTIES.—

174 (a) Each county participating in the pilot program must

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175 contribute \$1 for every \$1 requested from the department. All
 176 funds, whether provided by the county or by the department, must
 177 be used to implement the pilot program.

178 (b) Each county participating in the pilot program shall
 179 appoint a program steering committee which must, at a minimum,
 180 include one representative from each law enforcement agency
 181 located in the county. The program steering committee shall
 182 collaborate with a program implementation organization to
 183 implement an appropriate evidence-based firearm violence
 184 reduction model.

185 (c) To maintain its eligibility for participation in the
 186 pilot program, a county must report to the department by January
 187 1, 2023, and each January 1 thereafter, in a format prescribed
 188 by the department, the following information:

189 1. A description of the evidence-based firearm violence
 190 reduction model utilized.

191 2. A description of program strategies used to attract and
 192 retain participants.

193 3. A description of the type and quantity of services
 194 provided to participants.

195 4. The total number of participants served and the
 196 demographic characteristics of participants.

197 5. A description of how the services provided improved
 198 participant outcomes, including, but not limited to:

199 a. Any change in participants' employment status or
 200 educational attainment level.

201 b. Any change in the frequency of arrests experienced by
 202 participants.

203 c. Any change in the frequency of victimizations

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204 experienced by participants.

205 6. Any change in the frequency or severity of firearm
 206 violence experienced by the county, including any increase or
 207 reduction in the number of:

208 a. Firearm-related arrests.

209 b. Firearm-related injuries.

210 c. Other firearm-related law enforcement calls for service.

211 7. The period for which the data submitted was collected,
 212 aggregated, and analyzed.

213 (6) EXPIRATION.—This section expires June 30, 2024.

214 Section 3. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Chair Ray Wesley Rodrigues
Committee on Government Oversight Accountability

Subject: Committee Agenda Request

Date: March 4th, 2021

I respectfully request that **Senate Bill #836**, relating to Gun Violence Reduction, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Shev Jones".

Senator Shevrin D. "Shev" Jones
Florida Senate, District 35

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-24-21

Meeting Date

SB 836

Bill Number (if applicable)

Topic Urban Core GV

Amendment Barcode (if applicable)

Name Aiyssa Ackbar

Job Title State Director - March For Our Lives

Address 75 N Woodward Ave U-Box #5936

Phone 813-838-0706

Street

Tallahassee

FL

32313

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing March For Our Lives

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.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24/21

Meeting Date

836

Bill Number (if applicable)

Topic Speaking in support of SB836

Amendment Barcode (if applicable)

Name Sofia Herrera

Job Title student

Address 228 Dixie Dr

Phone 305-904-0617

Street

Tallahassee, FL

32304

Email sofiaherrera1031@yahoo

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing March For Our Lives

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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.

THE FLORIDA SENATE
APPEARANCE RECORD

3/24/21

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

836
~~836~~

Bill Number (if applicable)

Topic Gun Violence Reduction

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

Street

Tallahassee

City

FL

State

32303

Zip

Email carrie.boyd@splcenter.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SPUC Action

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)

THE FLORIDA SENATE
APPEARANCE RECORD

3/24/2021

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

836

Bill Number (if applicable)

Topic Gun Violence Reduction

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Coll St.

Phone 850-321-9386

Street

Tallahassee

FL

State

32301

Zip

Email fctep@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

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.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24/21
Meeting Date

836

Bill Number (if applicable)

Topic Gun Violence Reductions

Amendment Barcode (if applicable)

Name Pastor Rhonda Thomas

Job Title Executive Director

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Faith in Florida

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)



303242

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Urban Core Crime and Violence Task Force.-

(1) The Urban Core Crime and Violence Task Force, a task
force as defined in s. 20.03, Florida Statutes, is created
within the Department of Law Enforcement. Except as otherwise
provided in this section, the task force shall comply with the
requirements of s. 20.052, Florida Statutes.



303242

11 (2) (a) The task force shall consist of 15 members as
12 follows:

13 1. Four members appointed by the Governor, one of whom the
14 Governor shall designate as the chair of the task force.

15 2. Four members appointed by the President of the Senate,
16 two of whom must be members of the Legislative Black Caucus of
17 the Florida Senate.

18 3. Four members appointed by the Speaker of the House of
19 Representatives, two of whom must be members of the Legislative
20 Black Caucus of the Florida House of Representatives.

21 4. A representative from the Florida Sheriffs Association,
22 nominated by the executive director and appointed by the
23 Governor.

24 5. A representative from the Florida Police Chiefs
25 Association, nominated by the executive director and appointed
26 by the Governor.

27 6. The Secretary of Children and Families, or his or her
28 designee.

29 (b) Members must be appointed no later than August 1, 2021.
30 Members serve at the pleasure of the officer who appointed them,
31 and a vacancy on the task force must be filled in the same
32 manner as the original appointment. Members of the task force
33 shall serve without compensation, but are entitled to
34 reimbursement for per diem and travel expenses pursuant to s.
35 112.061, Florida Statutes.

36 (c) The task force shall meet at the call of the chair at a
37 time and location in this state designated by the chair. The
38 task force may not conduct its meetings by teleconference or
39 other electronic means.



303242

40 (3) The task force shall review system failures and the
41 causes of high crime rates and violence in urban core
42 neighborhoods and communities. In addition, the task force shall
43 develop recommendations for solutions, programs, services, and
44 strategies for improved interagency communication between local
45 and state governmental agencies to help facilitate the reduction
46 of crime and violence in urban core neighborhoods and
47 communities.

48 (4) The Department of Law Enforcement shall provide
49 staffing and administrative assistance to the task force in
50 performing its duties. The task force may call upon other state
51 agencies for such professional assistance as may be needed in
52 the discharge of its duties, and such agencies shall provide
53 such assistance in a timely manner.

54 (5) Notwithstanding any other law to the contrary, the task
55 force may request and shall be provided with access to any
56 information or records that pertain to crime or violent
57 incidents in this state's urban core neighborhoods and
58 communities. Information or records obtained by the task force
59 which are otherwise exempt or confidential and exempt shall
60 retain such exempt or confidential and exempt status, and the
61 task force may not disclose any such information or records.

62 (6) The task force shall submit a report on its findings
63 and recommendations to the Governor, the President of the
64 Senate, and the Speaker of the House of Representatives by June
65 1, 2023.

66 (7) This section expires June 30, 2023.

67 Section 2. This act shall take effect July 1, 2021.

68



303242

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

70 And the title is amended as follows:

71 Delete everything before the enacting clause

72 and insert:

73 A bill to be entitled

74 An act relating to a crime and violence task force;
75 creating the Urban Core Crime and Violence Task Force
76 within the Department of Law Enforcement; providing
77 for membership, duties, and meetings of the task
78 force; requiring state agencies to provide assistance
79 when requested; authorizing the task force to receive
80 exempt or confidential and exempt information and
81 specifying that the information maintains such status;
82 requiring the task force to submit a report to the
83 Governor and Legislature by a specified date;
84 providing for expiration of the task force; providing
85 an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 972

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez

SUBJECT: Administrative Entity Telecommunication Meetings

DATE: March 24, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 972 provides that any separate administrative entity created by interlocal agreement, which has member public agencies in four contiguous counties, may conduct public meetings and workshops using communication media technology. Currently, only separate legal entities established by interlocal agreement, which have member public agencies located in at least five counties, of which at least three are not contiguous, may conduct public meetings and workshops using communications media technology.

This change allows administrative entities that have member public agencies in at least five counties and meet either the noncontiguous restriction in current law or the contiguous restriction under the bill to conduct meetings and workshops via communication media technologies. Additionally, the bill allows legal entities that have at least five counties and meet the new contiguous restriction to conduct public meetings and workshops by means of communications media technology.

The bill also expressly provides that s. 286.0114, F.S., (which sets for the requirements for public participation at public meetings) applies to public meetings and workshops conducted by means of communication media technology.

The bill takes effect July 1, 2021.

II. Present Situation:

Open Government Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.¹ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.³

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”⁴ or the “Sunshine Law,”⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.⁶ The board or commission must provide the public reasonable notice of such meetings.⁷ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.⁸ Minutes of a public meeting must be promptly recorded and open to public inspection.⁹ Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.¹⁰ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹¹

Section 286.0114, F.S., is an extension of the open meetings provision of s. 286.011, F.S. and specifically provides, with limited exceptions,¹² that members of the public must be given a reasonable opportunity to be heard on a proposition before a board or commission. Section 286.0114, F.S., recognizes that public participation need not occur at the meeting at which

¹ FLA CONST., art. I, s. 24(b).

² *Id.*

³ FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

⁴ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

⁵ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

⁶ Section 286.011(1)-(2), F.S.

⁷ *Id.*

⁸ Section 286.011(6), F.S.

⁹ Section 286.011(2), F.S.

¹⁰ Section 286.011(1), F.S.

¹¹ Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

¹² Section 286.011(3), F.S., provides that the reasonable opportunity to be heard provision does not apply to:

- An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
- An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- A meeting that is exempt from [s. 286.011](#); or
- A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

official action on a proposition takes place as long as the public is allowed to speak before official action is taken and that a board or commission may adopt rules or policies regulating such public participation. Such rules and policies are limited to those that:

- Provide guidelines regarding the amount of time an individual has to address the board or commission;
- Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;
- Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or
- Designate a specified period of time for public comment.¹³

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., requires the Administration Commission¹⁴ to promulgate rules to create uniform rules of procedure for state agencies to use when conducting public meetings, hearings or workshops, including procedures for conducting meetings in person and by means of communications media technology.¹⁵ The agency must state in the notice that the public meeting, hearing, or workshop will be conducted by means of communications media technology, or if attendance may be provided by such means.¹⁶ The notice must also state how individuals interested in attending may do so.¹⁷ Notwithstanding the use of electronic media technology, all evidence, testimony, and argument presented at the public meeting must be afforded equal consideration, regardless of the method of communication.¹⁸ Section 120.525(4), F.S., expressly authorizes a voting member of a regional planning council that covers three or more counties to appear via telephone, real-time videoconferencing, or similar real-time electronic video communication if at least one-third of the voting members of the regional planning council are physically present at the meeting location. In addition to state agencies required to comply with ch. 120, F.S., certain entities created by an interlocal agreement may conduct public meetings and workshops via communications media technology.^{19,20}

While current law allows state agencies and certain regional planning councils and entities created by an interlocal agreement to conduct meetings and vote by means of communications media technology, there has been a question over whether or not local boards or agencies may conduct meetings in the same fashion.²¹ The Office of Attorney General has opined that only

¹³ Section 286.0114(4), F.S.

¹⁴ Section 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. Section 20.03(1), F.S.).

¹⁵ Section 120.54(5)(b)2, F.S. The term “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 163.01(18), F.S. (Allowing public agencies located in at least five counties, of which at least three are not contiguous, to conduct public meetings and workshops by means of communications media technology).

²⁰ Section 120.525(4), F.S.

²¹ Robert Eschenfelder, *Modern Sunshine: Attending Public Meetings in the Digital Age*, 84 Fla. B.J. 28 (2010).

state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board's request to conduct board meetings via electronic means.²² The Attorney General reasoned that s. 120.54(5)(b)2, F.S., limits its terms only to uniform rules that apply to state agencies.²³ The Attorney General explained that "allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission."²⁴

The Attorney General reasoned that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local thus, "such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting."²⁵ However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to physically attend the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.²⁶

Interlocal Agreements

The Florida Interlocal Cooperation Act of 1969 allows local governmental units to enter into mutually advantageous agreements to provide services or facilities to other localities.²⁷ This section of the law allows the state's public agencies to exercise joint governmental powers with any other public agency of the state, of any other state, or the United States Government.²⁸ To effectuate interlocal cooperation under this section, local governmental units jointly exercising power must form and execute a contract detailing the relationship's terms and conditions.²⁹

Separate Legal Entity or Administrative Entity

Under s. 163.01(7), F.S., an interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement, which may be a commission, board, or council constituted pursuant to the agreement.

A separate legal or administrative entity created by an interlocal agreement is authorized to:

- Make and enter into contracts;
- Employ agencies or employees;
- Acquire, construct, manage, maintain, or operate buildings, works, or improvements;
- Acquire, hold, or dispose of property; and
- Incur debts, liabilities, or obligations which do not constitute the debts, liabilities, or obligations of any of the parties to the agreement.³⁰

²² Op. Att'y Gen. Fla. 98-28 (1998).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ See s. 163.01, F.S.

²⁸ *Id.* at (4)

²⁹ *Id.* at (5)

³⁰ Section 163.01(7)(b), F.S.

Meetings

Florida courts have held that the Sunshine Law extends to discussions and deliberations as well as formal actions taken by a public board or commission.³¹ Consequently, meetings of a separate legal or administrative entity and its governing board are subject to Florida's public meeting requirements.³²

Communications Media Technology

Section 163.01(18), F.S., of the Florida Interlocal Cooperation Act provides that any separate legal entity created by interlocal agreement may conduct public meetings, hearings, and workshops by means of communications media technology if the legal entity includes public agencies located in at least five counties, of which at least three are not contiguous.³³ The communications media technology provision was added to s. 163.01, F.S., in 2012.³⁴

The notice for any public meeting or workshop conducted by communications media technology must state that the meeting will be conducted through communications media technology; specify how persons interested in attending may do so; and provide a location where communications media technology facilities are available. The participation by an officer, board member, or other representatives of a member public agency in a meeting conducted through communications media technology constitutes that individual's presence at such meeting. The term "communications media technology" means conference telephone, video conference, or other communications technology by which all persons attending a public meeting or workshop may audibly communicate.³⁵

The Southeast Florida Regional Climate Change Compact

The four contiguous counties of Broward, Miami-Dade, Monroe, and Palm Beach formally adopted the Southeast Florida Regional Climate Change Compact ("Compact") in 2009.³⁶ The Compact advances climate mitigation and adaptation strategies. A component of the Compact includes the establishment of the Compact Leadership Committee, which is a separate legal entity established pursuant to the Florida Interlocal Cooperation Act.³⁷ Each of the four counties has one representative that serves on the Committee and may select an alternate, both of whom

³¹ *Hough v. Stembridge*, 278 So. 2d 288 (Fla. 3d DCA 1973) (Sunshine Law applies to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter upon which foreseeable action will be taken by the board or commission).

³² Op. Att'y Gen. Fla. 82-66 (1982).

³³ "Being in actual contact: touching along a boundary or at a point" *Contiguous*, Merriam Webster Dictionary.

³⁴ Chapter 2012-164, Laws of Florida. The effort to normalize the use of communications media technology largely started in 2006 when the Legislature approved a one-year "test program" that allowed county commissioners in Monroe County, spread apart by a 120-mile chain of islands, to use teleconferencing equipment for special meetings and be deemed in attendance for purposes of establishing a quorum. See ch. 2006-350, Laws of Florida.

³⁵ Section 163.01(18), F.S.

³⁶ A White House Climate Action Champions Case Study, *Southeast Florida Regional Climate Change Compact*, available at: <https://www.energy.gov/sites/prod/files/2016/03/f30/Southeast%20Florida%20Case%20Study.pdf> (last visited Feb. 25, 2021).

³⁷ Miami-Dade Legislative Item, File Number: 202455 (Dec. 15, 2020), available at: <http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2020/202455.pdf> (last visited Feb. 25, 2021) (the most recent renewal of interlocal agreement provisions related to the Southeast Florida Regional Climate Change Compact).

must have experience and knowledge in the area of resilience and climate change and must have a leadership position related to the area of resilience and climate change in the respective county's government.³⁸

III. Effect of Proposed Changes:

The bill amends s. 163.01, F.S., to provide that any separate administrative entity created by interlocal agreement, which has member public agencies in four contiguous counties, may conduct public meetings and workshops by means of communication media technology. This change allows administrative entities that have member public agencies in at least five counties and meet either the noncontiguous restriction in current law or the contiguous restriction under the bill (e.g., Southeast Florida Regional Climate Change Compact) to conduct meetings and workshops via communication media technologies. Additionally, the change permits legal entities that have at least five counties and meet the new contiguous restriction to conduct public meetings and workshops by means of communications media technology.

The bill also expressly provides that s. 286.0114, F.S., (which sets for the requirements for public participation at public meetings) applies to public meetings and workshops conducted by means of communication media technology.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

³⁸ *Id.* at p.3.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Conducting public meetings and workshops via communication media technology may provide applicable entities nominal cost savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS expressly provides that s. 286.0114, F.S., (which sets for the requirements for public participation at public meetings) applies to public meetings and workshops conducted by means of communication media technology.

B. Amendments:

None.

By Senator Rodriguez

39-01181A-21

2021972__

1 A bill to be entitled
 2 An act relating to administrative entity
 3 telecommunication meetings; amending s. 163.01, F.S.;
 4 authorizing certain legal or administrative entities
 5 to conduct public meetings and workshops by means of
 6 communications media technology; revising criteria
 7 under which legal entities may conduct public meetings
 8 and workshops; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (18) of section 163.01, Florida
 13 Statutes, is amended to read:

14 163.01 Florida Interlocal Cooperation Act of 1969.—
 15 (18) Any separate legal or administrative entity created
 16 under subsection (7) which has member public agencies located in
 17 at least five counties, of which at least three are not
 18 contiguous, or which has member public agencies located in four
 19 contiguous counties, may conduct public meetings and workshops
 20 by means of communications media technology. The notice for any
 21 such public meeting or workshop shall state that the meeting or
 22 workshop will be conducted through the use of communications
 23 media technology; specify how persons interested in attending
 24 may do so; and provide a location where communications media
 25 technology facilities are available. The participation by an
 26 officer, board member, or other representative of a member
 27 public agency in a meeting or workshop conducted through
 28 communications media technology constitutes that individual's
 29 presence at such meeting or workshop. As used in this

Page 1 of 2

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

39-01181A-21

2021972__

30 subsection, the term "communications media technology" means
 31 conference telephone, video conference, or other communications
 32 technology by which all persons attending a public meeting or
 33 workshop may audibly communicate.

34 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Ray Wesley Rodrigues, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 9, 2021

I respectfully request that **Senate Bill #972**, relating to Administrative Entity Telecommunication Meetings, be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/24/2021

Meeting Date

972

Bill Number (if applicable)

Topic Administrative Entity Telecommunication Meetings

Amendment Barcode (if applicable)

Name Natalie Fausel

Job Title Partner

Address 201 West Park Ave. Suite 100

Phone 561-317-0889

Street

Tallahassee

FL

32301

Email natalie@anfieldflorida.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Broward County & Palm Beach County

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)



167190

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 20 - 23

and insert:

by means of communications media technology. Section 286.0114
applies to public meetings and workshops conducted by means of
communications media technology. The notice for any such public
meeting or workshop shall state that the meeting or workshop
will be conducted through the use of communications media



167190

11 technology; specify how persons interested in attending and
12 providing comment to the legal or administrative entity during
13 the meeting

14

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

16 And the title is amended as follows:

17 Delete line 8

18 and insert:

19 and workshops; providing applicability; revising
20 requirements for notices of such meetings and
21 workshops conducted through the use of communications
22 media technology; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SR 1074

INTRODUCER: Senator Jones

SUBJECT: White Nationalism and White Supremacy

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SR 1074 rejects and condemns white nationalism and white supremacy as hateful expressions of intolerance which contradict the values that define the people of Florida and the United States.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

II. Present Situation:

A Senate Resolution

A Senate resolution is a one-house document pertaining to issues that are ceremonial in nature in which the House of Representatives has no involvement.¹ Florida Senate Rule 3.6 states that resolutions are required to contain a proper title as required by Article III, Section 6 of the Florida Constitution. A Senate resolution must be read by title only, two times on the same day before the question is put on adoption by voice vote.²

White Supremacy

White supremacy is the belief that the white race is inherently superior to other races and that white people should have control over people of other races.³ The belief supports the defense and maintenance of white power and privilege.

¹ The Florida Senate, *Glossary, Bills: Resolution: Senate Resolution*, available at <http://www.flsenate.gov/Reference/Glossary#B> (last visited January 12, 2021).

² Florida Senate Rule 4.14

³ Merriam-Webster, *White Supremacy Definition*, available at <https://www.merriam-webster.com/dictionary/white%20supremacy> (last visited, February 22, 2021)

The United States Department of Homeland Security (DHS) defines white supremacist extremists (WSE) as individuals who seek, wholly or in part, through unlawful acts of force or violence, to support their belief in the intellectual and moral superiority of the white race over other races.⁴ WSE violence often targets racial, ethnic, and religious minorities, as well as government and law enforcement officials.⁵ Attacks are normally against targets of opportunity rather than pre-meditated plots.

White Nationalism

White nationalism is the belief that national identity should be built around white ethnicity and that white people should therefore maintain both a demographic majority and dominance of the nation's culture and public life.⁶ White nationalism often overlaps with white supremacy, and the two are regularly used interchangeably.

Hate Crime Statistics in the United States (2019)

The Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) program collects data about single-bias and multiple-bias hate crimes. The program provides a yearly report on hate crimes reported in the United States.

Victims of Hate Crime

The UCR program reported the 2019 data in regard to bias-motivated crimes throughout the United States. The data was submitted by 15,558 law enforcement agencies, providing information on the offense, victims, offenders, and locations of the crime. The FBI reported 7,314 hate crimes involving a total of 8,763 victims.⁷ The following is a breakdown of the crimes by motivation behind targeting a victim(s):

- Race/Ethnicity/Ancestry: 57.6 percent;
- Religion: 20.1 percent;
- Sexual Orientation: 16.7 percent;
- Gender Identity/Gender: 3.6 percent; and
- Disability: 2.0 percent.

Of the total hate crimes committed, 111 were committed in Florida.⁸

Offenses by Crime Category

Of the crimes categorized as hate crimes against persons, 40 percent were for intimidation, 36.7 percent were for simple assault, and 21 percent were for aggravated assault. The crimes included 51 murders, 30 rapes, and three offenses of human trafficking.⁹

⁴ US Department of Homeland Security, *US Violent White Supremacy Groups*. Available at <https://www.dhs.gov/publication/reference-aid-us-violent-white-supremacist-extremists> (last visited February 21, 2021)

⁵ *Id.*

⁶ Eric Kaufmann, *Rethinking Ethnicity: Majority Groups and Dominant Minorities*, Jan. 2004 (last visited February 22, 2021)

⁷ Federal Bureau of Investigation, *Hate Crime Statistics 2019*, available at <https://ucr.fbi.gov/hate-crime/2019> (last visited, February 19, 2021)

⁸ *Id.*

⁹ *Id.*

There were 2,811 hate crime offenses classified as crimes against property. The majority, 76.6 percent of these, were acts of destruction, damage, or vandalism. Robbery, larceny-theft, and motor vehicle theft accounted for the other 23.4 percent.¹⁰

Basic Rights under Article I, Section 2

Under Article 1, Section 2 of the Florida Constitution, each individual person has a right to equal protection of the laws. This constitutional provision states:

All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

III. Effect of Proposed Changes:

The bill provides clauses relating to white supremacy, white nationalism, and the values that define the people of Florida and the United States, signifying that:

- Recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation;
- In a 2006 assessment, the FBI found that white supremacists believe that the white race is superior to all other races, that nonwhites are subhuman, and that the white race was created to rule over other races;
- In that assessment the FBI stated, “To be a white nationalist is to be pro-white. The domestic white nationalist movement seeks to promote, honor, and defend the white race.... White nationalists view multiculturalism, diversity, and illegal immigration as direct assaults on the white race and race-mixing as akin to white genocide. They hope to appeal to mainstream whites, believing that the majority of white people do not understand the imminent or long-term threat to their race”;
- In 2019, the FBI reported 7,314 hate crimes in the United States, an increase from 2018, including 111 hate crimes in Florida alone;
- White supremacy and white nationalism are contrary to the ideals of the State of Florida as expressed in the State Constitution, which declares that “all natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability”;
- Abraham Lincoln, in an 1858 speech, said of the founders of our nation, “Wise statesmen as they were, they knew the tendency of prosperity to breed tyrants, and so they established these great self-evident truths, that when in the distant future some man, some faction, some interest, should set up the doctrine that none but rich men, or none but white men, were entitled to life, liberty and pursuit of happiness, their posterity might look up again to the Declaration of Independence and take courage to renew the battle which their fathers

¹⁰ *Id.*

began—so that truth, and justice, and mercy, and all the humane and Christian virtues might not be extinguished from the land; so that no man would hereafter dare to limit and circumscribe the great principles on which the temple of liberty was being built”;

- Dr. Martin Luther King, Jr., while recognizing that “no other nation can mean to us what our nation means,” condemned “nationalism perverted into chauvinism and isolationism” as “preached by ... the advocates of white supremacy” and asked, “Will we continue to serve the false god of racial prejudice or will we serve the God who made of one blood all men to dwell upon the face of the earth?”; and
- President Ronald Reagan observed in a 1988 speech, “Anyone, from any corner of the Earth, can come to live in America and become an American.... This, I believe, is one of the most important sources of America’s greatness. We lead the world because, unique among nations, we draw our people—our strength—from every country and every corner of the world. And by doing so we continuously renew and enrich our nation. While other countries cling to the stale past, here in America we breathe life into dreams. We create the future, and the world follows us into tomorrow. Thanks to each wave of new arrivals to this land of opportunity, we’re a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.”

The bill rejects and condemns white nationalism and white supremacy as hateful expressions of intolerance which contradict the values that define the people of Florida and the United States.

Legislative resolutions have no force of law and are not subject to the veto power of the Governor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Jones

35-00925-21

20211074__

Senate Resolution

A resolution rejecting and condemning white nationalism and white supremacy as hateful expressions of intolerance which contradict the values that define the people of Florida and the United States.

WHEREAS, recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation, and

WHEREAS, in a 2006 assessment, the Federal Bureau of Investigation (FBI) found that white supremacists believe that the white race is superior to all other races, that nonwhites are subhuman, and that the white race was created to rule over other races, and

WHEREAS, in that assessment the FBI stated, "To be a white nationalist is to be pro-white. The domestic white nationalist movement seeks to promote, honor, and defend the white race... White nationalists view multiculturalism, diversity, and illegal immigration as direct assaults on the white race and race-mixing as akin to white genocide. They hope to appeal to mainstream whites, believing that the majority of white people do not understand the imminent or long-term threat to their race," and

WHEREAS, in 2019, the FBI reported 7,314 hate crimes in the United States, an increase from 2018, including 111 hate crimes in Florida alone, and

WHEREAS, white supremacy and white nationalism are contrary to the ideals of the State of Florida as expressed in the State Constitution, which declares that "all natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and

Page 1 of 3

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35-00925-21

20211074__

liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability," and

WHEREAS, Abraham Lincoln, in an 1858 speech, said of the founders of our nation, "Wise statesmen as they were, they knew the tendency of prosperity to breed tyrants, and so they established these great self-evident truths, that when in the distant future some man, some faction, some interest, should set up the doctrine that none but rich men, or none but white men, were entitled to life, liberty and pursuit of happiness, their posterity might look up again to the Declaration of Independence and take courage to renew the battle which their fathers began—so that truth, and justice, and mercy, and all the humane and Christian virtues might not be extinguished from the land; so that no man would hereafter dare to limit and circumscribe the great principles on which the temple of liberty was being built," and

WHEREAS, Dr. Martin Luther King, Jr., while recognizing that "no other nation can mean to us what our nation means," condemned "nationalism perverted into chauvinism and isolationism" as "preached by ... the advocates of white supremacy" and asked, "Will we continue to serve the false god of racial prejudice or will we serve the God who made of one blood all men to dwell upon the face of the earth?", and

WHEREAS, President Ronald Reagan observed in a 1988 speech, "Anyone, from any corner of the Earth, can come to live in America and become an American.... This, I believe, is one of the most important sources of America's greatness. We lead the

Page 2 of 3

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35-00925-21

20211074__

59 world because, unique among nations, we draw our people—our
60 strength—from every country and every corner of the world. And
61 by doing so we continuously renew and enrich our nation. While
62 other countries cling to the stale past, here in America we
63 breathe life into dreams. We create the future, and the world
64 follows us into tomorrow. Thanks to each wave of new arrivals to
65 this land of opportunity, we're a nation forever young, forever
66 bursting with energy and new ideas, and always on the cutting
67 edge, always leading the world to the next frontier. This
68 quality is vital to our future as a nation. If we ever closed
69 the door to new Americans, our leadership in the world would
70 soon be lost," NOW, THEREFORE,

71

72 Be It Resolved by the Senate of the State of Florida:

73

74 That white nationalism and white supremacy are rejected and
75 condemned as hateful expressions of intolerance which contradict
76 the values that define the people of Florida and the United
77 States.



The Florida Senate

Committee Agenda Request

To: Chair Ray Wesley Rodrigues
Committee on Government Oversight and Accountability

Subject: Committee Agenda Request

Date: March 4th, 2021

I respectfully request that **Senate Bill #1074**, relating to Resolution on White Nationalism and White Supremacy, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Shev Jones".

Senator Shevrin D. "Shev" Jones
Florida Senate, District 35

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24/21
Meeting Date

SR1074
Bill Number (if applicable)

Topic Waive Speaking in support

Amendment Barcode (if applicable)

Name Sofia Herrera

Job Title Student

Address 228 Dixie Dr

Phone 305-904-0617

Street

Tallahassee

FL

32304

City

State

Zip

Email Sofiaherrera1031@yahoo

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MARCH For our lives FSU

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.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-24-21

Meeting Date

SB 1074

Bill Number (if applicable)

Topic white supremacy

Amendment Barcode (if applicable)

Name Aiyssa Ackbar

Job Title State Director - March For Our Lives

Address 75 N Woodward Ave

Phone 813-838-0706

Street

Tallahassee

FL

32313

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing March For Our Lives

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)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24/21

Meeting Date

1074

Bill Number (if applicable)

Topic White Supremacy

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

Street

Tallahassee

FL

32303

Email carrieboyl@spfc.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SPFC Action Fund

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)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/24/2021
Meeting Date

1074
Bill Number (if applicable)

Topic White Nationalism

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Coll St.

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcfep@yaho.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FI Center for Fiscal + Economic Policy

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)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-24-21

Meeting Date

1074

Bill Number (if applicable)

Topic White Supremacy

Amendment Barcode (if applicable)

Name Jessica Lewis

Job Title Lobbyist

Address _____
Street

Phone 910-617-2311

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Sierra Club

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.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1136

INTRODUCER: Senator Rodrigues

SUBJECT: Board of Directors of Florida ABLE, Inc.

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1136 revises the member composition of the board of directors of the Florida Achieving a Better Life Experience (ABLE) program. The bill authorizes the Florida Prepaid College Board to appoint up to three individuals (rather than one) who possess knowledge, skill, and experience in the area of accounting, risk management, or investment management.

The bill also removes the limit on the number of terms board members appointed by the Governor and presiding officers of the Legislature may serve.

The bill is not expected to have a fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

ABLE Programs

Federal ABLE Act

Congress enacted the ABLE Act (Achieving a Better Life Experience Act) in 2014.¹ The ABLE Act permits a state to implement an ABLE Program and establish ABLE accounts for eligible individuals with disabilities² to spend distributions on “qualified disability expenses.”³ The

¹ Pub. L. No. 113-295, 128 Stat. 4056 (Dec. 19, 2014).

² 26 U.S.C. § 529(e). An individual is an eligible individual for a taxable year if during such taxable year: (1) the individual is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26; or (2) a disability certification with respect to such individual is filed with the Secretary of Education for such taxable year.

³ 26 U.S.C. §529(e)(5). “Qualified disability expense” is defines as “any expense related to the eligible individual’s blindness or disability which are made for the benefit of an eligible individual who is the designated beneficiary, including the

purposes of the ABLE Act are to encourage individuals and families to save money to support individuals with disabilities to maintain health, independence, and quality of life and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities to supplement benefits provided through other sources.⁴

Florida ABLE Program

The Florida ABLE Program was created in 2015 to encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified expenses of eligible individuals with disabilities.⁵ The Florida Prepaid College Board (Florida Prepaid) was required to establish a direct-support organization to be known as “Florida ABLE, Inc.,” (ABLE United) to establish and administer the Florida ABLE Program.⁶

The mission of ABLE United is to encourage and assist the saving of private funds to help persons with disabilities cover costs that support their health, independence, and quality of life.⁷ Among the individuals in the program, 44 percent have a developmental disability.⁸ As of May 15, 2020, 4,724 individuals have an ABLE United account.⁹ The average account balance is \$5,474.¹⁰

Florida ABLE Program - Board of Directors

Current law requires the board of directors of the Florida ABLE program to consist of:

- The chair of Florida Prepaid, who must serve as the chair of the board;
- One individual who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management, appointed by Florida Prepaid. A current member of Florida Prepaid, other than the chair, may be appointed as this director.
- One individual who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management, appointed by the Governor.
- Two individuals who are advocates of persons with disabilities, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives. At least one of these individuals must be an advocate of persons with developmental disabilities, as that term is defined in s. 393.063, F.S.¹¹

following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.”

⁴ 26 U.S.C. § 529(b).

⁵ Section 2, ch. 2015-56, L.O.F.

⁶ Section 1009.986(3), F.S.

⁷ ABLE United, *Direct Support Organization Disclosures* p. 1, (July 8, 2020), available at <http://flprepaidstage.wpengine.com/wp-content/uploads/2020-Florida-ABLE-Disclosure-Required-pursuant-to-Section-20.058-Florida-Statutes.pdf> (last visited March 5, 2021).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 1009.986(3)(d)1., F.S.

Currently, the each director appointed by the Governor or the presiding officers of the Legislature appointed for a 3-year term and may be reappointed for one consecutive term.¹²

III. Effect of Proposed Changes:

The bill modifies the makeup of the Florida ABLE program's board of directors. Specifically, the bill authorizes Florida Prepaid to appoint up to three individuals, rather than the current one, who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management.

The bill also eliminates the current term limits for the directors appointed by the Governor and the presiding officers of the Legislature. Under the bill, there is no limit on the number of terms for which these members may serve.

The bill is effective July 1, 2021.

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.

¹² Section 1009.986(3)(d)2.b., F.S.

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 1009.986 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 Rodrigues

27-01197-21

20211136__

A bill to be entitled

An act relating to the board of directors of Florida ABLE, Inc.; amending s. 1009.986, F.S.; revising the composition of the membership of the Florida ABLE, Inc., board of directors; removing a limit on the number of terms that certain reappointed members may serve; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) of section 1009.986, Florida Statutes, is amended to read:

1009.986 Florida ABLE program.—

(3) DIRECT-SUPPORT ORGANIZATION; FLORIDA ABLE, INC.—

(d)1. The board of directors of Florida ABLE, Inc., shall consist of:

a. The chair of the Florida Prepaid College Board, who shall serve as the chair of the board of directors of Florida ABLE, Inc.

b. Up to three individuals ~~One individual~~ who possess ~~possesses~~ knowledge, skill, and experience in the areas of accounting, risk management, or investment management, one of whom may be a current member of the Florida Prepaid College Board, who shall be appointed by the Florida Prepaid College Board. ~~A current member of the Florida Prepaid College Board, other than the chair, may be appointed.~~

c. One individual who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management, who shall be appointed by the Governor.

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

27-01197-21

20211136__

d. Two individuals who are advocates of persons with disabilities, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the House of Representatives. At least one of the individuals appointed under this sub-subparagraph must be an advocate of persons with developmental disabilities, as that term is defined in s. 393.063.

2.a. The term of the appointees ~~appointee~~ under sub-subparagraph 1.b. shall be up to 3 years as determined by the Florida Prepaid College Board. Such appointees ~~appointee~~ may be reappointed.

b. The term of the appointees under sub-subparagraphs 1.c. and d. shall be 3 years. Such appointees may be reappointed ~~for up to one consecutive term.~~

3. Unless authorized by the board of directors of Florida ABLE, Inc., an individual director has no authority to control or direct the operations of Florida ABLE, Inc., or the actions of its officers and employees.

4. The board of directors of Florida ABLE, Inc.:

a. Shall meet at least quarterly and at other times upon the call of the chair.

b. May use any method of telecommunications to conduct, or establish a quorum at, its meetings or the meetings of a subcommittee or other subdivision if the public is given proper notice of the telecommunications meeting and provided reasonable access to observe and, if appropriate, to participate.

5. A majority of the total current membership of the board of directors of Florida ABLE, Inc., constitutes a quorum of the board.

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27-01197-21

20211136__

59 6. Members of the board of directors of Florida ABLE, Inc.,
60 and the board's subcommittees or other subdivisions shall serve
61 without compensation; however, the members may be reimbursed for
62 reasonable, necessary, and actual travel expenses pursuant to s.
63 112.061.

64 Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1232

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Book

SUBJECT: Death Benefits

DATE: March 24, 2021

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1232 requires an employer of a law enforcement officer, correctional officer, or a correctional probation officer to pay the entire premium of the employer's health insurance plan for surviving dependents if the employee was exposed in the line of duty to, and died on or after March 1, 2020, from, a pandemic disease which was the subject of a declared public health emergency.

State and local governments may incur additional costs associated with the payment of health insurance premiums for the surviving dependents of law enforcement officers, correctional officers, and correctional probation officers who were exposed in the line of duty to, and died from, a pandemic disease which was the subject of a declared public health emergency.

State and local governments employing law enforcement officers, correctional officers, and correctional probation officers may experience an indeterminate increase in costs associated with providing the benefits granted by this bill.

The bill takes effect July 1, 2021, but has retroactive application to March 1, 2020.

II. Present Situation:

Death Benefits

Section 112.19, F.S., requires the employer of a law enforcement officer, correctional officer, and correctional probation officer must provide death benefits, including a monetary payment, waiver of educational costs, and health insurance premiums, to surviving family members of an officer killed under certain circumstances.

Monetary benefits

The monetary benefit is \$75,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the officer's law enforcement duties, is killed accidentally or as a result of accidental injuries.

The monetary benefit is \$150,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the officer's law enforcement duties, is killed accidentally or as a result of accidental injuries and the accidental death occurs:

- As a result of the officer's response to fresh pursuit;
- As a result of the officer's response to what is reasonably believed to be an emergency;
- At the scene of a traffic accident to which the officer has responded; or
- While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

The monetary benefit is \$225,000 if the law enforcement officer, correctional officer, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act.

Educational benefits

The educational benefits are provided to the surviving spouse and dependent children of:

- A law enforcement officer, correctional officer, and correctional probation officer killed accidentally or as a result of accidental injuries and the accidental death occurs:
 - As a result of the officer's response to fresh pursuit;
 - As a result of the officer's response to what is reasonably believed to be an emergency;
 - At the scene of a traffic accident to which the officer has responded; or
 - While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.
- A law enforcement officer, correctional officer, correctional probation officer, or firefighter who is unlawfully and intentionally killed or is injured by an unlawful and intentional act of another person and dies as a result of the injury.

The educational benefit is granted to the surviving children and spouse of the deceased employee. This benefit is a waiver, by the state educational institution, of the tuition and fees associated with attaining a career certificate, an undergraduate education, or a postgraduate education. An eligible child may use the waiver until the child's 25th birthday. An eligible spouse may use the waiver until the 10th anniversary of the employee's death.

Health insurance benefits

The health insurance benefits must be provided if the officer suffers a catastrophic injury in the line of duty and as a result of:

- The officer's response to fresh pursuit;
- The officer's response to what is reasonably believed to be an emergency; or
- The unlawful act perpetrated by another.

The health insurance benefit is equivalent to the entire premium for health insurance for the injured officer, the employee's spouse, and any dependent child until the child reaches age 18 or until the end of the calendar year in which the child reaches age 25. If the employee dies, the employer must pay the insurance premium for the spouse until the spouse remarries and for the dependent children under the same conditions.

Public Health Emergency

Section 381.00315, F.S., grants authority to the State Health Officer to declare public health emergencies. During the last 30 years, the following public health emergencies relating to infectious diseases have been declared:

- Zika virus in 2016;
- Hepatitis A in 2019; and
- COVID-19 in 2020.

In Line of Duty Deaths of Law Enforcement Officers, Correctional Officers, and others

According to the Officer Down Memorial Page,¹ thirteen law enforcement officers and correctional officers employed local governments in Florida and one correctional officer employed by the state died in 2020 of COVID-19 or COVID-19-related complications. Another three officers employed by local governments have died in 2021 of COVID-19 or COVID-19-related complications.

III. Effect of Proposed Changes:

Section 1 amends s. 112.19, F.S., to require an employer of a law enforcement officer, correctional officer, or a correctional probation officer to pay the entire premium of the employer's health insurance plan for surviving dependents if the employee was exposed in the line of duty to, and died on or after March 1, 2020, from, a pandemic disease which was the subject of a declared public health emergency.

Section 2 provides that the amendments in section 1 apply retroactively to certain employees who died on or after March 1, 2020, from a pandemic disease which was the subject of a declared public health emergency.

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

¹ Officer Down Memorial Page, <https://www.odmp.org/> (last viewed on March 18, 2021).

Section 4 provides the act takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides, in relevant part, that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: the law requiring such expenditure is approved by two-thirds vote of the membership of each house of the legislature; [or] . . . the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments....” The provisions of this bill appear to apply to all persons similarly situated (state agencies, state universities, state colleges, and local governments employing law enforcement officers, correctional officers, and correctional probation officers. Section 3 of the bill contains a legislative declaration that the bill fulfills an important state interest.

The mandate requirements do not apply to laws having an insignificant impact which, for Fiscal Year 2021-2022, is forecast at \$2.2 million.^{2,3,4} The fiscal impact of this bill on cities or counties is indeterminate. If costs imposed by the bill are determined to exceed \$2.2 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in State Constitution (e.g., applies to all persons similarly situated or enactment by vote of two-thirds of the membership of each house).

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.

² FLA. CONST. art. VII, s. 18(d).

³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited February 25, 2021).

⁴ Based on the Florida Demographic Estimating Conference’s November 3, 2020, population forecast for 2021 of 21,830,364. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited February 25, 2021).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost on state and local governments is indeterminate based on the prospective application of the benefits. However, if the surviving dependents of the fourteen officers who died of COVID-19 during 2020 were eligible for these benefits in 2021, the estimated annual costs are roughly \$288,848.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 112.19 of the Florida Statutes.

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

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS limits the disease that qualifies the employee for such benefits to pandemic diseases that are subject to a declaration of a public health emergency. The CS also applies the new benefits retroactively to deaths on or after March 1, 2020. The CS contains a legislative finding that the bill fulfills an important state interest.

B. Amendments:

None.

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

⁵ Fourteen officers multiplied by \$20,632 (the full 2021 premium for family health insurance coverage in the State Employee Health Insurance Program) equals \$288,848 annually. This annual amount will change each year as health insurance premiums increase, additional surviving dependents become eligible, and other surviving dependents become ineligible.

By Senator Book

32-01386-21

20211232__

A bill to be entitled

An act relating to death benefits; amending s. 112.19, F.S.; requiring an employer of law enforcement, correctional, or correctional probation officers to extend paid health insurance benefits to a surviving spouse and each dependent child as a result of the death of the officer from a pandemic disease or an infectious disease that is the subject of a declared public health emergency if that officer was exposed in the line of duty; providing applicability; providing an effective date.

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

Section 1. Paragraph (h) of subsection (2) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(2)

(h)1. Any employer who employs a full-time law enforcement, correctional, or correctional probation officer who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02, Florida Statutes 2002, in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-

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32-01386-21

20211232__

time student and is dependent for support. Any employer who employed a full-time law enforcement, correctional, or correctional probation officer who was exposed to a pandemic disease or to an infectious disease in the line of duty which was the subject of a declared public health emergency and who died from such disease shall pay the entire premium of the employer's health insurance plan for the employee's surviving spouse and for each surviving dependent child of the deceased employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25, if the child continues to be dependent for support, or if the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon

Page 2 of 3

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32-01386-21

20211232__

59 conviction for a violation as described in sub-subparagraph b.,
60 a law enforcement, correctional, or correctional probation
61 officer or other beneficiary who receives or seeks to receive
62 health insurance benefits under this paragraph shall forfeit the
63 right to receive such health insurance benefits, and shall
64 reimburse the employer for all benefits paid due to the fraud or
65 other prohibited activity. For purposes of this sub-
66 subparagraph, the term "conviction" means a determination of
67 guilt that is the result of a plea or trial, regardless of
68 whether adjudication is withheld.

69 2. In the case of catastrophic injury, in order for the
70 officer, spouse, and dependent children to be eligible for such
71 insurance coverage, the injury must have occurred as the result
72 of the officer's response to fresh pursuit, the officer's
73 response to what is reasonably believed to be an emergency, or
74 an unlawful act perpetrated by another. In the case of illness,
75 in order for the surviving spouse and dependent children to be
76 eligible for such insurance coverage, the illness must have been
77 contracted in the line of duty. Except as otherwise provided
78 herein, this paragraph may not be construed to limit health
79 insurance coverage for which the officer, spouse, or dependent
80 children may otherwise be eligible, except that a person who
81 qualifies under this section is not eligible for the health
82 insurance subsidy provided under chapter 121, chapter 175, or
83 chapter 185.

84 Section 2. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ray Rodrigues, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: February 24, 2021

I respectfully request that **Senate Bill 1232**, relating to Death Benefits, be placed on the:

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

Thank you for your consideration.

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Florida Senate, District 32



181490

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (h) of subsection (2) of section
112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional
probation officers; death benefits.—

(2)

(h)1. Any employer who employs a full-time law enforcement,



181490

11 correctional, or correctional probation officer who, on or after
12 January 1, 1995, suffers a catastrophic injury, as defined in s.
13 440.02, Florida Statutes 2002, in the line of duty shall pay the
14 entire premium of the employer's health insurance plan for the
15 injured employee, the injured employee's spouse, and for each
16 dependent child of the injured employee until the child reaches
17 the age of majority or until the end of the calendar year in
18 which the child reaches the age of 25 if the child continues to
19 be dependent for support, or the child is a full-time or part-
20 time student and is dependent for support. Any employer who
21 employed a full-time law enforcement, correctional, or
22 correctional probation officer who was exposed in the line of
23 duty to a pandemic disease that was the subject of a declared
24 public health emergency and who died from such disease on or
25 after March 1, 2020, shall pay the entire premium of the
26 employer's health insurance plan for the employee's surviving
27 spouse and for each surviving dependent child of the deceased
28 employee until the child reaches the age of majority or until
29 the end of the calendar year in which the child reaches the age
30 of 25, if the child continues to be dependent for support, or if
31 the child is a full-time or part-time student and is dependent
32 for support. The term "health insurance plan" does not include
33 supplemental benefits that are not part of the basic group
34 health insurance plan. If the injured employee subsequently
35 dies, the employer shall continue to pay the entire health
36 insurance premium for the surviving spouse until remarried, and
37 for the dependent children, under the conditions outlined in
38 this paragraph. However:
39 a. Health insurance benefits payable from any other source



181490

40 shall reduce benefits payable under this section.

41 b. It is unlawful for a person to willfully and knowingly
42 make, or cause to be made, or to assist, conspire with, or urge
43 another to make, or cause to be made, any false, fraudulent, or
44 misleading oral or written statement to obtain health insurance
45 coverage as provided under this paragraph. A person who violates
46 this sub-subparagraph commits a misdemeanor of the first degree,
47 punishable as provided in s. 775.082 or s. 775.083.

48 c. In addition to any applicable criminal penalty, upon
49 conviction for a violation as described in sub-subparagraph b.,
50 a law enforcement, correctional, or correctional probation
51 officer or other beneficiary who receives or seeks to receive
52 health insurance benefits under this paragraph shall forfeit the
53 right to receive such health insurance benefits, and shall
54 reimburse the employer for all benefits paid due to the fraud or
55 other prohibited activity. For purposes of this sub-
56 subparagraph, the term "conviction" means a determination of
57 guilt that is the result of a plea or trial, regardless of
58 whether adjudication is withheld.

59 2. In the case of catastrophic injury, in order for the
60 officer, spouse, and dependent children to be eligible for such
61 insurance coverage, the injury must have occurred as the result
62 of the officer's response to fresh pursuit, the officer's
63 response to what is reasonably believed to be an emergency, or
64 an unlawful act perpetrated by another. In the case of illness,
65 in order for the surviving spouse and dependent children to be
66 eligible for such insurance coverage, the illness must have been
67 contracted in the line of duty. Except as otherwise provided
68 herein, this paragraph may not be construed to limit health



69 insurance coverage for which the officer, spouse, or dependent
70 children may otherwise be eligible, except that a person who
71 qualifies under this section is not eligible for the health
72 insurance subsidy provided under chapter 121, chapter 175, or
73 chapter 185.

74 Section 2. The amendments made by this act to s. 112.19,
75 Florida Statutes, are intended to apply retroactively to the
76 surviving spouse and dependent children of a law enforcement
77 officer, correctional officer, or a correctional probation
78 officer who was exposed in the line of duty to a pandemic
79 disease that was the subject of a declared public health
80 emergency and who died from such disease on or after March 1,
81 2020.

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

84 Section 4. This act shall take effect upon becoming a law.

85
86 ===== T I T L E A M E N D M E N T =====

87 And the title is amended as follows:

88 Delete everything before the enacting clause
89 and insert:

90 A bill to be entitled
91 An act relating to death benefits; amending s. 112.19,
92 F.S.; requiring an employer of law enforcement,
93 correctional, or correctional probation officers to
94 extend paid health insurance benefits to a surviving
95 spouse and each dependent child as a result of the
96 death of the officer from a pandemic disease that is
97 the subject of a declared public health emergency if



98 that officer was exposed in the line of duty;
99 providing applicability; providing retroactive
100 application; providing a declaration of an important
101 state interest; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1448

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Jones

SUBJECT: Information Technology Procurement

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1448 expands the powers, duties, and functions of the Florida Digital Service (FDS).

The bill requires the FDS to establish technical standards to ensure that state agencies information technology (IT) projects comply with the enterprise architecture.

The bill decreases the cost threshold that triggers FDS oversight of cabinet agency IT projects from \$25 million to \$20 million.

The bill requires the FDS to include in its IT-related policies a requirement that IT commodities and services purchased by the state meet the National Institute of Standards and Technology Cybersecurity Framework.

For an IT project where project oversight is required, the FDS must include in its IT related policies a requirement that independent verification and validation be employed throughout the project lifecycle with the primary objective of independent verification and validation being to provide an objective assessment of products and processes throughout the project lifecycle.

For state agency IT projects totaling \$10 million or more, a state agency must provide written notice to the FDS of any planned procurements. For these IT projects, the FDS must participate in the development and modification of any planned procurements to ensure it complies with the enterprise architecture must participate in post-award contract monitoring.

The bill requires an agency to issue a request for quote to all vendors approved to provide IT commodities, consultant services, or staff augmentation contractual services for a state term contract with less than 100 vendors. For any state term contract with more than 100 vendors, an agency must issue a request for quote to at least 100 of the vendors approved to provide such commodity or contractual service.

Beginning October 1, 2021, and annually thereafter, the Department of Management Services must prequalify firms and individuals to provide staff augmentation contractual services on a state term contract.

The FDS may incur significant workload increases and associated costs as it undertakes new contract monitoring responsibilities for state agency IT projects in excess of \$10 million. The Department of Management Services may experience additional workload and associated costs in prequalifying firms and individuals to provide staff augmentation contractual services on a state term contract.

The bill takes effect July 21, 2021.

II. Present Situation:

The Florida Digital Service

Section 282.0051, F.S., creates the Florida Digital Service (FDS) within the Department of Management Services (DMS) to propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation, and to fully support cloud-first policy¹. The FDS partners with all state agencies to deliver better government services through design and technology.

The FDS is responsible for developing an enterprise architecture, project management and oversight standards, and technology policy for the management of the state's information technology (IT)² resources. The enterprise architecture must acknowledge the unique needs of entities within the enterprise through development, the support of cloud-first policy, and the consideration of ways in which IT infrastructure may be modernized.³ The project management and oversight standards established by the FDS must be observed by state agencies implementing IT projects.

The FDS has the authority to perform project oversight on all state agency IT projects which have been appropriated \$10 million or more. The FDS is also responsible for providing project oversight on any IT project of the Department of Financial Services (DFS), the Department of Legal Affairs (DLA), and the Department of Agriculture and Consumer Services (DACCS), which

¹ Section 282.0051(1), F.S.

² Section 282.0041(1), F.S., defines "information technology" to mean equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

³ Section 282.0051(1)(b)(1-3), F.S.

has a total project cost of \$25 million or more and which impacts other state agencies. The FDS must report to, on a quarterly basis, the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives if it identifies any IT projects as high-risk.⁴

The Secretary of Management Services must designate a state chief information officer, who is responsible for administering the FDS. The chief information officer, prior to being appointed, must have at least five years of experience in the development of IT strategic planning and development or information technology policy, and, preferably, have leadership-level experience in the design, development, and deployment of interoperable software and data solutions. The state chief information officer, in consultation with the Secretary of Management Services, is responsible for designating a state chief data officer. The state chief data officer must be a proven and effective administrator who must have significant and substantive experience in data management, data governance, interoperability, and security.⁵

Cloud-First Policy in State Agencies

The Legislature finds that each state agency should adopt a cloud-first policy that first considers cloud-computing solutions in its technology sourcing strategy for technology initiatives or upgrades. In the procurement process, state agencies should show a preference for cloud-computing solutions that minimize or do not use state data center infrastructure. Further, each state agency should adopt formal procedures for the evaluation of cloud-computing options for existing applications, and develop a strategic plan to address its inventory of applications located at the state data center.⁶

State Term Contracts and Agreements

The Division of State Purchasing within the DMS procures state contracts and agreements for commodities and services that are frequently bought together.⁷ A state term contract is a term contract that is competitively procured and is used by agencies and eligible users.⁸ Each agency agreement is required to specify the scope of work that establishes all tasks that the contractor is required to perform, and to divide the contract into quantifiable, measureable, and verifiable units of deliverables. Agencies and eligible users⁹ may request for quotes to obtain written pricing or services information from a state term contract vendor for commodities or contractual services.¹⁰ The purpose of a request for quote is to determine whether a price, term, or condition more favorable to the agency or eligible user than that provided in the state term contract is available.¹¹

⁴ *Id.*

⁵ Section 282.0051(2)(a-b), F.S.

⁶ Section 282.206(1), F.S.

⁷ The Department of Management Services, *State Contracts and Agreements*, available at dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements, (last visited March 16, 2021)

⁸ Section 287.012(28), F.S. defines a “State term contract” to mean a term contract that is competitively procured by the department pursuant to s. 287.057, F.S. and that is used by agencies and eligible users pursuant to s. 287.056, F.S..

⁹ Section 287.012(11), F.S. defines an “Eligible user” as any person or entity authorized by the department pursuant to rule to purchase from state term contracts or to use the online procurement system.

¹⁰ Section 287.056, F.S.

¹¹ *Id.*

If the DMS issues a competitive solicitation for a state term contract for IT commodities, consultant services, or staff augmentation contractual services, the FDS must participate in such competitive solicitations. The state term contract may not exceed 48 months, unless the Secretary of Management Services, and the state chief information officer certify to the Executive Office of the Governor that a longer contract term is in the best interest of the state.¹²

Disqualified Vendors List

The DMS maintains a vendor list based on the vendor registration process in s. 287.042, F.S., and Rule 60A-1.006, F.A.C. Pursuant to s. 287.042(1)(b), F.S., the DMS has been granted authority to remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract. The DMS maintains the following lists of vendors who have been removed for cause:

- Suspended Vendor List;¹³
- Convicted Vendor List;¹⁴
- Discriminatory Vendor List;¹⁵
- Scrutinized List of Prohibited Companies;¹⁶ and
- Vendor Complaint List.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 282.0051, F.S. to expand the powers, duties, and functions of the Florida Digital Service. In some instances, these expanded powers shift the FDS from providing enterprise-wide IT governance to providing additional daily operational input and oversight over agency IT projects.

This section requires the FDS to establish technical standards to ensure that state agencies IT projects comply with the enterprise architecture.

This section decreases the total project costs threshold for which the FDS must perform project oversight from \$25 million or more to \$20 million or more for cabinet agency IT projects. The bill removes the requirement that the IT project must impact one or more agency in order for FDS project oversight to be triggered on cabinet agency IT projects. Consequently, the FDS will have increased oversight over cabinet agency IT projects which meet this new threshold.

¹² Section 287.0591, F.S.

¹³ Rule 60A-1.006(2), F.A.C. (vendors that have been removed for failing to fulfill any of its duties specified in a State contract)

¹⁴ Section 287.133, F.S.

¹⁵ Section 287.134(1)(b), F.S.

¹⁶ Section 287.135, F.S.

¹⁷ Department of Management Services, *Vendor Complaint List*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/vendor_complaint_list, (last visited March 18, 2021)

At a minimum, the FDS must include in its IT related policies a requirement that IT commodities and services purchased by the state meet the National Institute of Standards and Technology Cybersecurity Framework.

For an IT project where project oversight is required, the FDS must include in its IT related policies a requirement that independent verification and validation be employed throughout the project lifecycle with the primary objective of independent verification and validation being to provide an objective assessment of products and processes throughout the project lifecycle. An entity providing independent verification and validation may not have technical, managerial, or financial interest in the project and may not have responsibility for, or participate in, any other aspect of the project.

This section requires a state agency to provide the FDS with written notice of any planned procurement relating to an IT project having a total project cost of \$10 million or more. The FDS must participate in the development of specifications and recommend modifications to any planned procurement by state agencies so that the procurement complies with the enterprise architecture. Further, the FDS is required to participate in the post-award contract monitoring for IT projects.

Section 2 amends s. 287.0591, F.S. to delete obsolete language relating to information technology.

This section clarifies that for state term contracts, the Secretary of Management Services and the state chief information officer must certify in writing to the Executive Office of the Governor that a contract longer than 48 months for IT commodities, consultant services, or staff augmentation contractual services is in the best interest of this state.

This section requires an agency issuing a request for quotes to purchase IT commodities, consultant services, or staff augmentation contractual services, to issue a request for quotes to all vendors approved to provide such commodities or services for any state term contract with less than 100 vendors. For any contract with more than 100 vendors, the agency must issue a request for quote to at least 100 of the vendors approved to provide such commodity or contractual service. Use of a request for quote does not constitute a decision or intended decision that is subject to protest under s. 120.57(3), F.S.

This section provides that beginning October 1, 2021, and annually thereafter, the DMS must prequalify firms and individuals to provide staff augmentation contractual services on a state term contract. To prequalify a firm or an individual, the DMS must consider the capability, experience, and past performance record of the firm or individual for staff augmentation contractual services. Once a firm or individual has been prequalified, it may respond to requests for quotes from an agency to provide contractual services. Individuals or firms placed on the convicted vendors list, discriminatory vendor list, or removed from the source of supply are not eligible for a state term contract.

Section 3 provides that the bill takes effect July 1, 2021.

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

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:

None.

C. Government Sector Impact:

The Florida Digital Service may incur additional workload associated with an increase in project oversight over cabinet agencies IT projects meeting a certain cost threshold. Based on this additional project oversight workload, the FDS may need additional personnel and other resources to comply with the new requirements of this bill.

The bill requires the FDS to perform post-award contract monitoring for state agency IT projects that have a total project cost of \$10 million or more. Currently, the FDS only performs project oversight for IT projects in excess of \$10 million and does not conduct contract monitoring of any IT projects. In order to comply with the requirements of the bill, the FDS may need additional personnel, and require additional resources, to perform post-award contract monitoring for IT projects that are expected to exceed \$10 million.

State agencies may experience additional workload due to more qualified vendors responding to request for quotes.

The Department of Management Services may experience an insignificant fiscal impact in prequalifying firms and individuals to provide staff augmentation contractual services on a state term contract.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 282.0051 and 287.0591 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS makes the following revisions to the underlying bill:

- The total number of vendors that an agency must issue a request for quotes on a contract for IT commodities or contractual services changes from all approved vendors to at least 100 approved vendors.
- The total project cost for the Florida Digital Service to be involved in the procurement, development, and post-award contract monitoring of IT projects is increased from \$5 million to \$10 million.

The CS adds the following issues that were not addressed in the underlying bill:

- Requires the FDS to establish an IT policy that requires any contract for IT commodities or services to meet the National Institute of Standards and Technology Cybersecurity Framework.
- Requires the FDS to establish an IT policy that requires certain IT projects employ an independent verification and validation throughout an IT project's lifecycle.

The CS removed the following provisions that were included in the underlying bill:

- The Florida Digital Service must participate in the formation and negotiation of a contract for an IT project having a total cost of more than \$5 million.
- The total project cost threshold that triggers Florida Digital Service oversight for all state agency IT project is reduced from \$10 million to \$5 million.

B. Amendments:

None.

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

By Senator Jones

35-01530-21

20211448__

A bill to be entitled

An act relating to information technology procurement; amending s. 282.0051, F.S.; requiring the Department of Management Services, through the Florida Digital Service, to establish certain project management and oversight standards for state agency compliance; requiring the department to perform project oversight on information technology projects that have total project costs of a certain amount or more; providing requirements for information technology projects that have a total project cost greater than a certain amount; amending s. 287.0591, F.S.; removing obsolete language; authorizing the department to execute certain contracts if the Secretary of Management Services and the state chief information officer certify certain information in writing; requiring an agency to issue a request for quotes to all vendors approved to provide certain commodities or services in certain circumstances; requiring the department to prequalify firms and individuals to provide certain services on a state term contract by a certain date; requiring the department to consider certain information in order to prequalify a firm or an individual; providing for the ineligibility of a firm or an individual from state term contracts; 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.

35-01530-21

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Section 1. Paragraphs (c), (d), and (n) of subsection (1) and subsection (4) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Department of Management Services; Florida Digital Service; powers, duties, and functions.—

(1) The Florida Digital Service has been created within the department to propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation and interoperability, and to fully support the cloud-first policy as specified in s. 282.206. The department, through the Florida Digital Service, shall have the following powers, duties, and functions:

(c) Establish project management and oversight standards with which state agencies must comply when implementing information technology projects. The department, acting through the Florida Digital Service, shall provide training opportunities to state agencies to assist in the adoption of the project management and oversight standards. To support data-driven decisionmaking, the standards must include, but are not limited to:

1. Performance measurements and metrics that objectively reflect the status of an information technology project based on a defined and documented project scope, cost, and schedule.

2. Methodologies for calculating acceptable variances in the projected versus actual scope, schedule, or cost of an information technology project.

3. Reporting requirements, including requirements designed to alert all defined stakeholders that an information technology

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

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59 project has exceeded acceptable variances defined and documented
60 in a project plan.

61 4. Content, format, and frequency of project updates.

62 5. Technical standards to ensure that an information
63 technology project complies with the enterprise architecture.

64 (d) Perform project oversight on all state agency
65 information technology projects that have total project costs of
66 \$5 ~~\$10~~ million or more and that are funded in the General
67 Appropriations Act or any other law. The department, acting
68 through the Florida Digital Service, shall report at least
69 quarterly to the Executive Office of the Governor, the President
70 of the Senate, and the Speaker of the House of Representatives
71 on any information technology project that the department
72 identifies as high-risk due to the project exceeding acceptable
73 variance ranges defined and documented in a project plan. The
74 report must include a risk assessment, including fiscal risks,
75 associated with proceeding to the next stage of the project, and
76 a recommendation for corrective actions required, including
77 suspension or termination of the project.

78 (n)1. Notwithstanding any other law, provide project
79 oversight on any information technology project of the
80 Department of Financial Services, the Department of Legal
81 Affairs, and the Department of Agriculture and Consumer Services
82 which has a total project cost of \$20 ~~\$25~~ million or more ~~and~~
83 ~~which impacts one or more other agencies~~. Such information
84 technology projects must also comply with the applicable
85 information technology architecture, project management and
86 oversight, and reporting standards established by the
87 department, acting through the Florida Digital Service.

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88 2. When performing the project oversight function specified
89 in subparagraph 1., report at least quarterly to the Executive
90 Office of the Governor, the President of the Senate, and the
91 Speaker of the House of Representatives on any information
92 technology project that the department, acting through the
93 Florida Digital Service, identifies as high-risk due to the
94 project exceeding acceptable variance ranges defined and
95 documented in the project plan. The report shall include a risk
96 assessment, including fiscal risks, associated with proceeding
97 to the next stage of the project and a recommendation for
98 corrective actions required, including suspension or termination
99 of the project.

100 (4) For information technology projects that have a total
101 project cost of more than \$5 million ~~Upon the adoption of the~~
102 ~~enterprise architecture standards in rule, the department,~~
103 ~~acting through the Florida Digital Service, may develop a~~
104 ~~process to:~~

105 (a) State agencies must provide the Florida Digital Service
106 with ~~Receive~~ written notice ~~from the entities within the~~
107 ~~enterprise~~ of any planned procurement ~~of an information~~
108 ~~technology project that is subject to enterprise architecture~~
109 ~~standards.~~

110 (b) The Florida Digital Service must participate in the
111 development of specifications and recommend modifications to any
112 planned procurement by state agencies so that the procurement
113 complies with the enterprise architecture.

114 (c) The Florida Digital Service must participate in the
115 formation and negotiation of the contract and in post-award
116 contract monitoring.

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117 Section 2. Section 287.0591, Florida Statutes, is amended
 118 to read:

119 287.0591 Information technology.—

120 (1) ~~Beginning July 1, 2014,~~ Any competitive solicitation
 121 issued by the department for a state term contract for
 122 information technology commodities must include a term that does
 123 not exceed 48 months.

124 (2) ~~Beginning September 1, 2015,~~ Any competitive
 125 solicitation issued by the department for a state term contract
 126 for information technology consultant services or information
 127 technology staff augmentation contractual services must include
 128 a term that does not exceed 48 months.

129 (3) The department may execute a state term contract for
 130 information technology commodities, consultant services, or
 131 staff augmentation contractual services that exceeds the 48-
 132 month requirement if the Secretary of Management Services and
 133 the state chief information officer certify in writing to the
 134 Executive Office of the Governor that a longer contract term is
 135 in the best interest of this ~~the~~ state.

136 (4) If the department issues a competitive solicitation for
 137 information technology commodities, consultant services, or
 138 staff augmentation contractual services, the Florida Digital
 139 Service within the department shall participate in such
 140 solicitations.

141 (5) If an agency issues a request for quotes to purchase
 142 information technology commodities, information technology
 143 consultant services, or information technology staff
 144 augmentation contractual services from the state term contract,
 145 the agency must issue a request for quotes to all vendors

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146 approved to provide such commodities or services. Use of a
 147 request for quotes does not constitute a decision or intended
 148 decision that is subject to protest under s. 120.57(3).

149 (6) Beginning October 1, 2021, and annually thereafter, the
 150 department must prequalify firms and individuals to provide
 151 staff augmentation contractual services on a state term
 152 contract. In order to prequalify a firm or an individual for
 153 participation on the state term contract, the department must
 154 consider, at a minimum, the capability, experience, and past
 155 performance record of the firm or individual. A firm or an
 156 individual removed from the source of supply pursuant to s.
 157 287.042(1)(b) or placed on a disqualified vendor list pursuant
 158 to s. 287.133 or s. 287.134 is not eligible for a state term
 159 contract. Once a firm or an individual has been prequalified to
 160 provide staff augmentation contractual services on a state term
 161 contract, the firm or individual may respond to requests for
 162 quotes from an agency to provide such services.

163 Section 3. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

Senator Shevrin D. "Shev" Jones
214 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

To: Chair Ray Wesley Rodrigues
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 4, 2021

I respectfully request that **Senate Bill 1448**, relating to information technology procurement, be placed on the:

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

A handwritten signature in blue ink, appearing to be "S Jones".

Senator Shevrin Jones
Florida Senate, District 35



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (c), (n), and (q) of subsection (1)
and subsection (4) of section 282.0051, Florida Statutes, are
amended to read:

282.0051 Department of Management Services; Florida Digital
Service; powers, duties, and functions.—

(1) The Florida Digital Service has been created within the



11 department to propose innovative solutions that securely
12 modernize state government, including technology and information
13 services, to achieve value through digital transformation and
14 interoperability, and to fully support the cloud-first policy as
15 specified in s. 282.206. The department, through the Florida
16 Digital Service, shall have the following powers, duties, and
17 functions:

18 (c) Establish project management and oversight standards
19 with which state agencies must comply when implementing
20 information technology projects. The department, acting through
21 the Florida Digital Service, shall provide training
22 opportunities to state agencies to assist in the adoption of the
23 project management and oversight standards. To support data-
24 driven decisionmaking, the standards must include, but are not
25 limited to:

26 1. Performance measurements and metrics that objectively
27 reflect the status of an information technology project based on
28 a defined and documented project scope, cost, and schedule.

29 2. Methodologies for calculating acceptable variances in
30 the projected versus actual scope, schedule, or cost of an
31 information technology project.

32 3. Reporting requirements, including requirements designed
33 to alert all defined stakeholders that an information technology
34 project has exceeded acceptable variances defined and documented
35 in a project plan.

36 4. Content, format, and frequency of project updates.

37 5. Technical standards to ensure an information technology
38 project complies with the enterprise architecture.

39 (n)1. Notwithstanding any other law, provide project



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40 oversight on any information technology project of the
41 Department of Financial Services, the Department of Legal
42 Affairs, and the Department of Agriculture and Consumer Services
43 which has a total project cost of \$20 ~~\$25~~ million or more ~~and~~
44 ~~which impacts one or more other agencies~~. Such information
45 technology projects must also comply with the applicable
46 information technology architecture, project management and
47 oversight, and reporting standards established by the
48 department, acting through the Florida Digital Service.

49 2. When performing the project oversight function specified
50 in subparagraph 1., report at least quarterly to the Executive
51 Office of the Governor, the President of the Senate, and the
52 Speaker of the House of Representatives on any information
53 technology project that the department, acting through the
54 Florida Digital Service, identifies as high-risk due to the
55 project exceeding acceptable variance ranges defined and
56 documented in the project plan. The report shall include a risk
57 assessment, including fiscal risks, associated with proceeding
58 to the next stage of the project and a recommendation for
59 corrective actions required, including suspension or termination
60 of the project.

61 (q)1. Establish an information technology policy for all
62 information technology-related state contracts, including state
63 term contracts for information technology commodities,
64 consultant services, and staff augmentation services. The
65 information technology policy must include:

66 a. Identification of the information technology product and
67 service categories to be included in state term contracts.

68 b. Requirements to be included in solicitations for state



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69 term contracts.

70 c. Evaluation criteria for the award of information
71 technology-related state term contracts.

72 d. The term of each information technology-related state
73 term contract.

74 e. The maximum number of vendors authorized on each state
75 term contract.

76 f. At a minimum, a requirement that any contract for
77 information technology commodities or services meet the National
78 Institute of Standards and Technology Cybersecurity Framework.

79 g. For an information technology project wherein project
80 oversight is required pursuant to paragraph (d) or paragraph
81 (n), a requirement that independent verification and validation
82 be employed throughout the project lifecycle with the primary
83 objective of independent verification and validation being to
84 provide an objective assessment of products and processes
85 throughout the project lifecycle. An entity providing
86 independent verification and validation may not have technical,
87 managerial, or financial interest in the project and may not
88 have responsibility for, or participate in, any other aspect of
89 the project.

90 2. Evaluate vendor responses for information technology-
91 related state term contract solicitations and invitations to
92 negotiate.

93 3. Answer vendor questions on information technology-
94 related state term contract solicitations.

95 4. Ensure that the information technology policy
96 established pursuant to subparagraph 1. is included in all
97 solicitations and contracts that are administratively executed



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98 by the department.

99 (4) For information technology projects that have a total
100 project cost of over \$10 million ~~Upon the adoption of the~~
101 ~~enterprise architecture standards in rule, the department,~~
102 ~~acting through the Florida Digital Service, may develop a~~
103 ~~process to:~~

104 (a) State agencies must provide the Florida Digital Service
105 with ~~Receive~~ written notice ~~from the entities within the~~
106 ~~enterprise~~ of any planned procurement of an information
107 technology project ~~that is subject to enterprise architecture~~
108 ~~standards.~~

109 (b) The Florida Digital Service must participate in the
110 development of specifications and recommend modifications to any
111 planned procurement of an information technology project by
112 state agencies so that the procurement complies with the
113 enterprise architecture.

114 (c) The Florida Digital Service must participate in post-
115 award contract monitoring.

116 Section 2. Section 287.0591, Florida Statutes, is amended
117 to read:

118 287.0591 Information technology.—

119 (1) ~~Beginning July 1, 2014,~~ Any competitive solicitation
120 issued by the department for a state term contract for
121 information technology commodities must include a term that does
122 not exceed 48 months.

123 (2) ~~Beginning September 1, 2015,~~ Any competitive
124 solicitation issued by the department for a state term contract
125 for information technology consultant services or information
126 technology staff augmentation contractual services must include



127 a term that does not exceed 48 months.

128 (3) The department may execute a state term contract for
129 information technology commodities, consultant services, or
130 staff augmentation contractual services that exceeds the 48-
131 month requirement if the Secretary of Management Services and
132 the state chief information officer certify in writing to the
133 Executive Office of the Governor that a longer contract term is
134 in the best interest of the state.

135 (4) If the department issues a competitive solicitation for
136 information technology commodities, consultant services, or
137 staff augmentation contractual services, the Florida Digital
138 Service within the department shall participate in such
139 solicitations.

140 (5) If an agency issues a request for quote to purchase
141 information technology commodities, information technology
142 consultant services, or information technology staff
143 augmentation contractual services from the state term contract,
144 for any contract with less than 100 vendors, the agency must
145 issue a request for quote to all vendors approved to provide
146 such commodities or services. For any contract with more than
147 100 vendors, the agency must issue a request for quote to at
148 least 100 of the vendors approved to provide such commodity or
149 contractual service. Use of a request for quote does not
150 constitute a decision or intended decision that is subject to
151 protest under s. 120.57(3).

152 (6) Beginning October 1, 2021, and each October 1
153 thereafter, the department shall prequalify firms and
154 individuals to provide information technology staff augmentation
155 contractual services on state term contract. In order to



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156 prequalify a firm or individual for participation on the state
157 term contract, the department must consider, at a minimum, the
158 capability, experience, and past performance record of the firm
159 or individual. A firm or individual removed from the source of
160 supply pursuant to s. 287.042(1)(b) or placed on a disqualified
161 vendor list pursuant to s. 287.133 or s. 287.134 is immediately
162 disqualified from state term contract eligibility. Once a firm
163 or individual has been prequalified to provide information
164 technology staff augmentation contractual services on state term
165 contract, the firm or individual may respond to requests for
166 quotes from an agency to provide such services.

167 Section 3. This act shall take effect July 1, 2021

168
169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete everything before the enacting clause
172 and insert:

173 A bill to be entitled

174 An act relating to information technology procurement;
175 amending s. 282.0051, F.S.; requiring the Department
176 of Management Services, through the Florida Digital
177 Service, to establish certain project management and
178 oversight standards for state agency compliance;
179 requiring the department to perform project oversight
180 on information technology projects that have total
181 project costs of a certain amount or more; requiring
182 the information technology policy for certain state
183 contracts established by the Florida Digital Service
184 to include certain requirements for certain contracts



720732

185 and information technology projects; providing
186 requirements for information technology projects that
187 have a total project cost over a certain amount;
188 amending s. 287.0591, F.S.; removing obsolete
189 language; authorizing the department to execute
190 certain contracts if the Secretary of Management
191 Services and the state chief information officer
192 certify certain information in writing; requiring an
193 agency to issue a request for quote to certain vendors
194 approved to provide certain commodities or services in
195 certain circumstances; requiring the department to
196 prequalify firms and individuals to provide certain
197 services on state term contract by a certain date;
198 requiring the department to consider certain
199 information in order to prequalify a firm or
200 individual; providing for the disqualification of a
201 firm or individual from state term contract
202 eligibility; authorizing a prequalified firm or
203 individual to respond to certain requests for quotes;
204 providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1512

INTRODUCER: Senator Wright

SUBJECT: Space Florida Board of Directors

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1512 increases the number of members of the board of directors of Space Florida from 13 to 15. The President of the Senate is authorized to appoint one member of the Florida Senate, and Speaker of the House of Representatives is authorized to appoint a member of the House of Representatives. These legislative appointees serve ex officio and as nonvoting members of the board.

Under current law, the Space Florida board of directors is comprised of the Governor or his or her designee, and 12 members from the board of directors of Enterprise Florida. Six of these twelve people are appointed by the Governor, and the President of the Senate and the Speaker of the House each appoint three members. The appointing officials must select members from various industries and areas of expertise as specified in statute. Moreover, they must consider candidates who reflect this state's racial, ethnic, and gender diversity.

By law, the board of directors of Space Florida performs various functions, including establishing rules and orders to conduct the business of Space Florida, and appointing a president of Space Florida. Additionally, Space Florida is granted various powers, including the authority to enter into contracts necessary to carry out Space Florida's mission and to provide financial services to support aerospace-related business development in this state.

Members of the board of directors serve 4-year terms.

The bill takes effect July 1, 2021.

II. Present Situation:

Space Florida – Creation and Purpose

Space Florida was created as an independent special district,¹ a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state. The purpose of Space Florida is to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. To accomplish its purpose, Space Florida advises, coordinates, cooperates, and, when necessary, enters into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.² Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; and undertake joint financing with municipalities or private sector entities for any project.³

Space Florida’s Board of Directors

Composition and Appointment

Space Florida is governed by a 13-member independent board of directors. The board must be comprised of the 12 private-sector members of the Enterprise Florida Board, plus the Governor or designee. The Governor serves ex officio, as the chair, and as a voting member.⁴

The 12 private–sector members of the Enterprise Florida board, and thus of the Space Florida Board, are appointed to 4-year terms by the Governor (six), the President of the Senate (three), and the Speaker of the House of Representatives (three).⁵ In appointing board members, the Governor and the presiding officers of the Legislature must “ensure that the composition of the board of directors reflects the diversity of Florida’s business community and is representative of” the following economic development goals:

- Increase private investment in Florida.
- Advance international and domestic trade opportunities.
- Market the state both as a probusiness location for new investment and as an unparalleled tourist destination.
- Revitalize Florida’s space and aerospace industries, and promote emerging complementary industries.
- Promote opportunities for minority-owned businesses.

¹ Chapter 189, F.S.

² Space Florida is not an agency as defined in ss. 216.011 and 287.012, F.S. Space Florida is subject to applicable provisions of the Uniform Special District Accountability Act.

³ Section 331.305, F.S.

⁴ According to the Space Florida website, the following are members of the board: Governor Ron DeSantis; Lieutenant Governor Jeanette Nunez, Chairman of the Board; Jay Beyrouiti, President, Monicarla, Ltd.; Jesse Biter, President/CEO, Biter Enterprises, LLC.; Dean Cannon, President and CEO, Gray Robinson; Gregory Celestan, Chairman and Chief Executive Officer, Celestar Corporation; Daniel Davis, President and CEO, Jax Chamber; Sonya Deen, Vice President of Government Relations, JM Family Enterprises, Inc.; Barbara Essenwine, Owner, Above & Beyond Group; Mori Hosseini, Chairman & CEO, ICI Homes; Kenneth Kahn, President, LRP Media Group; Belinda Keiser, Vice Chancellor of Community Relations & Student Advancement, Keiser University; Katherine San Pedro, Partner, Ballard Partners, Inc. Available at <https://www.spaceflorida.gov/about/board-of-directors/> (Last visited on March 4, 2021).

⁵ Section 331.3081., F.S.

- Assist and market professional and amateur sport teams and sporting events in Florida.
- Assist, promote, and enhance economic opportunities in this state’s rural and urban communities.⁶

Additionally, the board must include at least one director for each of the following areas of expertise:

- International business
- Tourism marketing
- The space or aerospace industry
- Managing or financing a minority-owned business
- Manufacturing
- Finance and accounting
- Sports marketing⁷

Finally, when appointing members from the private sector to serve on the Enterprise Florida Board (and therefore on the Space Florida board), the Governor, Senate President, and Speaker of the House must consider “appointees who reflect Florida’s racial, ethnic, and gender diversity. Efforts shall be taken to ensure participation from all geographic areas of the state, including representation from urban and rural communities.”⁸

Duties of the Board of Directors

The board of directors’ duties include:

- Adopting rules and orders to conduct the business of Space Florida, the maintenance of records, and the form of all documents and records of Space Florida.
- Maintaining an executive office and Space Florida offices in close proximity to the John F. Kennedy Space Center.
- Appointing a president of Space Florida and determining his or her title, functions, duties, powers, and salary.
- Preparing an annual report of operations as a supplement to its annual report, which is also required by law.⁹

Powers of the Board of Directors

The board of directors is authorized to exercise the following powers:

- Enter, and authorize any agent or employee of Space Florida to enter, upon any lands, waters, and premises, upon giving reasonable notice and due process to the land owner, for the purposes of making surveys, soundings, drillings, appraisals, and examinations necessary to perform its duties and functions.
- Execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the board to be necessary or desirable to carry out the purposes given it in statute.

⁶ Section 288.901(5)(b), F.S. The goals are provided in s. 288.901(2), F.S.

⁷ Section 288.901(5)(b), F.S.

⁸ Section 288.901(5)(c), F.S.

⁹ Section 331.310(2), F.S.

- Establish and create such departments, committees, or other entities as from time to time the board deems necessary or desirable in the performance of any acts or other things necessary to the exercise of the powers provided in statute.
- Provide financial services to support aerospace-related business development within the state. Financial services may include, but are not limited to:
 - Insuring, coinsuring, or originating for sale direct aerospace-related loans.
 - Direct lending.
 - Guaranteeing and collateralizing loans.
 - Creating accounts.
 - Capitalizing, underwriting, leasing, selling, or securing funding for aerospace-related infrastructure.
 - Investing in permissible securities.
 - Organizing financial institutions and international bank syndicates.
 - Acquiring, accepting, or administering grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of Space Florida's business plan. If the board deems a financial services entity is necessary, the board may create, form, or contract with one or more such entities.
- Examine, and authorize any officer or agent of Space Florida to examine, the county tax rolls with respect to the assessed valuation of the real and personal property within any spaceport territory.
- Engage in the planning and implementation of space-related economic and educational development within the state.
- Provide the strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses.
- Execute intergovernmental agreements and development agreements consistent with prevailing statutory provisions, including, but not limited to, special benefits or tax increment financing initiatives.
- Establish reserve funds for future board operations.
- Adopt rules pursuant to chapter 120, F.S., to carry out the purposes of ch. 331, F.S., which governs Space Florida.¹⁰

III. Effect of Proposed Changes:

The bill increases the number of members of the board of directors of Space Florida from 13 to 15. The President of the Senate is authorized to appoint one member of the Florida Senate, and Speaker of the House of Representatives is authorized to appoint a member of the House of Representatives. These legislative appointees serve ex officio and as nonvoting members of the board.

Under current law, the Space Florida board of directors is comprised of the Governor or his or her appointee and 12 members from the board of directors of Enterprise Florida. Six of these twelve people must be appointed by the Governor, and the President of the Senate and the Speaker of the House each must appoint three members. The appointing officials must select members from various industries and areas of expertise as specified in statute. Moreover, they must consider candidates who reflect this state's racial, ethnic, and gender diversity.

¹⁰ Section 331.310(1), F.S.

By law, the board of directors of Space Florida performs various functions, including establishing rules and orders to conduct the business of Space Florida and appointing a president of Space Florida. Additionally, Space Florida is granted various powers, including the authority to enter into contracts necessary to carry out Space Florida's mission and provide financial services to support aerospace-related business development in this state.

Members of the board of directors serve 4-year terms.

The bill takes effect July 1, 2021.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 331.081 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.

By Senator Wright

14-01642-21

20211512__

1 A bill to be entitled

2 An act relating to Space Florida board of directors;
3 amending s. 331.3081, F.S.; revising the membership of
4 the board of directors of Space Florida to include two
5 ex officio, nonvoting members appointed by the
6 Legislature; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 331.3081, Florida Statutes, is amended
11 to read:

12 331.3081 Board of directors.—Space Florida shall be
13 governed by a 15-member ~~13-member~~ independent board of directors
14 that consists of:

15 (1) The 12 members appointed to the board of directors of
16 Enterprise Florida, Inc., by the Governor, the President of the
17 Senate, and the Speaker of the House of Representatives pursuant
18 to s. 288.901(5)(a)7.

19 (2) One ex officio, nonvoting member appointed by the
20 President of the Senate from the members of the Senate, and one
21 ex officio, nonvoting member appointed by the Speaker of the
22 House of Representatives from the members of the House of
23 Representatives. and

24 (3) The Governor, who shall serve ex officio, or who may
25 appoint a designee to serve, as the chair and a voting member of
26 the board.

27 Section 2. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1570

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez

SUBJECT: Quasi-public Entities

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Fav/CS
2.	_____	_____	AP	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1570 creates s. 20.059, F.S., relating to quasi-public entities. The bill provides definitions, requirements, and responsibilities for quasi-public entities.

The bill defines “quasi-public entity” to mean an entity established by general law, regardless of form, for a public purpose or to effectuate a government program and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.”

The bill requires the Governor to designate a department with which each quasi-public entity will be affiliated, and the requirements of the affiliated department.

The bill requires each quasi-public entity to have an operational audit completed by the Auditor General at least once every three years.

The bill requires each quasi-public entity to submit an annual report, on September 15, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and its affiliated department.

The bill requires a quasi-public entity to include additional specified information if the entity is organized as a corporation or has created an affiliated entity.

The bill requires each quasi-public entity to maintain a publicly available website with certain content.

A quasi-public entity is prohibited from using public funds to retain a lobbyist to represent the entity before the legislative or executive branch. However, a full-time employee of the entity may register as a lobbyist to provide such representation.

The bill prohibits a quasi-public entity from creating an entity separate from itself, including a citizen support organization or a direct-support organization.

The bill requires any meeting of a quasi-public entity to be video recorded. Additionally, the bill prohibits the executive director or an officer with similar responsibilities from recommending or being involved with the selection, appointment or retention of any member of the quasi-public entity’s governing body.

The bill requires each quasi-public entity to post certain information on the Department of Financial Services contracting tracking system within 30 days after executing a contract.

The departments affiliated with the quasi-public entities will incur additional workload.

The bill takes effect July 1, 2021.

II. Present Situation:

Quasi-Public Entity

The term “quasi-public entity” is not defined in Florida Statutes. Quasi-public entities are generally considered a hybrid of a private and public organization, organized and established in law to provide and promote a public purpose by administering a governmental function of state government.¹ A quasi-public entity is typically appropriated funds from the state in order to accomplish the public purpose of its contract.

The table below is not intended to be a comprehensive list of entities but are examples of quasi-public entities:

Entity	Statute	Date of Creation
The Commission for the Transportation Disadvantaged	S. 427.012, F.S.	1979(Ch. 79-180, L.O.F.)
Florida Housing Finance Corporation	S. 420.504, F.S.	1980 (Ch. 80-161, L.O.F.)
Correctional Work Programs Corporation	S. 946.504, F.S.	1983 (Ch. 83-209, L.O.F.)
Local Health Councils (11)	S. 408.033(1)(a), F.S.	1987 (Ch. 87-92, L.O.F.)
Florida Independent Living Council	S. 413.395, F.S.	1988 (Ch. 88-214, L.O.F.)
Florida Birth-Related Neurological Injury Compensation Association	S. 766.315(1)(a), F.S.	1988 (Ch. 88-1, L.O.F.)
Inland Protection Financing Corporation	S. 376.3071, F.S.	1989 (Ch. 16-159, L.O.F.)
One Church, One Child of Florida Corporation	S. 409.1755, F.S.	1990 (Ch. 90-306, L.O.F.)
Florida Healthy Kids Corporation	S. 624.91(5), F.S.	1990 (Ch. 90-199, L.O.F.)
Enterprise Florida	S. 288.901(1), F.S.	1992 (Ch. 92-277, L.O.F.)

¹ *McClung-Gagne v. Harbour City Volunteer Ambulance Squad, Inc.*, 721 So.2d 799 (Fla.App. 1 Dist.,1998)

Entity	Statute	Date of Creation
Sunshine State One-Call of Florida, Inc. (Sunshine 811)	S. 556.103, F.S.	1993 (Ch. 93-240, L.O.F.)
Florida Export Finance Corporation	S. 288.773, F.S.	1993 (Ch. 93-187, L.O.F.)
Florida Development Finance Corporation	S. 288.9604, F.S.	1993 (Ch. 93-187, L.O.F.)
CareerSource Florida, Inc.	S. 445.004, F.S.	1994 (Ch. 94-232, L.O.F.)
Assistive Technology Advisory Council	S. 413.407, F.S.	1994 (Ch. 94-324, L.O.F.)
Florida Engineers Management Corporation	S. 471.038, F.S.	1997 (Ch. 97-312, L.O.F.)
Florida Workers' Compensation Insurance Guaranty Association Guaranty Association, Inc.	S. 631.911, F.S.	1997 (Ch. 97-262, L.O.F.)
Ounce of Prevention Fund of Florida	S. 409.153, F.S.	1998 (Ch. 98-175, L.O.F.)
Tobacco Settlement Financing Corporation	S. 215.56005, F.S.	2000 (Ch. 2000-128, L.O.F.)
Florida Association of Drug Court Professionals	S. 397.334(7)(a), F.S.	2001 (Ch. 2001-48, L.O.F.)
Florida Mobile Home Relocation Corporation	S. 723.0611, F.S.	2001 (Ch. 2001-227, L.O.F.)
Florida Health Choices, Inc.	S. 408.910, F.S.	2002 (Ch. 2008-32, L.O.F.)
Citizens Property Insurance Corporation	S. 627.351(6), F.S.	2002 (Ch. 2002-240, L.O.F.)
Florida Education Fund, Inc.	S. 1009.70, F.S.	2002 (Ch. 2002-387, L.O.F.)
H. Lee Moffitt Cancer Center and Research, Inc.	S. 1004.43, F.S.	2002 (Ch. 2002-837, L.O.F.)
Scripps Florida Funding Corporation	S. 288.955, F.S.	2003 (Ch. 2003-420, L.O.F.)
Florida Clerks of Court Operations Corporation	S. 28.35(1)(a), F.S.	2003 (Ch. 2003-402, L.O.F.)
Florida Institute for Human and Machine Cognition, Inc.	S. 1004.447, F.S.	2003 (Ch. 2003-294, L.O.F.)
Florida Public Health Institute, Inc.	S. 381.98, F.S.	2004 (Ch. 2004-2, L.O.F.)
Public Cord Blood Tissue Bank	S. 381.06015, F.S.	2005 (Ch. 2005-305, L.O.F.)
Florida Opportunity Fund	S. 288.9624, F.S.	2007 (Ch. 2007-189, L.O.F.)
Institute for Commercialization of Florida Technology	S. 288.9625, F.S.	2013 (Ch. 2013-120, L.O.F.)
Florida is for Veterans, Inc.	S. 295.21, F.S.	2014 (Ch. 2014-1, L.O.F.)
Triumph Gulf Coast, Inc.	S. 288.8013, F.S.	2017 (Ch. 2017-64, L.O.F.)

The Office of Program Policy Analysis and Government Accountability

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is the research arm of the Legislature. The OPPAGA was created by the Legislature in 1994 to help improve the performance and accountability of state government. The OPPAGA provides data, evaluative research, and objective analyses to assist legislative budget and policy deliberations. The OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee.² The OPPAGA provides a variety of research services such as performance evaluations and policy reviews of government programs, research and technical assistance to legislators and legislative committees, and government program summaries containing descriptive and evaluative information on all major state programs.

Citizen Support and Direct Support Organizations

A citizen support organization (CSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of Chapter 617, Florida Statutes, and is authorized by Florida law to exist as a citizen-support organization to benefit or provide assistance to a governmental entity.³ A CSO is organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest,

² The Office of Program Policy Analysis and Government Accountability, *See About OPPAGA*, available at <https://oppaga.fl.gov/About>, (last visited March 11, 2021)

³ Section 20.2551, F.S.

and administer, in its own name, securities, funds, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of their affiliated department or agency.

A direct support organization (DSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of Chapter 617, Florida Statutes, and is authorized by Florida law to exist as a direct-support organization to benefit or provide assistance to a governmental entity.⁴

Section 20.058, F.S., establishes that by August 1 of each year, each CSO and DSO must submit the following information to their affiliated department or agency:

- The name, mailing address, telephone number, and website address of the CSO;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

By August 15 of each year, the appropriate agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each organization⁵.

Transparency in Government Spending & The Contract Tracking System

Section 215.985, F.S., is referred to as the Transparency Government Act (the Act). The Act requires the Chief Financial Officer (CFO) to establish and maintain a secure contract tracking system available for viewing and downloading by the public through a secure website. The Department of Financial Services (DFS) maintains and updates the contract tracking system. The tracking system contains contracts, grant awards, and amendments to contracts.

Within 30 days after executing a contract, each state entity is required to post the following information relating to the contract on the contract tracking system:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;
- Applicable contract performance measures;

⁴ Section 16.618, F.S.

⁵ Section 20.058, F.S.

- If a competitive solicitation was not used to procure the goods and services, the justification of the action, including citation to a statutory exemption from competitive solicitation if any.⁶; and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential information or exempt information.

Within 30 calendar days after an amendment to an existing contract, the state entity that is a party to the contract must update the information on the contract tracking system.

State entities are required to redact confidential or exempt information from the contract and procurement documents before posting an electronic copy on the contract tracking system. If a state entity becomes aware that an electronic copy of a contract or procurement document has been posted but has not been properly redacted, the state entity must notify the CFO and remove the documents from the contract tracking system.⁷ Consequently, the state entity has seven business days to post a properly redacted copy of the contract or procurement document on the contract tracking system. Request to redact confidential and exempt information must be made in writing, and delivered by mail, facsimile, electronic transmission, or in person to the state entity. The CFO is not responsible for redacting confidential and exempt information posted by a state entity on the system and is not liable for the failure of the state entity to post the information.

This section establishes that the posting of information on the contract tracking system does not supersede the duty of the state entity to respond to a public records request or subpoena for the information. A request for a copy of a contract or procurement document must be made to the state entity. A subpoena for a copy of a contract or procurement document must be served on the quasi-public entity.

This section establishes that the CFO regulating and prohibiting the posting of records that could facilitate identity theft or fraud does not supersede the duty of a state entity to provide a copy of a public record upon request.

Operational Audit Requirements under Section 11.45, F.S.

Section 11.45(1)(i), F.S., defines operational audit to mean an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.⁸

⁶ Section 215.985(14)(a), F.S.

⁷ Section 215.985(14)(d), F.S.

⁸ Section 11.45(1)(i), F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 20.059, F.S., to outline the definitions, requirements, and responsibilities of quasi-public entities.

This section provides the following definitions: the term “governmental entity” is defined to mean:

A state, regional, county, municipal, special district, or other political subdivision, whether executive, judicial, or legislative, including, but not limited to, a department, a division, a bureau, a commission, an authority, a district, or an agency thereof or a public school, a Florida College System institution a state university, or an associated board.

The term “operational audit” has the same meaning as in s. 11.45(1), F.S., - which means:

An audit whose purpose is to evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

The term “quasi-public entity” is defined to mean:

An entity established by general law, regardless of form, for a public purpose or to effectuate a government programs and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.

This section provides that for a quasi-public entity created in law before July 1, 2021, the Governor must specify a department with which the quasi-public entity will be affiliated, unless a department is already specified in law, no later than December 31, 2021. For quasi-public entities created in law on or after July 1, 2021, the law creating the quasi-public entity must specify a department with which the quasi-public entity will be affiliated. The affiliated departments whether specified by the Governor or in law, shall serve in an advisory capacity to the governing body of the affiliated quasi-public entity. The head of the affiliated department must review the activities of the affiliated quasi-public entity at least annually and recommend appropriate statutory changes to the Legislature, as necessary, to ensure the most efficient and cost-effective operation.

This section requires each quasi-public entity to have an operational audit completed by the Auditor General at least once every three years.

This section provides that by September 15 of each year, each quasi-public entity is required to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and its affiliated department. The report is required to have the following:

- The name, mailing address, physical address, telephone number, and website address of the quasi-public entity;
- The statutory authority creating the quasi-public entity;
- A description of the quasi-public entity's mission;
- A description of the quasi-public entity's plans for the next 3 fiscal years;
- A copy of the quasi-public entity's code of ethics; and
- If the quasi-public entity is a corporation not for profit, a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

If the quasi-public entity is organized as a corporation, the bill requires the following be provided:

- The corporate governance framework and structure;
- The policies and practices of the corporation's significant committees;
- The policies and practices for directing senior management; and
- Processes by which the board, its committees, and senior management ensure an appropriate amount of oversight over its activities.

If the quasi-public entity has created an entity of any type with which it is affiliated, the following information must be included for each such affiliated entity: the name, mailing address, physical address, telephone number, and website address; the statutory authority creating or authorizing the creation of the affiliated entity; and a description of the affiliated entity's mission. If the affiliated entity is a corporation, it must provide all the required information for a corporation as set forth above. If the affiliated entity is a corporation not for profit, it must provide a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

This section requires each quasi-public entity to maintain a publicly accessible website. The website must include:

- The annual report;
- The most recently approved operating budget, maintained on the website for 2 years;
- The position title and annual salary or rate of pay for each regularly established position;
- A link to any state audit or report of the entity's operations;
- A link to any program or activity descriptions for which funds are expended;
- All meeting notices for meetings of the governing body, which must be on the website for two years; and
- The official minutes of each meeting of the governing body, which must be posted no later than seven days after the meeting.

This section provides that a quasi-public entity may not use public funds to retain a lobbyist to represent the quasi-public entity before the legislative or executive branch. A full-time employee of the quasi-public entity may register as a lobbyist and represent the entity before the legislative or executive branch. Except as a full-time employee, a person may not accept public funds from a quasi-public entity for lobbying.

This section provides that a quasi-public entity may not create an entity separate from itself, including a citizen support or a direct-support organization.

Any meeting of the quasi-public entity's governing body must be video recorded. The executive director of a quasi-public entity, or an officer with similar responsibilities, may not recommend or be involved in the selection, appointment, or retention of any member of the entity's governing body.

Section 2 amends s. 215.985, F.S., to make each quasi-public entity subject to the DFS reporting requirements for the contract tracking system.

This section redefines the definition of the term "procurement document" in s. 215.985(14), F.S., to include a quasi-public entity.

This section defines the term "quasi-public entity" to mean:

An entity established by general law, regardless of form, for a public purpose or to effectuate a government programs and which is not directly controlled by a governmental entity. The term does not include a citizen support organization or a direct-support organization.

Section 3 provides the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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:

Article III, section 6, of the State Constitution provides, in pertinent part, that “[n]o law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection.” The bill does not appear to meet the constitutional full text requirements as it fails to set forth each statute to be amended, showing the changes in context and providing fair and adequate notice. The Legislature may want to consider an amendment to cure this deficiency.

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

None.

B. Private Sector Impact:

Quasi-public entities may incur additional workload associated with completing an operational audit at least once every three years. If not already maintained, quasi-public entities may incur additional costs related to maintaining a publicly accessible website as required by the bill.

Quasi-public entities will also experience additional workload in completing the required annual report and meeting the posting requirements on the contract tracking system.

C. Government Sector Impact:

The Executive Office of the Governor will incur additional workload by designating affiliate departments to the quasi-public entities. The affiliated departments will incur additional workload in serving in an advisory capacity to the quasi-public entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 20.059 of the Florida Statutes.

This bill substantially amends section 215.985 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS:

- Requires each quasi-public entity must complete an operational audit completed by the Auditor General at least once every three years (rather than a cost-benefit analysis that includes an operational audit).
- Removes the provision limiting the compensation of employees of quasi-public entities.

- 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

39-01563-21

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1 A bill to be entitled
 2 An act relating to quasi-public entities; creating s.
 3 20.059, F.S.; providing definitions; requiring the
 4 Governor to specify affiliated departments for certain
 5 quasi-public entities by a certain date; providing
 6 requirements for the affiliated departments; providing
 7 for the repeal of a quasi-public entity on a certain
 8 date unless reviewed and saved from repeal through
 9 reenactment by the Legislature; providing requirements
 10 for a law creating a quasi-public entity; requiring a
 11 quasi-public entity to contract with an independent
 12 entity selected from a certain list to conduct a cost-
 13 benefit analysis; requiring the completion of a cost-
 14 benefit analysis at certain intervals; requiring a
 15 cost-benefit analysis to include certain information;
 16 requiring a quasi-public entity to submit a cost-
 17 benefit analysis and an annual report that includes
 18 certain information to the Governor, the Legislature,
 19 and its affiliated department by a certain date;
 20 requiring a quasi-public entity to maintain a website
 21 that includes certain information; prohibiting an
 22 employee of a quasi-public entity from receiving an
 23 annual salary in excess of a certain amount;
 24 prohibiting a person who is employed by more than one
 25 quasi-public entity from receiving a cumulative annual
 26 salary in excess of a certain amount; prohibiting a
 27 quasi-public entity from using public funds to retain
 28 a lobbyist; authorizing certain employees of a quasi-
 29 public entity to register as a lobbyist and represent

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30 the quasi-public entity; prohibiting a quasi-public
 31 entity from creating an entity separate from itself;
 32 providing for the future repeal of certain existing
 33 entities; requiring that meetings of the quasi-public
 34 entity's governing body be video recorded; prohibiting
 35 an executive director or similar officer of a quasi-
 36 public entity from certain involvement with the
 37 entity's governing body; amending s. 215.985, F.S.;
 38 requiring a quasi-public entity to post and update
 39 certain information on the secure contract tracking
 40 system established and maintained by the Chief
 41 Financial Officer; requiring a quasi-public entity to
 42 redact certain information; providing that the Chief
 43 Financial Officer, the Department of Financial
 44 Services, and officers, employees, and contractors
 45 thereof are not responsible for redacting, and are not
 46 liable for the failure to redact, certain information
 47 posted on the secure contract tracking system by a
 48 quasi-public entity; providing that the posting of
 49 certain information does not supersede the duty of a
 50 quasi-public entity to respond to certain requests or
 51 subpoenas; providing that certain actions by the Chief
 52 Financial Officer do not supersede the duty of a
 53 quasi-public entity to provide certain records upon
 54 request; revising and providing definitions; providing
 55 an effective date.

56
 57 Be It Enacted by the Legislature of the State of Florida:
 58

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59 Section 1. Section 20.059, Florida Statutes, is created to
60 read:

61 20.059 Quasi-public entities.—

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

63 (a) "Cost-benefit analysis" means an analysis conducted by
64 an independent entity of the current structure of a quasi-public
65 entity and its relationship to state government with the goal of
66 determining whether it would be more efficient or cost-effective
67 to maintain the quasi-public entity or transfer its functions to
68 a state agency and dissolve the entity.

69 (b) "Governmental entity" means a state, regional, county,
70 municipal, special district, or other political subdivision,
71 whether executive, judicial, or legislative, including, but not
72 limited to, a department, a division, a bureau, a commission, an
73 authority, a district, or an agency thereof or a public school,
74 a Florida College System institution, a state university, or an
75 associated board.

76 (c) "Operational audit" has the same meaning as in s.
77 11.45(1).

78 (d) "Quasi-public entity" means an entity established by
79 general law, regardless of form, for a public purpose or to
80 effectuate a government program and which is not directly
81 controlled by a governmental entity. The term does not include a
82 citizen support organization or a direct-support organization.

83 (2) (a) For a quasi-public entity created in law before July
84 1, 2000:

85 1. The Governor must specify a department with which the
86 quasi-public entity will be affiliated, unless a department is
87 already specified in law, no later than December 31, 2021. The

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88 affiliated department, whether specified by the Governor or in
89 law, shall serve in an advisory capacity to the governing body
90 of the affiliated quasi-public entity. The head of the
91 affiliated department shall review the activities of the
92 affiliated quasi-public entity at least annually and shall
93 recommend appropriate statutory changes to the Legislature, as
94 necessary, to ensure the most efficient and cost-effective
95 operation.

96 2. The quasi-public entity is repealed on June 30, 2025,
97 unless reviewed and saved from repeal through reenactment by the
98 Legislature.

99 (b) For a quasi-public entity created in law on or after
100 July 1, 2000, but before July 1, 2021:

101 1. The Governor must specify a department with which the
102 quasi-public entity will be affiliated, unless a department is
103 already specified in law, no later than December 31, 2021. The
104 affiliated department, whether specified by the Governor or in
105 law, shall serve in an advisory capacity as described in
106 paragraph (a).

107 2. The quasi-public entity is repealed on June 30, 2026,
108 unless reviewed and saved from repeal through reenactment by the
109 Legislature.

110 (c) For a quasi-public entity created in law on or after
111 July 1, 2021, the law creating the quasi-public entity shall:

112 1. Specify a department with which the quasi-public entity
113 will be affiliated. The affiliated department shall serve in an
114 advisory capacity to the governing body of the affiliated quasi-
115 public entity. The head of the affiliated department shall
116 review the activities of the affiliated quasi-public entity at

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117 least annually and shall recommend appropriate statutory changes
 118 to the Legislature, as necessary, to ensure the most efficient
 119 and cost-effective operation.

120 2. State that the quasi-public entity is repealed on June
 121 30 of the 7th year after enactment, unless reviewed and saved
 122 from repeal through reenactment by the Legislature.

123 (3) Each quasi-public entity shall contract with an
 124 independent entity to conduct a cost-benefit analysis. The
 125 Office of Program Policy Analysis and Government Accountability
 126 shall generate a list of independent entities qualified to
 127 perform the cost-benefit analysis, and the quasi-public entity
 128 shall select an independent entity from the list.

129 (a) A quasi-public entity created in law:

130 1. Before July 1, 2000, shall have a cost-benefit analysis
 131 completed no later than August 1, 2023, and every 10 years
 132 thereafter.

133 2. On or after July 1, 2000, but before July 1, 2021, shall
 134 have a cost-benefit analysis completed no later than August 1,
 135 2024, and every 10 years thereafter.

136 3. On or after July 1, 2021, shall have a cost-benefit
 137 analysis completed by August 1 of the 10th year following its
 138 creation and every 10 years thereafter.

139 (b) The cost-benefit analysis shall include the following:

140 1. A detailed description of the quasi-public entity's
 141 activities.

142 2. An analysis of the quasi-public entity's current
 143 performance, based on existing performance metrics.

144 3. An analysis of the goals achieved by, and the advantages
 145 and disadvantages of, allowing the quasi-public entity to do

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146 each of the following:

147 a. Continue in its current form.

148 b. Be dissolved and have its duties and functions
 149 transferred to a department.

150 4. An analysis documenting the direct and indirect specific
 151 baseline costs, savings, efficiencies of scale, and qualitative
 152 and quantitative benefits involved in or resulting from each of
 153 the following scenarios:

154 a. Maintaining the quasi-public entity in its current form.

155 b. Transferring the quasi-public entity's duties and
 156 functions to a department and dissolving the quasi-public
 157 entity.

158 5. A description of the specific accountability and
 159 transparency measures by which the quasi-public entity must
 160 abide.

161 6. A description of the specific performance standards, if
 162 any, that the quasi-public entity must meet to ensure adequate
 163 performance.

164 7. An operational audit.

165 (c) Each quasi-public entity shall submit the cost-benefit
 166 analysis to the Governor, the President of the Senate, the
 167 Speaker of the House of Representatives, and its affiliated
 168 department by September 15 of the year in which such analysis is
 169 due.

170 (4) By September 15 of each year, each quasi-public entity
 171 shall submit a report to the Governor, the President of the
 172 Senate, the Speaker of the House of Representatives, and its
 173 affiliated department which includes all of the following
 174 information:

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175 (a) The name, mailing address, physical address, telephone
 176 number, and website address of the quasi-public entity.

177 (b) The statutory authority creating the quasi-public
 178 entity.

179 (c) A description of the quasi-public entity's mission.

180 (d) A description of the quasi-public entity's plans for
 181 the next 3 fiscal years.

182 (e) A copy of the quasi-public entity's code of ethics.

183 (f) If the quasi-public entity is a corporation not for
 184 profit, a copy of the entity's most recent federal Internal
 185 Revenue Service Return of Organization Exempt from Income Tax
 186 Form (Form 990).

187 (g) If the quasi-public entity is organized as a
 188 corporation, a copy of all of the following:

189 1. Corporate governance framework and structure.

190 2. Policies and practices of the corporation's significant
 191 committees, including any compensation committee.

192 3. Policies and practices for directing senior management.

193 4. Processes by which the board, its committees, and senior
 194 management ensure an appropriate amount of oversight over the
 195 corporation's activities.

196 (h) If the quasi-public entity has created an entity of any
 197 type with which it is affiliated, the following information must
 198 be included for each such affiliated entity:

199 1. The name, mailing address, physical address, telephone
 200 number, and website address of the affiliated entity.

201 2. The statutory authority creating or authorizing the
 202 creation of the affiliated entity, if any.

203 3. A description of the affiliated entity's mission.

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204 4. If the affiliated entity is a corporation, a copy of all
 205 of the information described in paragraph (g).

206 5. If the affiliated entity is a corporation not for
 207 profit, a copy of the entity's most recent federal Internal
 208 Revenue Service Return of Organization Exempt from Income Tax
 209 Form (Form 990).

210 (5) Each quasi-public entity shall maintain a publicly
 211 accessible website. The website must include the following:

212 (a) The report required pursuant to subsection (4).

213 (b) The most recently approved operating budget, which must
 214 be maintained on the website for 2 years.

215 (c) Position title and annual salary or rate of pay for
 216 each regularly established position.

217 (d) A link to any state audit or report of the entity's
 218 operations.

219 (e) A link to any program or activity descriptions for
 220 which funds may be expended.

221 (f) All meeting notices for meetings of the entity's
 222 governing body, which must be maintained on the website for 2
 223 years.

224 (g) The official minutes of each meeting of the entity's
 225 governing body, which must be posted no later than 7 days after
 226 the date of the meeting in which the minutes are approved.

227 (6) An employee of a quasi-public entity may not receive an
 228 annual salary, whether base pay or base pay combined with any
 229 bonus or incentive payments, in excess of 150 percent of the
 230 annual salary paid to the head of its affiliated department from
 231 state-appropriated funds, including state-appropriated federal
 232 funds. A person who is employed by more than one quasi-public

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233 entity may not receive a cumulative annual salary in excess of
 234 such amount. If the quasi-public entities with which such person
 235 is employed are affiliated with different departments, such
 236 person may not receive a cumulative annual salary in excess of
 237 150 percent of the annual salary paid to the highest-paid head
 238 of the affiliated departments.

239 (7) A quasi-public entity may not use public funds to
 240 retain a lobbyist to represent the entity before the legislative
 241 or executive branch. However, a full-time employee of the quasi-
 242 public entity may register as a lobbyist and represent the
 243 entity before the legislative or executive branch. Except as a
 244 full-time employee, a person may not accept public funds from a
 245 quasi-public entity for lobbying.

246 (8) Unless specifically authorized by law, a quasi-public
 247 entity may not create an entity separate from itself, including
 248 a citizen support organization or a direct-support organization.
 249 However, any such entity in existence before July 1, 2021, may
 250 continue in existence but is repealed on the same date as the
 251 creating quasi-public entity unless reviewed and saved from
 252 repeal through reenactment by the Legislature.

253 (9) Any meeting of a quasi-public entity's governing body
 254 must be video recorded.

255 (10) The executive director of a quasi-public entity, or an
 256 officer with responsibilities similar to that of an executive
 257 director, may not recommend or otherwise be involved in the
 258 selection, appointment, or retention of any member of the
 259 entity's governing body.

260 Section 2. Subsection (14) of section 215.985, Florida
 261 Statutes, is amended to read:

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262 215.985 Transparency in government spending.—

263 (14) The Chief Financial Officer shall establish and
 264 maintain a secure contract tracking system available for viewing
 265 and downloading by the public through a secure website. The
 266 Chief Financial Officer shall use appropriate Internet security
 267 measures to ensure that no person has the ability to alter or
 268 modify records available on the website.

269 (a) Within 30 calendar days after executing a contract,
 270 each state and quasi-public entity shall post the following
 271 information relating to the contract on the contract tracking
 272 system:

- 273 1. The names of the contracting entities.
- 274 2. The procurement method.
- 275 3. The contract beginning and ending dates.
- 276 4. The nature or type of the commodities or services
 277 purchased.
- 278 5. Applicable contract unit prices and deliverables.
- 279 6. Total compensation to be paid or received under the
 280 contract.
- 281 7. All payments made to the contractor to date.
- 282 8. Applicable contract performance measures.
- 283 9. If a competitive solicitation was not used to procure
 284 the goods or services, the justification of such action,
 285 including citation to a statutory exemption or exception from
 286 competitive solicitation, if any.
- 287 10. Electronic copies of the contract and procurement
 288 documents that have been redacted to exclude confidential or
 289 exempt information.

290 (b) Within 30 calendar days after an amendment to an

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291 existing contract, the state entity or quasi-public entity that
 292 is a party to the contract must update the information described
 293 in paragraph (a) in the contract tracking system. An amendment
 294 to a contract includes, but is not limited to, a renewal,
 295 termination, or extension of the contract or a modification of
 296 the terms of the contract.

297 (c) By January 1, 2014, each state and quasi-public entity
 298 shall post to the contract tracking system the information
 299 required in paragraph (a) for each existing contract that was
 300 executed before July 1, 2013, with payment from state funds made
 301 after June 30, 2013.

302 (d)1. Records made available on the contract tracking
 303 system may not reveal information made confidential or exempt by
 304 law.

305 2. Each state and quasi-public entity that is a party to a
 306 contract must redact confidential or exempt information from the
 307 contract and procurement documents before posting an electronic
 308 copy on the contract tracking system. If a state entity or
 309 quasi-public entity that is a party to the contract becomes
 310 aware that an electronic copy of a contract or a procurement
 311 document has been posted but has not been properly redacted, the
 312 state entity or quasi-public entity must immediately notify the
 313 Chief Financial Officer and must immediately remove the contract
 314 or procurement document from the contract tracking system.
 315 Within 7 business days, the state entity or quasi-public entity
 316 must post a properly redacted copy of the contract or
 317 procurement document on the contract tracking system.

318 3.a. If a party to a contract, or an authorized
 319 representative of a party to a contract, discovers that an

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320 electronic copy of a contract or procurement document has been
 321 posted to the contract tracking system but has not been properly
 322 redacted, the party or representative may request the state
 323 entity or quasi-public entity that is a party to the contract to
 324 redact the confidential or exempt information. Upon receipt of
 325 the request, the state entity or quasi-public entity shall
 326 redact the confidential or exempt information.

327 b. A request to redact confidential or exempt information
 328 must be made in writing and delivered by mail, facsimile,
 329 electronic transmission, or in person to the state entity or
 330 quasi-public entity that is a party to the contract. The request
 331 must identify the specific document, the page numbers that
 332 include the confidential or exempt information, the information
 333 that is confidential or exempt, and the applicable statutory
 334 exemption. A fee may not be charged for a redaction made
 335 pursuant to the request.

336 c. A party to a contract may petition the circuit court for
 337 an order directing compliance with this paragraph.

338 4. The contract tracking system shall display a notice of
 339 the right of an affected party to request redaction of
 340 confidential or exempt information contained on the system.

341 5.a. The Chief Financial Officer, the Department of
 342 Financial Services, or an officer, employee, or contractor
 343 thereof, is not responsible for redacting confidential or exempt
 344 information from an electronic copy of a contract or procurement
 345 document posted by another state entity or quasi-public entity
 346 on the system.

347 b. The Chief Financial Officer, the Department of Financial
 348 Services, or an officer, employee, or contractor thereof, is not

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349 liable for the failure of a state entity or quasi-public entity
 350 to redact the confidential or exempt information.

351 (e)1. The posting of information on the contract tracking
 352 system or the provision of contract information on a website for
 353 public viewing and downloading does not supersede the duty of a
 354 state entity or quasi-public entity to respond to a public
 355 records request or subpoena for the information.

356 2. A request for a copy of a contract or procurement
 357 document or certified copy of a contract or procurement document
 358 shall be made to the state entity or quasi-public entity that is
 359 party to the contract. The request may not be made to the Chief
 360 Financial Officer, the Department of Financial Services, or an
 361 officer, employee, or contractor thereof, unless the Chief
 362 Financial Officer or the department is a party to the contract.

363 3. A subpoena for a copy of a contract or procurement
 364 document or certified copy of a contract or procurement document
 365 must be served on the state entity or quasi-public entity that
 366 is a party to the contract and that maintains the original
 367 documents. The Chief Financial Officer, the Department of
 368 Financial Services, or an officer, employee, or contractor
 369 thereof, may not be served a subpoena for those records unless
 370 the Chief Financial Officer or the department is a party to the
 371 contract.

372 (f) The Chief Financial Officer may regulate and prohibit
 373 the posting of records that could facilitate identity theft or
 374 fraud, such as signatures; compromise or reveal an agency
 375 investigation; reveal the identity of undercover personnel;
 376 reveal proprietary business information or trade secrets; reveal
 377 an individual's medical information; or reveal another record or

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378 information that the Chief Financial Officer believes may
 379 jeopardize the health, safety, or welfare of the public.
 380 However, such action by the Chief Financial Officer does not
 381 supersede the duty of a state entity or quasi-public entity to
 382 provide a copy of a public record upon request.

383 (g) The Chief Financial Officer may adopt rules to
 384 administer this subsection.

385 (h) For purposes of this subsection, the term:

386 1. "Procurement document" means any document or material
 387 provided to the public or any vendor as part of a formal
 388 competitive solicitation of goods or services undertaken by a
 389 state entity or quasi-public entity, and a document or material
 390 submitted in response to a formal competitive solicitation by
 391 any vendor who is awarded the resulting contract.

392 2. "Quasi-public entity" means an entity established by
 393 law, regardless of form, for a public purpose or to effectuate a
 394 government program and which is not directly controlled by a
 395 governmental entity. This term does not include a citizen
 396 support organization or a direct-support organization.

397 ~~3.2-~~ "State entity" means an official, officer, commission,
 398 board, authority, council, committee, or department of the
 399 executive branch of state government; a state attorney, public
 400 defender, criminal conflict and civil regional counsel, capital
 401 collateral regional counsel, and the Justice Administrative
 402 Commission; the Public Service Commission; and any part of the
 403 judicial branch of state government.

404 (i) In lieu of posting in the contract tracking system
 405 administered by the Chief Financial Officer, the Department of
 406 Legal Affairs and the Department of Agriculture and Consumer

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407 Services may post the information described in paragraphs (a)
408 through (c) to its own agency-managed website. The data posted
409 on the agency-managed website must be downloadable in a format
410 that allows offline analysis.

411 (j) The requirement under paragraphs (a) through (c) that
412 each agency post information and documentation relating to
413 contracts on the tracking system does not apply to any record
414 that could reveal attorney work product or strategy.

415 Section 3. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ray Wesley Rodrigues, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 5, 2021

I respectfully request that **Senate Bill #1570**, relating to Quasi-public Entities, be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39



243780

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 20.059, Florida Statutes, is created to
read:

20.059 Quasi-public entities.-

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

(a) "Governmental entity" means a state, regional, county,
municipal, special district, or other political subdivision,



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11 whether executive, judicial, or legislative, including, but not
12 limited to, a department, a division, a bureau, a commission, an
13 authority, a district, or an agency thereof or a public school,
14 a Florida College System institution, a state university, or an
15 associated board.

16 (b) "Operational audit" has the same meaning as in s.
17 11.45(1).

18 (c) "Quasi-public entity" means an entity established by
19 general law, regardless of form, for a public purpose or to
20 effectuate a government program and which is not directly
21 controlled by a governmental entity. The term does not include a
22 citizen support organization or a direct-support organization.

23 (2) (a) For a quasi-public entity created in law before July
24 1, 2021:

25 1. The Governor must specify a department with which the
26 quasi-public entity will be affiliated, unless a department is
27 already specified in law, no later than December 31, 2021. The
28 affiliated department, whether specified by the Governor or in
29 law, shall serve in an advisory capacity to the governing body
30 of the affiliated quasi-public entity. The head of the
31 affiliated department shall review the activities of the
32 affiliated quasi-public entity at least annually and shall
33 recommend appropriate statutory changes to the Legislature, as
34 necessary, to ensure the most efficient and cost-effective
35 operation.

36 (b) For a quasi-public entity created in law on or after
37 July 1, 2021, the law creating the quasi-public entity shall
38 specify a department with which the quasi-public entity will be
39 affiliated. The affiliated department shall serve in an advisory



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40 capacity to the governing body of the affiliated quasi-public
41 entity. The head of the affiliated department shall review the
42 activities of the affiliated quasi-public entity at least
43 annually and shall recommend appropriate statutory changes to
44 the Legislature, as necessary, to ensure the most efficient and
45 cost-effective operation.

46 (3) Each quasi-public entity shall have an operational
47 audit completed by the Auditor General at least once every three
48 years.

49 (4) By September 15 of each year, each quasi-public entity
50 shall submit a report to the Governor, the President of the
51 Senate, the Speaker of the House of Representatives, and its
52 affiliated department which includes all of the following
53 information:

54 (a) The name, mailing address, physical address, telephone
55 number, and website address of the quasi-public entity.

56 (b) The statutory authority creating the quasi-public
57 entity.

58 (c) A description of the quasi-public entity's mission.

59 (d) A description of the quasi-public entity's plans for
60 the next 3 fiscal years.

61 (e) A copy of the quasi-public entity's code of ethics.

62 (f) If the quasi-public entity is a corporation not for
63 profit, a copy of the entity's most recent federal Internal
64 Revenue Service Return of Organization Exempt from Income Tax
65 Form (Form 990).

66 (g) If the quasi-public entity is organized as a
67 corporation, a copy of all of the following:

68 1. Corporate governance framework and structure.



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69 2. Policies and practices of the corporation's significant
70 committees, including any compensation committee.

71 3. Policies and practices for directing senior management.

72 4. Processes by which the board, its committees, and senior
73 management ensure an appropriate amount of oversight over the
74 corporation's activities.

75 (h) If the quasi-public entity has created an entity of any
76 type with which it is affiliated, the following information must
77 be included for each such affiliated entity:

78 1. The name, mailing address, physical address, telephone
79 number, and website address of the affiliated entity.

80 2. The statutory authority creating or authorizing the
81 creation of the affiliated entity, if any.

82 3. A description of the affiliated entity's mission.

83 4. If the affiliated entity is a corporation, a copy of all
84 of the information described in paragraph (g).

85 5. If the affiliated entity is a corporation not for
86 profit, a copy of the entity's most recent federal Internal
87 Revenue Service Return of Organization Exempt from Income Tax
88 Form (Form 990).

89 (5) Each quasi-public entity shall maintain a publicly
90 accessible website. The website must include the following:

91 (a) The report required pursuant to subsection (4).

92 (b) The most recently approved operating budget, which must
93 be maintained on the website for 2 years.

94 (c) Position title and annual salary or rate of pay for
95 each regularly established position.

96 (d) A link to any state audit or report of the entity's
97 operations.



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98 (e) A link to any program or activity descriptions for
99 which funds may be expended.

100 (f) All meeting notices for meetings of the entity's
101 governing body, which must be maintained on the website for 2
102 years.

103 (g) The official minutes of each meeting of the entity's
104 governing body, which must be posted no later than 7 days after
105 the date of the meeting in which the minutes are approved.

106 (6) A quasi-public entity may not use public funds to
107 retain a lobbyist to represent the entity before the legislative
108 or executive branch. However, a full-time employee of the quasi-
109 public entity may register as a lobbyist and represent the
110 entity before the legislative or executive branch. Except as a
111 full-time employee, a person may not accept public funds from a
112 quasi-public entity for lobbying.

113 (7) Unless specifically authorized by law, a quasi-public
114 entity may not create an entity separate from itself, including
115 a citizen support organization or a direct-support organization.

116 (8) Any meeting of a quasi-public entity's governing body
117 must be video recorded.

118 (9) The executive director of a quasi-public entity, or an
119 officer with responsibilities similar to that of an executive
120 director, may not recommend or otherwise be involved in the
121 selection, appointment, or retention of any member of the
122 entity's governing body.

123 Section 2. Subsection (14) of section 215.985, Florida
124 Statutes, is amended to read:

125 215.985 Transparency in government spending.—

126 (14) The Chief Financial Officer shall establish and



127 maintain a secure contract tracking system available for viewing
128 and downloading by the public through a secure website. The
129 Chief Financial Officer shall use appropriate Internet security
130 measures to ensure that no person has the ability to alter or
131 modify records available on the website.

132 (a) Within 30 calendar days after executing a contract,
133 each state and quasi-public entity shall post the following
134 information relating to the contract on the contract tracking
135 system:

- 136 1. The names of the contracting entities.
- 137 2. The procurement method.
- 138 3. The contract beginning and ending dates.
- 139 4. The nature or type of the commodities or services
140 purchased.
- 141 5. Applicable contract unit prices and deliverables.
- 142 6. Total compensation to be paid or received under the
143 contract.
- 144 7. All payments made to the contractor to date.
- 145 8. Applicable contract performance measures.
- 146 9. If a competitive solicitation was not used to procure
147 the goods or services, the justification of such action,
148 including citation to a statutory exemption or exception from
149 competitive solicitation, if any.
- 150 10. Electronic copies of the contract and procurement
151 documents that have been redacted to exclude confidential or
152 exempt information.

153 (b) Within 30 calendar days after an amendment to an
154 existing contract, the state entity or quasi-public entity that
155 is a party to the contract must update the information described



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156 in paragraph (a) in the contract tracking system. An amendment
157 to a contract includes, but is not limited to, a renewal,
158 termination, or extension of the contract or a modification of
159 the terms of the contract.

160 (c) By January 1, 2014, each state and quasi-public entity
161 shall post to the contract tracking system the information
162 required in paragraph (a) for each existing contract that was
163 executed before July 1, 2013, with payment from state funds made
164 after June 30, 2013.

165 (d)1. Records made available on the contract tracking
166 system may not reveal information made confidential or exempt by
167 law.

168 2. Each state and quasi-public entity that is a party to a
169 contract must redact confidential or exempt information from the
170 contract and procurement documents before posting an electronic
171 copy on the contract tracking system. If a state entity or
172 quasi-public entity that is a party to the contract becomes
173 aware that an electronic copy of a contract or a procurement
174 document has been posted but has not been properly redacted, the
175 state entity or quasi-public entity must immediately notify the
176 Chief Financial Officer and must immediately remove the contract
177 or procurement document from the contract tracking system.
178 Within 7 business days, the state entity or quasi-public entity
179 must post a properly redacted copy of the contract or
180 procurement document on the contract tracking system.

181 3.a. If a party to a contract, or an authorized
182 representative of a party to a contract, discovers that an
183 electronic copy of a contract or procurement document has been
184 posted to the contract tracking system but has not been properly



185 redacted, the party or representative may request the state
186 entity or quasi-public entity that is a party to the contract to
187 redact the confidential or exempt information. Upon receipt of
188 the request, the state entity or quasi-public entity shall
189 redact the confidential or exempt information.

190 b. A request to redact confidential or exempt information
191 must be made in writing and delivered by mail, facsimile,
192 electronic transmission, or in person to the state entity or
193 quasi-public entity that is a party to the contract. The request
194 must identify the specific document, the page numbers that
195 include the confidential or exempt information, the information
196 that is confidential or exempt, and the applicable statutory
197 exemption. A fee may not be charged for a redaction made
198 pursuant to the request.

199 c. A party to a contract may petition the circuit court for
200 an order directing compliance with this paragraph.

201 4. The contract tracking system shall display a notice of
202 the right of an affected party to request redaction of
203 confidential or exempt information contained on the system.

204 5.a. The Chief Financial Officer, the Department of
205 Financial Services, or an officer, employee, or contractor
206 thereof, is not responsible for redacting confidential or exempt
207 information from an electronic copy of a contract or procurement
208 document posted by another state entity or quasi-public entity
209 on the system.

210 b. The Chief Financial Officer, the Department of Financial
211 Services, or an officer, employee, or contractor thereof, is not
212 liable for the failure of a state entity or quasi-public entity
213 to redact the confidential or exempt information.



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214 (e)1. The posting of information on the contract tracking
215 system or the provision of contract information on a website for
216 public viewing and downloading does not supersede the duty of a
217 state entity or quasi-public entity to respond to a public
218 records request or subpoena for the information.

219 2. A request for a copy of a contract or procurement
220 document or certified copy of a contract or procurement document
221 shall be made to the state entity or quasi-public entity that is
222 party to the contract. The request may not be made to the Chief
223 Financial Officer, the Department of Financial Services, or an
224 officer, employee, or contractor thereof, unless the Chief
225 Financial Officer or the department is a party to the contract.

226 3. A subpoena for a copy of a contract or procurement
227 document or certified copy of a contract or procurement document
228 must be served on the state entity or quasi-public entity that
229 is a party to the contract and that maintains the original
230 documents. The Chief Financial Officer, the Department of
231 Financial Services, or an officer, employee, or contractor
232 thereof, may not be served a subpoena for those records unless
233 the Chief Financial Officer or the department is a party to the
234 contract.

235 (f) The Chief Financial Officer may regulate and prohibit
236 the posting of records that could facilitate identity theft or
237 fraud, such as signatures; compromise or reveal an agency
238 investigation; reveal the identity of undercover personnel;
239 reveal proprietary business information or trade secrets; reveal
240 an individual's medical information; or reveal another record or
241 information that the Chief Financial Officer believes may
242 jeopardize the health, safety, or welfare of the public.



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243 However, such action by the Chief Financial Officer does not
244 supersede the duty of a state entity or quasi-public entity to
245 provide a copy of a public record upon request.

246 (g) The Chief Financial Officer may adopt rules to
247 administer this subsection.

248 (h) For purposes of this subsection, the term:

249 1. "Procurement document" means any document or material
250 provided to the public or any vendor as part of a formal
251 competitive solicitation of goods or services undertaken by a
252 state entity or quasi-public entity, and a document or material
253 submitted in response to a formal competitive solicitation by
254 any vendor who is awarded the resulting contract.

255 2. "Quasi-public entity" means an entity established by
256 law, regardless of form, for a public purpose or to effectuate a
257 government program and which is not directly controlled by a
258 governmental entity. This term does not include a citizen
259 support organization or a direct-support organization.

260 ~~3.2-~~ "State entity" means an official, officer, commission,
261 board, authority, council, committee, or department of the
262 executive branch of state government; a state attorney, public
263 defender, criminal conflict and civil regional counsel, capital
264 collateral regional counsel, and the Justice Administrative
265 Commission; the Public Service Commission; and any part of the
266 judicial branch of state government.

267 (i) In lieu of posting in the contract tracking system
268 administered by the Chief Financial Officer, the Department of
269 Legal Affairs and the Department of Agriculture and Consumer
270 Services may post the information described in paragraphs (a)
271 through (c) to its own agency-managed website. The data posted



272 on the agency-managed website must be downloadable in a format
273 that allows offline analysis.

274 (j) The requirement under paragraphs (a) through (c) that
275 each agency post information and documentation relating to
276 contracts on the tracking system does not apply to any record
277 that could reveal attorney work product or strategy.

278 Section 3. This act shall take effect July 1, 2021.

279
280 ===== T I T L E A M E N D M E N T =====

281 And the title is amended as follows:

282 Delete everything before the enacting clause
283 and insert:

284 A bill to be entitled
285 An act relating to quasi-public entities; creating s.
286 20.059, F.S.; providing definitions; requiring the
287 Governor to specify affiliated departments for certain
288 quasi-public entities by a certain date; providing
289 requirements for the affiliated departments; providing
290 requirements for a law creating a quasi-public entity;
291 requiring the completion of an operational audit at
292 certain intervals; requiring a quasi-public entity to
293 submit an annual report that includes certain
294 information to the Governor, the Legislature, and its
295 affiliated department by a certain date; requiring a
296 quasi-public entity to maintain a website that
297 includes certain information; prohibiting a quasi-
298 public entity from using public funds to retain a
299 lobbyist; authorizing certain employees of a quasi-
300 public entity to register as a lobbyist and represent



301 the quasi-public entity; prohibiting a quasi-public
302 entity from creating an entity separate from itself;
303 requiring that meetings of the quasi-public entity's
304 governing body be video recorded; prohibiting an
305 executive director or similar officer of a quasi-
306 public entity from certain involvement with the
307 entity's governing body; amending s. 215.985, F.S.;
308 requiring a quasi-public entity to post and update
309 certain information on the secure contract tracking
310 system established and maintained by the Chief
311 Financial Officer; requiring a quasi-public entity to
312 redact certain information; providing that the Chief
313 Financial Officer, the Department of Financial
314 Services, and officers, employees, and contractors
315 thereof are not responsible for redacting, and are not
316 liable for the failure to redact, certain information
317 posted on the secure contract tracking system by a
318 quasi-public entity; providing that the posting of
319 certain information does not supersede the duty of a
320 quasi-public entity to respond to certain requests or
321 subpoenas; providing that certain actions by the Chief
322 Financial Officer do not supersede the duty of a
323 quasi-public entity to provide certain records upon
324 request; revising and providing definitions; providing
325 an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1606

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rodriguez and others

SUBJECT: Victims of Communism

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1606 establishes November 7, “Victims of Communism Day”, as a legal and public holiday. The bill's recitals describe the human costs and suffrage that victims of communism have endured. The bill provides that the Legislature shall observe a moment of silence in observance of the victims of communism on the final day of each regular legislative session.

Beginning in the 2022-2023 school year, high students enrolled in the United States Government class as required by s. 1003.4282, F.S., must receive at least 45 minutes of instruction on “Victims of Communism Day.”

The bill has an effective date of July 1, 2021.

II. Present Situation:

Legal Holidays and Special Observance Days

Chapter 683, F.S., establishes legal holidays and special observance days in Florida. Legal holidays are listed in s. 683.01, F.S., while ss. 683.04 – 683.333, F.S., establishes special observance days.

Section 683.01, F.S., enumerates legal holidays, which are also public holidays, under Florida law. This section also provides that if any legal holiday falls on a Sunday, the next following Monday is deemed a public holiday.¹ Florida's current list of legal holidays provides 21 separate holidays in chronological order:

- Sunday, the first day of each week;
- New Year's Day, January 1;
- Birthday of Martin Luther King, Jr., January 15;
- Birthday of Robert E. Lee, January 19;
- Lincoln's Birthday, February 12;
- Susan B. Anthony's Birthday, February 15;
- Washington's Birthday, the third Monday in February;
- Good Friday;
- Pascua Florida Day, April 2;²
- Confederate Memorial Day, April 26;
- Memorial Day, the last Monday in May;
- Birthday of Jefferson Davis, June 3;
- Flag Day, June 14;
- Independence Day, July 4;
- Labor Day, the first Monday in September;
- Columbus Day and Farmers' Day, the second Monday in October;
- Veterans' Day, November 11;
- General Election Day;
- Thanksgiving Day, the fourth Thursday in November;
- Christmas Day, December 25; and
- Shrove Tuesday, sometimes also known as "Mardi Gras," in counties where carnival associations are organized for the purpose of celebrating the same.

Under s. 683.02, F.S., whenever a contract is to be performed in the state and reference is made to "legal holidays," the term is understood to include the holidays designated in s. 683.01, F.S., and such other holidays as may be designated by law. Alternatively, a legal holiday designation does not necessarily make a day a paid holiday for public employees. Section 110.117, F.S., establishes which legal holidays are paid holidays for the employees of all state branches and agencies.³ Likewise, the court system does not necessarily use the legal holidays described in s. 683.01, F.S., while computing time frames for matters in civil and criminal procedure.⁴

¹ Section 683.01(2), F.S.

² "Pascua Florida" is a Spanish term that means flowery festival or feast of flowers. Pascua Florida Day commemorates the arrival of Juan Ponce de Leon on the shores of the State of Florida in 1513. Since its entry into the Legislature, the holiday, while having no specific celebratory acts, usually culminates in a period of retrospection of Florida's rich history and the preceding events that led to it. The holiday is to be observed in the same manner as a "patriotic occasion." See Hatch, Jane M. (1978). *The American book of days*. The H. W. Wilson Company. ISBN 0-8242-0593-6.

³ Section 110.117(1), F.S., provides the following holidays as paid holidays for all state branches and agencies: New Year's Day; Martin Luther King Birthday; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and Friday after Thanksgiving; and Christmas Day.

⁴ See *R.J. Reynolds Tobacco Co. v. Kenyon*, 826 So.2d 370 (Fla. 2nd DCA 2002) ("On the other hand, the supreme court has delegated considerable administrative authority to the chief judge of each circuit. See Fla. R. Jud. Admin. 2.050. It is undisputed that the chief judge of the Thirteenth Judicial Circuit exercised that authority to issue an administrative order specifying legal holidays. Without deciding whether days in addition to those in the local administrative order may be legal

The Legislature last amended s. 683.01, F.S., to add a holiday during the 1990 legislative session. This amendment added Flag Day, June 14, as a legal holiday in Florida.⁵

Unlike legal holidays, special observances, as provided in ss. 683.04 – 683.333, F.S., do not directly affect the definition of "legal holidays" in contracts. Special observance days may apply throughout the state, or they may be limited to particular counties. For example, "Gasparilla Day"⁶ is a legal holiday observed only in Hillsborough County, while "Bill of Rights Day,"⁷ if issued by the Governor, is observed throughout the state.

Communism

Communism is a political and economic philosophy that aims to replace private property and a profit-based economy with public ownership and communal control of the major means of production and society's natural resources. Communism is a form of socialism. Modern communism grew out of the socialist movement in 19th-century Europe. These socialist critics blamed capitalism for the unfavorable and often-hazardous conditions of workers during the Industrial Revolution. As leaders of this socialist movement, Karl Marx and his associate, Friedrich Engels, established the modern definition of communism in their widely circulated pamphlet, *The Communist Manifesto*.⁸

One explicit facet of the communist theory is that the proletariat (the social class whose only economic asset is their own labor) would capture political power, abolish private property ownership, and take the private property of the bourgeoisie (the social class who own the capital or means of production). Communism postulates that the taking and abolishment of private property by the proletariat would result in shared ownership of the means of production, ushering the world into a communal economic and societal utopia with equality for all.⁹

However, before reaching this utopia, the communist theory posits that the taking and abolishment of private property will result in a dictatorship of the proletariat. The ideological father of communism, Karl Marx, claimed that communism entailed the withering away of the state and that the dictatorship of the proletariat was to be a strictly temporary phenomenon.¹⁰ In Friedrich Engels' words, "State-ownership of the productive forces is not the solution of the conflict, but concealed within it are the technical conditions that form the elements of that solution." In the communist view, total state-ownership of property is a likely occurrence and a

holidays, we hold that Christmas Eve of 2001 in the Thirteenth Judicial Circuit was a legal holiday as a result of the local administrative order."); *see also State v. Garber*, 726 So.2d 338 (Fla. 5th DCA 1999) ("While we deem it problematic to refer to section 683.01, in the context of a court proceeding, we reverse because we hold that when the supreme court designates a holiday, it is a 'legal holiday' for purposes of the rules of criminal procedure.")

⁵ Chapter 90-59, Laws of Florida.

⁶ Section 683.08, F.S.

⁷ Section 683.25, F.S.

⁸ Encyclopedia Britannica, *Communism*, available at: <https://www.britannica.com/topic/communism> (last visited March 19, 2021).

⁹ Engels, Friedrich. Marx & Engels Selected Works, Volume One, pp. 81–97, Progress Publishers, Moscow, 1969. "Principles of Communism". No. 4 – "How did the proletariat originate?"

¹⁰ Rosser, Mariana V. and J Barkley Jr. (23 July 2003). *Comparative Economics in a Transforming World Economy*. MIT Press. p. 14. ISBN 978-0262182348.

positive sign that a society is progressing toward a communist utopia.¹¹ As a practical matter, communist movements throughout history have been unable to transition out of State control and dictatorship into the utopia of equality promised by communism and instead devolved into State tyranny and democide.¹²

Victims of Communism

Although living under communism may cause victimization in all areas of life, the absolute use of State power over the individual is easily characterized by the intentional State-sanctioned killing of innocent civilians. State-sanctioned killings provide some cognizable metric one may consider when reflecting on the victims of communism.

With this understood, the Soviet Union appears to have directly caused the most significant number of victims. The Soviet Union is approximately responsible for killing near 61,911,000 people. Stalin himself is responsible for almost 43,000,000 of these. Most of the deaths, around 39,000,000, are due to lethal forced labor in gulag and transit thereto.¹³

Communist China and the People's Republic of China (PRC) have caused the second most victims of communism. Communist China (1923 – 1949) was responsible for 3,466,000 intentional killings and the PRC (1949 – present) is responsible for an additional 35,236,000.¹⁴

Notwithstanding these atrocities, the most deadly of all communist countries in this century by far has been Cambodia under the Khmer Rouge. Pol Pot and State actors likely killed some 2,000,000 Cambodians from April 1975 through December 1978 out of a population of around 7,000,000. This amount is an annual rate of over 8 percent of the population murdered. During this time, the odds of an average Cambodian surviving Pol Pot's rule was slightly over two to one.¹⁵

In sum, from 1900 to 1987, communist dictators and regimes were responsible for the intentional murder of approximately 110,000,000 individuals.¹⁶ Although not an exact figure, this total number of deaths under communist regimes is roughly one-third of the current U.S. population.

Great October Socialist Revolution

The Great October Socialist Revolution was a socialist revolution in Russia led by the Bolshevik Socialist Party in 1917 against the Duma provisional government. The coup began on November 7, 1917, when the Bolsheviks led its forces into Petrograd, then the capital of Russia. The Bolsheviks occupied government buildings and other critical locations across Petrograd. The

¹¹ Engels, Friedrich. [1880] 1970. "Historical Materialism." Part 3 in *Socialism: Utopian and Scientific*, translated by E. Aveling (1892), (Marx/Engels Selected Works 3, p. 95–151). Progress Publishers.

¹² *Democide* is "the intentional killing of an unarmed or disarmed person by government agents acting in their authoritative capacity and pursuant to government policy or high command." See Harff, Barbara (1996). "Death by Government by R. J. Rummel". *The Journal of Interdisciplinary History*. 27 (1): 117–119.

¹³ Rummel, R.J., (1993). "How Many Did Communist Regimes Murder?" *available at: <https://www.hawaii.edu/powerkills/COM.ART.HTM>* (last visited March 18, 2021).

¹⁴ *Id.*, See Table 1.

¹⁵ *Id.*

¹⁶ *Id.*

coup led to the Russian Civil War, and eventually, the creation of the Soviet Union. The event inspired and ignited communist movements across Europe. Despite occurring in November, the event is commonly known as the “October Revolution” because at the time Russia still used the Julian calendar.¹⁷

Requirements for a Standard High School Diploma

Beginning with students entering grade 9, receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum. Of the 24 required credits, three credits must be social studies. A student must earn one credit in United States History, one-half credit in Economics, and one-half credit in United States Government.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 683.01, F.S., to establish November 7, “Victims of Communism Day”, as a legal and public holiday. Pursuant to s. 683.02, F.S., any reference to “legal holidays” made by a contract meant to be performed in the state is understood to include November 7, Victims of Communism Day.

Section 2 provides that the Legislature shall observe a moment of silence in observance of the victims of communism on the final day of each regular legislative session.

Section 3 provides that beginning in the 2022-2023 school year, high school students enrolled in the United States Government class as defined in s. 1003.4282, F.S., must receive at least 45 minutes of instruction on “Victims of Communism Day” on topics such as Mao Zedong, Joseph Stalin and the Soviet System, Fidel Castro and the Cuban Revolution, Vladimir Lenin and the Russian Revolution, Ho Chi Minh in Vietnam, and Nicolas Maduro in Venezuela and how the victims suffered under these regimes through suppression of speech, poverty, starvation, migration, and systematic lethal violence against civilians.

Section 4 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This 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.

¹⁷ History, *The Russian Revolution*, available at <https://www.history.com/topics/russia/russian-revolution>, (last visited March 19, 2021)

¹⁸ Section 1003.4282, F.S.

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 683.01 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 24, 2021:

The CS provides that beginning in the 2022-2023 school year, high school students enrolled in the United States Government class as required by s. 1003.4282, F.S., must receive at least 45 minutes of instruction on “Victims of Communism Day.”

- B. **Amendments:**

None.

By Senator Rodriguez

39-01480B-21

20211606__

1 A bill to be entitled
 2 An act relating to victims of communism; amending s.
 3 683.01, F.S.; establishing November 7 as the Victims
 4 of Communism legal holiday; requiring the Legislature
 5 to annually observe a moment of silence in observance
 6 of the victims of communism; providing an effective
 7 date.
 8
 9 WHEREAS, over 100 years have passed since the Bolshevik
 10 Revolution in Russia and the formation of the first communist
 11 government under Vladimir Lenin, leading to decades of
 12 oppression and violence under communist regimes throughout the
 13 world, and
 14 WHEREAS, based on the economic philosophies of Karl Marx,
 15 communism has proven incompatible with the ideals of liberty,
 16 prosperity, and dignity of human life and has given rise to such
 17 infamous totalitarian dictators as Joseph Stalin, Mao Zedong, Hồ
 18 Chí Minh, and Pol Pot, and
 19 WHEREAS, communist regimes worldwide have killed more than
 20 100 million people and subjected countless others to
 21 exploitation and unspeakable atrocities, with victims
 22 representing many different ethnicities, creeds, and
 23 backgrounds, and
 24 WHEREAS, through false promises of equality and liberation,
 25 communist regimes have systematically robbed their own citizens
 26 of the rights of freedom of worship, freedom of speech, and
 27 freedom of association through coercion, brutality, and fear,
 28 and
 29 WHEREAS, many victims of communism were persecuted as

Page 1 of 2

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

39-01480B-21

20211606__

30 political prisoners for speaking out against these regimes, and
 31 others were killed in genocidal state-sponsored purges of
 32 undesirable groups, and
 33 WHEREAS, in addition to violating basic human rights,
 34 communist regimes have suppressed intellectual freedom, cultural
 35 life, and self-determination movements in more than 40 nations,
 36 NOW, THEREFORE,
 37
 38 Be It Enacted by the Legislature of the State of Florida:
 39
 40 Section 1. Present paragraphs (q) through (u) of subsection
 41 (1) of section 683.01, Florida Statutes, are redesignated as
 42 paragraphs (r) through (v), respectively, and a new paragraph
 43 (q) is added to that subsection, to read:
 44 683.01 Legal holidays.—
 45 (1) The legal holidays, which are also public holidays, are
 46 the following:
 47 (q) Victims of Communism Day, November 7.
 48 Section 2. The Legislature shall, on the final day of each
 49 regular legislative session, observe a moment of silence in
 50 observance of the victims of communism.
 51 Section 3. This act shall take effect July 1, 2021.

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



260444

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 50 and 51

insert:

Section 3. Beginning in the 2022-2023 school year, high school students enrolled in the United States Government class required by s. 1003.4282, Florida Statutes, must receive at least 45 minutes of instruction on "Victims of Communism Day" on topics such as Mao Zedong in China, Joseph Stalin and the Soviet System, Fidel Castro and the Cuban Revolution, Vladimir Lenin



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11 and the Russian Revolution, Ho Chi Minh in Vietnam, and Nicolas
12 Maduro in Venezuela and how the victims suffered under these
13 regimes through suppression of speech, poverty, starvation,
14 migration, and systemic lethal violence against civilians.

15

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

17 And the title is amended as follows:

18 Delete line 6

19 and insert:

20 of the victims of communism; requiring high school
21 students in a United States Government course to
22 receive certain instruction on "Victims of Communism
23 Day"; providing an effective

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1616

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brodeur

SUBJECT: Agency Contracts for Commodities and Contractual Services

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1616 revises several provisions of the part I of chapter 287, F.S., related to public procurement. The bill requires the Secretary of Management Services, rather than the Department of Management Services (DMS), make a written determination finding a contract to be cost effective and the best value to the state before an agency may be authorized to enter such contract let by the Federal Government, another state, or a political subdivision.

The bill provides that each agency contract must include authorization for the agency to inspect certain financial and programmatic records of the contractor relevant to the performance of the contract.

The bill requires an agency that issues a request for quote for contractual services for any state term contract with 100 vendors or fewer to issue a request to *all* approved vendors. For state term contracts with more than 100 vendors, the agency must issue a request to a minimum of 100 approved vendors.

The bill provides for the immediate disqualification from state term contract eligibility for a firm or individual who has been removed from the source of supply or placed on the convicted vendor list or the discriminatory vendor list.

The bill changes the electronic posting requirement for single source contracting from 7 to 15 days and to require agencies report – on a quarterly basis – to the DMS each instance in which

the agency entered into a single source purchase contract. DMS is required to report such information to the Governor and the Legislature no later than January 1, 2022, and each January thereafter.

The bill restricts an agency from initiating a competitive solicitation that would require a change in law or change to the agency's budget, unless specifically authorized.

This bill amends the provision governing an agency's designation of a contract manager to prohibit a contract manager from having been employed, within the previous 5 years, by the vendor awarded the contractual services contract that he or she is assigned. The bill provides for primary responsibilities of a contract manager.

Current law requires the Chief Financial Officer provide training for accountability in contracts and grant management for a contract manager responsible for contracts in excess of the threshold amount for Category Two (\$35,000). The bill requires the Chief Financial Officer to evaluate this training every five years.

Current law requires a contract manager who is responsible for contracts over \$100,000 annually to complete training in contract management and become a certified contract manager. The bill requires this training to be completed within 6 months. The bill also provides that in addition to the training provided under current law, such a contract manager must also complete the accountability in contracts and grant management training. The DMS is responsible for disseminating the training and certification requirements for certified contract managers, and is required to evaluate the training every five years.

The bill provides that a contract manager who is responsible for contracts in excess of \$10 million annually, in addition to completing the accountability in contracts and grant management training, and the contract management training and certification requirements, must possess at least 5 years of experience managing contracts in excess of \$5 million annually.

The bill permits a designated contract administrator to also serve as the contract manager for contracts less than \$500,000 annually, if he or she has completed the required training. For contracts in excess of \$500,000 annually, the contact administrator is prohibited from serving in both capacities.

The bill specifies that for contracts in excess of \$195,000 (Category Four threshold), the agency head must appoint at least three persons to *independently* evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for the commodity or contractual services sought. The bill specifies that a negotiation *team* conduct negotiations during a competitively sealed reply procurement. For a competitively procured contract in excess of \$1 million in any fiscal year, the negotiation team must include a certified contract negotiator.

Current law provides that for contracts in excess of \$10 million in any fiscal year, at least one person conducting negotiations must be a Project Management Professional. The bill specifies that such Project Management Professional must provide guidance based on his or her experience, education, and competency to lead and direct complex projects.

The bill requires the DMS to establish and disseminate the training and certification requirements for certified contract negotiators. The bill provides for certification renewal and qualification requirements for certification. The DMS must evaluate such training every 5 years.

The bill provides that, beginning July 1, 2022, any person who supervises certain contract administrators or contract or grant managers to annually complete public procurement training for supervisors within 12 months of appointment to the supervisory position. DMS is responsible for establishing and disseminating the training course content required for supervisors.

The bill requires an agency to establish a four person “continuing oversight team” for each contractual services contract in excess of \$1 million. The bill requires the teams to meet to discuss the status of the contract, the pace of deliverables, the quality of deliverables, contractor responsiveness, and contractor performance; and requires the team to provide written notice to the agency head, the Department of Management Services, the Office of Policy and Budget within the Executive Office of the Governor, and the legislative appropriations committees in certain instances.

The bill provides that a contract may not contain a nondisclosure clause exempting certain information.

The bill provides that a vendor who is placed on the suspended vendor list is disqualified from bidding on or renewing a contract with the state and provides a mechanism for a vendor to petition for removal from the suspended vendor list.

The bill requires each agency inspector general to complete a risk based compliance audit of all contracts executed by the agency for the preceding three fiscal years and requires the audit to identify and evaluate any trend in vendor preference.

The bill makes conforming statutory changes.

The bill will have an indeterminate fiscal impact. See Part V, Fiscal Impact Statement.

The bill takes effect on July 1, 2021

II. Present Situation:

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency procurement of personal property and services. The term “agency” is defined broadly to mean any unit of the executive branch of state government.¹ The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and contractual services, as well as commodities needed to

¹ Section 287.012(1), F.S. The term “agency” is defined as “any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.”

support agency activities.² The agency head of the DMS is the “Secretary of Management Services” who is appointed by the Governor, subject to confirmation by the Florida Senate, and serves at the pleasure of the Governor.³

The DMS is authorized to evaluate contracts let by the federal government, another state, or a political subdivision for the provision of commodities and contract services and, when it is determined to be cost effective and in the best interest of the state, to enter into written agreement authorizing a state agency to make purchases under such contract.⁴ The DMS negotiates contracts and purchasing agreements that are intended to leverage the state’s buying power.

Section 287.017, F.S., establishes the purchasing categories, which are threshold amounts linked to other requirements in Chapter 287, as follows:

- Category One: \$20,000;
- Category Two: \$35,000;
- Category Three: \$65,000;
- Category Four: \$195,000; and
- Category Five: \$325,000.

Written Agreements for Procurements Exceeding \$35,000

Every procurement for contractual services in excess of the threshold amount in category two, \$35,000, with certain exceptions⁵, must be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services.⁶ The provisions and conditions must, where applicable, include, but are not limited to a provision:

- That bills for fees or other compensation for services or expenses are to be submitted in detail sufficient for a proper preaudit and postaudit thereof;⁷
- That bills for travel expenses are to be submitted in accordance with statutory procedures;⁸
- Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from provisions governing the inspection and copying of public records;⁹
- Specifying a scope of work that clearly establishes all tasks the contractor is required to perform;¹⁰
- Dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment; each deliverable must be directly related to the scope of work and specify a performance measure,

² See ss. 287.032 and 287.042, F.S.

³ Section 20.22(1), F.S.

⁴ Section 287.042(16), F.S.

⁵ Excepting providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the Workers' Compensation Law.

⁶ Section 287.058(1), F.S.

⁷ Section 287.058(1)(a), F.S.

⁸ Section 287.058(b), F.S., referring to s. 112.061, F.S., and providing further that a state agency may establish rates lower than the maximum provided in that statute.

⁹ Section 287.058(1)(c), F.S., referring to to [Art. I, § 24\(a\), Fla. Const.](#) and s. 119.07(1), F.S.

¹⁰ Section 287.058(1)(d), F.S.

that is, the required minimum acceptable level of service to be performed and criteria for evaluating the successful completion of each deliverable;¹¹

- Specifying the criteria and the final date by which such criteria must be met for completion of the contract;¹²
- Specifying that the contract may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer, specifying the renewal price for the contractual service as set forth in the bid, proposal, or reply; specifying that costs for the renewal may not be charged; and specifying that renewals are contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds;¹³
- Specifying the financial consequences that the agency must apply if the contractor fails to perform in accordance with the contract;¹⁴
- Addressing the property rights of any intellectual property related to the contract and the specific rights of the State regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.¹⁵

The written agreement must be signed by the agency head or designee and the contractor before the rendering of any contractual service in excess of \$35,000.^{16,17} Unless otherwise provided in the General Appropriations Act (GAA) or the substantive bill implementing the GAA, the Chief Financial Officer (CFO) may waive these requirements for services, which are included in law for procurement of commodities or contractual services.¹⁸ A contract may not prohibit a contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding any contract to which the contractor and a state agency are parties, after contract execution and during the contract term.¹⁹

Each public agency contract for services must authorize the public agency to inspect the:

- Financial records, papers, and documents of the contractor that are directly related to the performance of the contract or the expenditure of state funds.
- Programmatic records, papers, and documents of the contractor that the public agency determines are necessary to monitor the performance of the contract or to ensure that the terms of the contract are being met.²⁰

The contract must require the contractor to provide the records, papers, and documents requested by the public agency within 10 business days after the request is made.²¹

¹¹ Section 287.058(1)(e), F.S.

¹² Section 287.058(1)(f), F.S.

¹³ Section 287.058(1)(g), F.S., noting, however, that exceptional purchase contracts pursuant to ss. 287.057(3)(a), 287.057(3)(c), F.S., may not be renewed. *See Florida Dept. of Highway Safety and Motor Vehicles v. National Safety Com'n, Inc., 75 So. 3d 298 (Fla. 1st DCA 2011)* (The purpose of the statute allowing state procurement contracts to include a renewal provision is to exempt the parties from the competitive bidding process for a limited time if they are mutually satisfied with the agreement; it does not guarantee any vendor the right to continue to do business with the State beyond the original term of the contract.).

¹⁴ Section 287.058(1)(h), F.S.

¹⁵ Section 287.058(1)(i), F.S.

¹⁶ There is an exception in the case of a valid emergency as certified by the agency head.

¹⁷ Section 287.058(2), F.S.

¹⁸ Section 287.058(5), F.S.

¹⁹ Section 287.058(6), F.S.

²⁰ Section 216.1366(1), F.S.

²¹ Section 216.1366(2), F.S.

Contract Renewals

Current law allows contracts for commodities or contractual services to be renewed for a period that does not exceed three years or the term of the original contract, whichever is longer.²² Renewal of a contract for commodities or contractual services must be in writing and is subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties.²³ A renewal contract may not include any compensation for costs associated with the renewal, is contingent upon satisfactory performance evaluations by the agency, and is subject to the availability of funds.²⁴

If a contract amendment results in a longer contract term or increased payments, an agency may not renew or amend a contract for the outsourcing of a service or activity that has an original term value exceeding \$10 million before submitting a written report concerning contract performance to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The written report must be submitted at least 90 days before execution of the renewal or amendment.

Alternate Contract Sources

The Department of Management Services (DMS) must evaluate contracts let by the Federal Government, another state, or a political subdivision for commodities or contractual services, often referred to as alternate contract sources to determine if the contracts are cost-effective and in the best interest of the state. If DMS makes such determination in writing, then an agency may make purchases under the contract.²⁵

State Term Contracts & Request for Quotes

Section 287.056, F.S., requires agencies and permits eligible users²⁶ to purchase commodities and contractual services from purchasing agreements and state term contracts²⁷ procured by the DMS.

Agencies and eligible users may use a request for quote, to obtain written pricing or services information from a state term contract vendor to determine whether a more favorable price, term or condition that that provided in the state term contract is available.²⁸ The use of a request for quote does not constitute a decision subject to protest.²⁹ Rule 60A-1.043, F.A.C., requires agencies to request at least two quotes from state term contracts with multiple vendors, unless (i) the purchase is less than Category One (\$20,000), or (ii) the state term contract requires

²² Section 287.57(13), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 287.042(16), F.S.; see Agency Alternate Contract Source (ACS) Requests, available at https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/agency_alternate_contract_source_acs_requests

²⁶ Section 287.012(11), F.S., defines “eligible user” to mean any person or entity authorized by the DMS pursuant to rule to purchase from state term contracts or to use the online procurement system.

²⁷ Section 287.012(28), F.S., defines “state term contract” to mean a term contract that is competitively procured by the DMS pursuant to s. 287.057, F.S., and that is used by agencies and eligible users pursuant to s. 287/056, F.S.

²⁸ Section 287.056(2), F.S.

²⁹ Section 287.056(2), F.S.

otherwise. Agencies must document the justification for a selection based on receipt of less than two quotes.³⁰

Competitive-Solicitation

With certain exceptions,³¹ the procurement of commodities or contractual services in excess of Category Two, \$35,000, require agencies to use a competitive solicitation process.³² Any form of competitive solicitation must be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies, and must include all contractual terms and conditions applicable to the procurement.³³ Agencies may use a variety of methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors, including:

- Single source contracts,³⁴ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,³⁵ used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,³⁶ which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,³⁷ which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

Contract Evaluations and Negotiations

For a contract in excess of \$195,000, the agency head must appoint at least three people to evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought.³⁸ In addition, the agency head must appoint three people³⁹ to conduct negotiations during an invitation to negotiate procurement who collectively have experience and knowledge in

³⁰ Rule 60A-1.043, F.A.C.

³¹ Section 287.057(3)(e), F.S.

³² Section 287.057(1), F.S.

³³ *Id.*

³⁴ Section 287.057(3)(c), F.S.

³⁵ Section 287.057(1)(a), F.S.

³⁶ Section 287.057(1)(b), F.S.

³⁷ Section 287.057(1)(c), F.S.

³⁸ Section 287.057(16)(a), F.S.

³⁹ Section 287.057(16)(b), F.S., provides that if the value of the contract is in excess of \$1 million in any fiscal year, then at least one person conducting negotiations must be certified as a contract negotiator. If the value of the contract is in excess of \$10 million in any fiscal year, then at least one person conducting negotiations must be a Project Management Professional certified by the Project Management Institute.

negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought.⁴⁰

If the value of a contract is in excess of \$1 million in any fiscal year, at least one of the persons conducting negotiations must be certified as a Florida certified contract negotiator (FCCN)⁴¹ in order to ensure that certified contract negotiators are knowledgeable about effective negotiation strategies, capable of successfully implementing those strategies, and involved appropriately in the procurement process.⁴² If the value of a contract is in excess of \$10 million in any fiscal year, at least one of the persons conducting negotiations must be a Project Management Professional (PMP) certified by the Project Management Institute (PMI).⁴³

Qualifications for Contract Managers and Contract Negotiators

Section 287.057(14), F.S., provides that for each contractual services contract, the agency must designate an employee to function as contract manager who must be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. Each contract manager who is responsible for contracts in excess of the threshold amount for Category Two - \$35,000 - must complete training in accountability in contracts and grant management conducted by the Chief Financial Officer (CFO).⁴⁴

Each contract manager responsible for contracts in excess of \$100,000 annually must complete training in contract management and become a certified contract manager.⁴⁵ The DMS must establish and disseminate the requirements for certification which include completing the training conducted by the CFO for accountability and grant management. All agency contract managers must become certified within 24 months after establishment of the training and certification requirements by the DMS and the Department of Financial Services.

Each agency must designate at least one employee to serve as a contract administrator responsible for maintaining a contract file and financial information on all contractual services contracts and who shall serve as a liaison with the contract managers and the DMS.⁴⁶

⁴⁰ Section 287.057(16)(a)2., F.S.

⁴¹ Rule 60A-1.041(3), F.A.C., provides that a person must meet the following requirements for FCCN Certification, which is valid for five years or until the expiration date stated on the person's FCCN certificate, whichever is later:

- Successful completion of the FCCN certification course;
- At least 12 months' experience as a purchasing agent, contract manager, or contract administrator for an agency or local government entity, where the job description for the position required that at least half of the employee's designated duties included procuring commodities or contractual services, participating in contract negotiation, contract management, or contract administration, or working as an agency attorney whose duties included providing legal counsel to the agency's purchasing or contracting staff; and
- Experience during the preceding five years in leading at least one federal, state, or local government negotiation team through a negotiated procurement, or participation in at least two federal, state, or local government negotiated procurements. Negotiated procurements include those from a single source; those negotiated when fewer than two responsive bids, proposals, or replies are received; and contract renewals. Employees must provide documentation to show compliance with the experience and participation requirements when submitting the application

⁴² Section 287.057(16)(b), F.S.

⁴³ *Id.*

⁴⁴ Section 287.057(14)(a), F.S.

⁴⁵ Section 287.057(14)(b), F.S.

⁴⁶ Section 287.057(15), F.S.

For a contract in excess of the threshold amount for Category Four, \$195,000, the agency head must appoint:

- At least three persons to evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought.⁴⁷
- At least three persons to conduct negotiations during a competitive sealed reply procurement who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought.⁴⁸

If the value of a contract is in excess of \$1 million in any fiscal year, at least one of the persons conducting negotiations must be certified as a contract negotiator based upon the DMS' rules.⁴⁹ If the value of a contract is in excess of \$10 million in any fiscal year, at least one of the persons conducting negotiations must be a Project Management Professional, as certified by the Project Management Institute.

Project Management Professional

Section 287.076, F.S., authorizes the DMS to implement a program to train state agency employees who are involved in managing outsourcings as Project Management Professionals, as certified by the Project Management Institute.⁵⁰ The Project Management Institute has stringent requirements for individuals to earn and maintain certification.⁵¹ Subject to annual appropriations, the DMS, in consultation with entities subject to this part, shall identify personnel to participate in this training based on requested need and ensure that each agency is represented. The DMS may remit payment for this training on behalf of all participating personnel.

Vendor Registration and the Vendor Bid System

Any vendor that wishes to provide goods or services to the state must register in the Vendor Registration System.⁵² Once registered, vendors are able to do business with the State of Florida executive branch agencies through the Vendor Information Portal.⁵³

The Vendor Bid System (VBS), allows for agencies to post competitive solicitations of \$35,000 or more. These solicitations include ITBs, RFPs, and ITNs for all vendors to review. Vendors

⁴⁷ Section 287.057(16)(a)1., F.S.

⁴⁸ Section 287.057(16)(a)2., F.S.

⁴⁹ See Rule 60A-1.041, F.A.C.

⁵⁰ See Project Management Institute, available at <https://www.pmi.org/> (last visited March 4, 2021).

⁵¹ Department of Management Services, *Project Management Professional*, https://www.dms.myflorida.com/business_operations/state_purchasing/public_procurement_professional_development/project_management_professional (last visited March 11, 2021).

⁵² In order to register, a vendor must provide the following information: (1) Company Name; (2) Federal Tax ID; (3) Tax Filing Name; (4) Business Location; (5) Commodities and Services Offered; and (5) Certified Business and Enterprise Status. See The Department of Management Services, *Vendor Resources*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, February 23, 2021)

⁵³ The Department of Management Services, *Vendor Resources*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources (last visited, February 23, 2021).

can then bid, submit proposals, or submit a request to negotiate with the state agency through the VBS. A vendor will be notified through the VBS if its bid has been chosen and proceed by following bid specifications, timelines, and budgets.⁵⁴

Vendor Lists and Removal of Any Source of Supply

Based on the vendor registration process as set out in s. 287.042 and Rule 60A-1.006, F.A.C., the DMS maintains a vendor list. Section 287.042(1)(b), F.S., authorizes the DMS to remove from its vendor list “any source of supply” – any vendor - which fails to fulfill any of its duties specified in a contract. Rule 60A-1.006, F.A.C., prescribes a three step process for removing a vendor or source of supply. The agency must provide written notice of the nature of the vendor’s failure to perform and provide time certain (more than 10 days) for correcting the failure. Unless the vendor corrects its failure to perform or the agency determines the failure is legally excusable, the agency must find the vendor in default and issue a second notice stating (i) the reasons for default; (ii) that the agency will reprocure or has reprocured the commodities or services, and (iii) the amount of the reprocurement if known. The defaulting vendor is ineligible for award of a contract by the agency until the agency is reimbursed by the defaulting vendor for all reprocurement costs.⁵⁵ The defaulting vendor must be advised of the right to petition for an administrative hearing on the intended decision to remove the vendor from the list. An agency is required to provide a copy of all default actions to the DMS for removal from its vendor list.

The DMS maintains the following lists of vendors who have been removed for cause:

- Suspended Vendor List;⁵⁶
- Convicted Vendor List;⁵⁷
- Discriminatory Vendor List;⁵⁸
- Scrutinized List of Prohibited Companies;^{59,60} and
- Vendor Complaint List.⁶¹

⁵⁴ *Id.*

⁵⁵ Rule 60A-1.006(3)(c), F.A.C., provides that reprocurement costs may include both administrative costs and costs or price increases incurred or to be incurred as a result of the reprocurement.

⁵⁶ Rule 60A-1.006(2), F.A.C. (vendors that have been removed for failing to fulfill any of its duties specified in a State contract)

⁵⁷ Section 287.133, F.S.

⁵⁸ Section 287.134(1)(b), F.S.

⁵⁹ Section 287.135, F.S.

⁶⁰ There are currently 78 companies on the scrutinized list of prohibited companies. No companies were added to the scrutinized list in the fourth quarter of 2020.

⁶¹ The DMS tracks formal complaints issued to vendors by state agencies which is provided to agencies to assist in determining vendor responsibility pursuant to s. 287.057(1-3), F.S. There are currently no vendors on the vendor complaint list. Department of Management Services, *Vendor Complaint List*, https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/vendor_complaint_list (last visited March 16, 2021).

Suspended Vendor List

The suspended vendor list⁶² includes vendors that have been removed from the vendor list for “failing to fulfill any of its duties specified in a contract with the State.”⁶³ Currently, the DMS has five vendors on the suspended vendor list: (1) Building Maintenance of America, LLC d/b/a Florida Building Maintenance; (2) Club Tex, Inc.; (3) Correctional Consultants; (4) iColor Printing and Mailing, Inc.; and (5) Visual Image Design Firm, LLC, 6845 Narcoossee Road, Suite 59, Orlando, FL 32822.⁶⁴

Convicted Vendor List

The convicted vendor list comprises the names and addresses of those who have been disqualified from the public contracting and purchasing process due to the conviction of a public entity crime.⁶⁵ A vendor who has been placed on the convicted vendor list following a conviction may not submit a bid, proposal, or reply on a contract to provide goods or services to a public entity, and a public entity may not accept any bid, proposal, or reply from, award any contract to, or contract any business with a vendor on the convicted vendor list.⁶⁶

After receiving information that a vendor has been convicted of a public entity crime, DMS must investigate and determine whether good cause exists to place the vendor on the convicted vendor list. If good cause exists, DMS must provide written notification to the vendor of its intent to place that vendor on the convicted vendor list and of the vendors’ legal rights. If the vendor does not request an administrative hearing, DMS must enter a final order placing the vendor on the convicted vendor list.⁶⁷

A disqualified vendor may petition for removal no sooner than 6 months after being placed on the convicted vendor list.⁶⁸ Since 2016, five vendors have petitioned not to be placed on the convicted vendor list. Currently, there is one vendor on the convicted vendor list, Calixte, Jacques A. (Haitian American Association Against Cancer, Inc.).

⁶² *Vendor Registration and Vendor Lists*,

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists (last visited February 23, 2021).

⁶³ Section 287.042, F.S.; *See* Rule 60A-10.006, F.A.C.

⁶⁴ *Suspended Vendor List*,

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/suspended_vendor_list (last visited February 23, 2021).

⁶⁵ Section 287.133, F.S.; Section 287.133(1)(f), F.S., defines the term “public entity” to mean the State of Florida, any of its departments or agencies, or any political subdivision. Section 287.133(1)(g) defines “public entity crime” to mean a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

⁶⁶ Section 281.133(2)(b), F.S.

⁶⁷ Section 287.133(2)(e), F.S.

⁶⁸ Section 287.133(2)(f), F.S.

Discriminatory Vendor List

The discriminatory vendor list consists of the names and addresses of any vendor which has been disqualified from the public contracting and purchasing powers due to a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion by an entity under s. 287.134, F.S. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity.⁷² The investigative and administrative process for discriminatory vendors is the same as that described above for the convicted vendor list, including the removal process and specified timelines.⁶⁹ Currently, there are no vendors on the discriminatory vendor list.

Chief Financial Officer and Department of Financial Services

As provided in the constitution,⁷⁰ the CFO is the chief fiscal officer of Florida and is responsible for settling and approving accounts against the state and keeping all state funds and securities.⁷¹ The CFO is a member of the Governor's cabinet,⁷² must reside at the seat of government of Florida, and must hold office in a room in the Capitol.⁷³

The CFO, using generally accepted auditing procedures for testing or sampling, must examine, audit, and settle all accounts, claims, and demands, whatsoever, against the State, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon.⁷⁴ The CFO may adopt and disseminate to the agencies procedural and documentation standards for payment requests and may provide training and technical assistance to the agencies for these standards.⁷⁵ In addition, the CFO has the legal duty of delivering all state warrants and will be charged with the official responsibility of the protection and security of the state warrants while in his or her custody. The CFO may delegate this authority to other state agencies or officers.⁷⁶

The CFO also serves as the head of the Department of Financial Services (DFS).⁷⁷ DFS consists of the following divisions:

- The Division of Accounting and Auditing;
- The Division of Consumer Services;
- The Division of Funeral, Cemetery, and Consumer Services;
- The Division of Insurance Agent and Agency Services;
- The Division of Investigative and Forensic Services;⁷⁸

⁶⁹ Section 287.134(3)(e), F.S.

⁷⁰ FLA. CONST. Art. IV, s.4(c).

⁷¹ Section 17.001, F.S.

⁷² FLA. CONST. Art. IV, s.4(a).

⁷³ Section 17.02, F.S.

⁷⁴ Section 17.03(1), F.S.

⁷⁵ Section 17.03(3), F.S.

⁷⁶ Section 17.03(4), F.S.

⁷⁷ Section 20.121, F.S.

⁷⁸ This division functions as a criminal justice agency for purposes of ss. 943.045-943.08. The division may conduct investigations within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such

- The Division of Public Assistance Fraud;
- The Division of Rehabilitation and Liquidation;
- The Division of Risk Management;
- The Division of State Fire Marshal
- The Division of Treasury;⁷⁹
- The Division of Unclaimed Property;
- The Division of Workers' Compensation;
- The Division of Administration; and
- The Office of Insurance Consumer Advocate.

Agency Inspectors General

Section 20.55, F.S., establishes an office of inspector general in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. It is the duty of each inspector general to:

- Advise in the development of performance measures, standards, and procedures for the evaluation of state agency programs;⁸⁰
- Assess the reliability and validity of the information provided by the state agency on performance measures and standards, and make recommendations for improvement, if necessary, before submission of those measures and standards to the Executive Office of The Governor;⁸¹
- Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.⁸²
- With specified exception,⁸³ provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency;⁸⁴
- Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;⁸⁵
- Keep the agency head or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend corrective action

violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required. The division includes the following bureaus and office: (1) The Bureau of Forensic Services; (2) The Bureau of Fire, Arson and Explosives Investigations; (3) The Office of Fiscal Integrity; (4) The Bureau of Insurance Fraud; and (5) The Bureau of Workers' Compensation Fraud.

⁷⁹ This division includes a Bureau of Deferred Compensation responsible for administering the Government Employees Deferred Compensation Plan for state employees.

⁸⁰ Section 20.055(2)(a), F.S.

⁸¹ Section 20.055(2)(b), F.S.

⁸² Section 20.055(2)(c), F.S.

⁸³ When the inspector general does not possess the qualifications required by s. 20.055(4), F.S., the director of auditing shall conduct such audits.

⁸⁴ Section 20.055(2)(d), F.S.

⁸⁵ Section 20.055(2)(e), F.S.

concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action;⁸⁶

- Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication;⁸⁷
- Review, as appropriate, rules relating to the programs and operations of such state agency and make recommendations concerning their impact;⁸⁸
- Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities;⁸⁹ and
- Comply with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.⁹⁰

Each inspector general reports to and is under the general supervision of the agency head and is not subject to supervision by any other employee of the state agency.⁹¹ An inspector general may be removed from office by the agency head.⁹² The agency head or agency staff may not prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation.⁹³

To ensure that state agency audits are performed in accordance with applicable auditing standards, the inspector general or the director of auditing within the inspector general's office must possess qualifications specified by statute.⁹⁴ In carrying out the auditing duties and responsibilities of this act, each inspector general must review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency and conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of its findings.⁹⁵ Each inspector general must initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.⁹⁶ Except as otherwise provided, each inspector general must, not later than September 30 of each year, prepare an annual report summarizing the activities of the office during the immediately preceding state fiscal year.⁹⁷

III. Effect of Proposed Changes:

Section 1 reenacts s. 216.1366, F.S.,⁹⁸ and removes the July 1, 2021, termination date to require each agency contractor services to include authorization for the agency to inspect certain records of the contractor. These records include both financial and programmatic records, papers, and

⁸⁶ Section 20.055(2)(f), F.S.

⁸⁷ Section 20.055(2)(g), F.S.

⁸⁸ Section 20.055(2)(h), F.S.

⁸⁹ Section 20.055(2)(i), F.S.

⁹⁰ Section 20.055(2)(j), F.S.

⁹¹ Section 20.055(3)(b), F.S.

⁹² Section 20.055(3)(c), F.S.

⁹³ Section 20.055(3)(d), F.S.

⁹⁴ Section 20.055(4), F.S.

⁹⁵ Section 20.055(5), F.S.

⁹⁶ Section 20.055(6), F.S.

⁹⁷ Section 20.055(7)(a), F.S.

⁹⁸ Section 106 of ch. 2020-114, Laws of Florida, created s. 216.1366, F.S., in order to implement the appropriation of funds in the special categories, contracted services, and expenses categories of the 2020-2021 General Appropriations Act.

documents of the contractor directly related to the performance of the contract and that are deemed necessary by the agency to monitor the performance of the contract. The contract must require the contractor to provide such records, papers, and documents requested by the agency within 10 business days after the request is made.

Section 2 amends s. 287.042, F.S., to require the Secretary of Management Services to make a written determination finding a contract to be cost effective and the best value to the state before an agency may be authorized to enter such contract let by the Federal Government, another state, or a political subdivision.

Section 3 amends s. 287.056, F.S., to require that when an agency issues a request for quote for contractual services for a state term with 100 vendors or fewer, the agency *must* issue a request for quote to *all vendors* approved to provide that contractual service. For any contract with more than 100 vendors, the agency must issue a request for quote to a minimum of 100 vendors approved to provide such contractual services.

This section also provides for the immediate disqualification from state term contract eligibility of a firm or individual who has been removed from the source of supply pursuant to s. 287.042(1)(b), F.S., or placed on a disqualified vendor list pursuant to s. 287.133, F.S. (removal based upon public entity crime), or s. 287.134, F.S. (removal based on discriminatory practices).

Section 4 amends s. 287.057, F.S., to change the electronic posting requirement for single source contracting from 7 to 15 days. This section requires agencies to report, on a quarterly basis, to the DMS each instance in which the agency entered into a single source purchase contract. Such report is to be in a manner and form prescribed by the DMS. DMS is required to report such information to the Governor, The President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2022, and each January 1 thereafter.

This section provides that a state agency may not initiate a competitive solicitation for a product or service if the completion of the competitive solicitation would require a change in law or change to the agency's budget (other than a transfer authorized in law) unless the initiation of the competitive solicitation is specifically authorized in law, in the General Appropriations Act, or by the Legislative Budget Commission.⁹⁹ This prohibition does not apply to a competitive solicitation when the agency head certifies that a valid emergency exists.

This section amends the provision governing an agency's designation of a contract manager to clarify that the contract manager works as a liaison *between the contractor and the agency*, and prohibits a contract manager from having been employed, within the previous 5 years, by the vendor awarded the contractual services contract that he or she is assigned.

Section 4 sets forth the following primary responsibilities of a contract manager:

- Participating in the solicitation development and review of contract documents;

⁹⁹ This provision has been part of the implementing bill for the General Appropriations Act for the past five years (2020-114(98), 2019-116(106), 2018-10(79), and 2017-71(52)).

- Monitoring the contractor's progress and performance to ensure procured products and services conform to the contract requirements and to keep timely records of findings;
- Managing and documenting any changes to the contract through the amendment process authorized by the terms of the contract;
- Monitoring the contract budget to ensure sufficient funds are available throughout the term of the contract; and
- Exercising applicable remedies, as appropriate, when a contractor's performance is deficient.

Current law provides that the CFO provide training for accountability in contracts and grant management for a contract manager responsible for contracts in excess of the threshold amount for Category Two (\$35,000). The bill requires the CFO to evaluate this training every five years.

Current law requires a contract manager responsible for contracts in excess of \$100,000 annually to complete training in contract management and become a certified contract manager. The bill requires this training be completed within 6 months of a contract manager being assigned responsibility of qualifying contracts. Additionally, the bill requires a contract manager to complete the accountability in contracts and grant management training. The DMS is required to evaluate such training every five years to assess its effectiveness and update the training curriculum.

This section provides that a contract manager responsible for contracts in excess of \$10 million annually must, in addition to the accountability in contracts and grant management training, and the training in contract management and certification, also possess at least 5 years of experience managing contracts in excess of \$5 million annually.

Current law requires a contract administrator be designated to maintain a contract file and financial information on all contractual services contracts. The bill permits a contract administrator to also serve as the contract manager for contracts less than \$500,000 annually, if he or she has completed the required training. For contracts in excess of \$500,000 annually, the contract administrator is prohibited from serving in both capacities.

The bill specifies that for contracts in excess of \$195,000, the agency head must appoint at least three persons to *independently* evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for the commodity or contractual services sought, and a *negotiation team* of at least three person is to conduct negotiations during a competitive sealed reply procurement. In addition, a negotiation team for a competitively procured contract in excess of \$1 million in any fiscal year must include a certified contract negotiator.

Current law provides that for contracts in excess of \$10 million in any fiscal year, at least one person conducting negotiations must be a PMP. The bill specifies that such PMP must provide guidance based on his or her experience, education, and competency to lead and direct complex projects.

The bill requires the DMS to establish and disseminate the certification and training requirements for certified contract negotiators. The bill specifies that the training must ensure that certified contract negotiators are knowledgeable about effective negotiation strategies,

capable of successfully implementing those strategies, and appropriately involved in the procurement process. The DMS must evaluate such training every 5 years to assess its effectiveness and update the training curriculum.

A certified contract negotiator is required to complete training every 5 years for certification renewal. This section specifies that the qualification requirements for certification must include:

- At least 12 months' experience as a purchasing agent, contract manager, or contract administrator for an agency or local governmental entity where at least 50 percent of the designated duties included procuring commodities or contractual services, participating in contract negotiation, contract management, or contract administration, or working as an agency attorney whose duties included providing legal counsel to the agency's purchasing or contracting staff.
- Experience during the preceding 5 years in leading at least two federal, state, or local government negotiation teams through a negotiated procurement, or participation in at least three federal, state, or local government negotiated procurements.

Section 4 requires any person who supervises certain contract administrators or contract or grant managers to annually complete public procurement training for supervisors within 12 months of appointment to the supervisory position. DMS is responsible for establishing and disseminating the training course content required for supervisors, and training must commence no later than July 1, 2022.

This section requires an agency to establish a continuing oversight team for each contractual services contract in excess of \$1 million after the award of such contract. The agency head must appoint at least four persons to the continuing oversight team, with one being the certified contract manager. If the value of the contract is in excess of \$5 million, at least one member must possess at least 5 years of experience in managing contracts of a similar scope or size. If the value of the contractual services contract is in excess of \$20 million, the continuing oversight team must consist of at least five person, at least one member must be from a state agency other than the agency or agencies participating in the contract. Members of the continuing oversight team must be employees of the state and collectively have experience and knowledge in contract management, contract administration, contract enforcement, and the program areas and service requirements for the contractual services purchased.

For contracts in excess of \$1 million, each continuing oversight team is required to meet at least quarterly. For contracts in excess of \$10 million, each continuing oversight team must meet at least monthly. A representative of the contractor must be made available to members of the continuing oversight team for at least one meeting every calendar quarter to respond to any questions or requests for information from the continuing oversight team concerning contractor performance.

This section requires that within 30 days after formation of Within 30 days of the formation of the continuing oversight team, an initial meeting between the continuing oversight team and representatives of the contractor must convene to achieve a mutual understanding of the contract requirements, to provide the contractor with an orientation to the contract management process, and to explain the role of the continuing oversight team, contract manager, and contract administrator.

The continuing oversight team must meet to discuss the status of the contract, the pace of deliverables, the quality of deliverables, contractor responsiveness, and contractor performance. The contract administrator must be present at each meeting with the contract file and all applicable financial information. The continuing oversight team may submit written questions to the contractor concerning any items discussed during a continuing oversight team meeting. The contractor must respond to the team's questions within 10 business days of receiving the written questions. The questions and responses must be included in the contract file.

This section requires the continuing oversight team to provide written notification to:

- The agency head and the DMS of any deficiency in a contractor's performance which substantially affects the pace of deliverables or the likelihood of successful completion of the contract.
- The agency head, the DMS, and the Office of Policy and Budget in the Executive Office of the Governor of any significant change in contract scope and any increase in the cost of the contract that is 5 percent of the planned contract cost or greater within the fiscal year for contractual service contracts of less than \$5 million.
- The agency head, the DMS, the Office of Policy and Budget in the Executive Office of the Governor, and the legislative appropriations committees of any significant change in contract scope and any increase in the cost of the contract that is 5 percent of the planned contract cost or greater within the fiscal year for contractual service contracts of \$10 million or greater.

Section 5 amends s. 287.058, F.S., to prohibit a contract from containing a nondisclosure clause that prohibits a contractor from disclosing information relevant to the performance of the contract to members or staff of the Senate or the House of Representatives.

Section 6 creates s. 287.1351, F.S., regarding suspended vendors and state contracts. The bill prohibits a vendor that is in default on any contract with an agency or has otherwise repeatedly demonstrated an inability to fulfill the terms and conditions of previous state contracts from submitting a bid, proposal, or reply to an agency or enter into or renew a contract to provide goods or services to an agency after its placement on the suspended vendor list. An agency may not accept a bid, proposal, or reply from, or enter into or renew any contract with, a vendor that is on the suspended vendor list until the vendor has been removed from such list and returned to the vendor list by DMS. The bill defines the term "vendor" as a person or an entity that provides goods or services to an agency under a contract or submits a bid, proposal, or reply to provide goods or services to an agency.

This section requires an agency to notify DMS of any vendor that has met the grounds for suspension and must provide documentation to DMS evidencing the vendor's default or other grounds for suspension. DMS must review the submitted documentation and decide whether good cause exists to remove the vendor from the vendor list and to place it on the suspended vendor list. The bill requires DMS to notify the vendor in writing of its intent to remove the vendor from the vendor list and of the vendor's right to an administrative hearing, as well as the applicable procedures and time requirements for any such hearing. A vendor may not be removed from the vendor list without receiving an individual notice of intent from DMS. If a vendor does not request an administrative hearing, DMS must enter a final order removing the vendor from the vendor list.

This section provides that, within 21 days after receipt of the notice of intent, a vendor may file with DMS a petition for a formal hearing to challenge the decision. If a vendor does not file a petition in a timely manner, it is deemed to have waived its right to a hearing and the DMS's decision to remove the vendor from the list becomes final agency action.

This section provides that if a vendor is placed on the suspended vendor list, the vendor may file a petition with DMS one year or more after entry of the final order of its suspension. A proceeding on the petition must be conducted in accordance with ch. 120, F.S., and an ALJ may remove a vendor from the suspended vendor list if the ALJ determines it would be in the public interest. In determining whether removal from the list would be in the public interest, the ALJ may consider whether the suspended vendor has prepared a corrective action plan to address the original grounds for default or failure to fulfill the terms and conditions of the contract, reimbursed the agency for any reprocurement costs, or provided additional evidence that the vendor has taken other remedial action.

If a petition for removal from the suspended vendor list is denied, the vendor may not petition for another hearing for at least nine months after the date of denial. However, DMS may petition for the suspended vendor's removal before the expiration period if, in DMS's discretion, the removal of the vendor from the suspended list would be in the public's interest.

Section 7 amends s. 287.136, F.S., to require, beginning October 1, 2021, and every 3 years thereafter, each agency inspector general to complete a risk-based compliance audit of all contract documents executed by the agency for the preceding 3 fiscal years. The audit must include an evaluation of and identify any trend in vendor preference. The audit findings must be submitted to the agency head, the Secretary of Management Services, and the Governor.

Sections 8, 9, 10, 11, 12, 13, 14, 15, and 16 amend ss. 43.16, 215.971, 287.0571, 295.187, 394.47865, 402.7305, 408.045, 570.07, 627.351, F.S., respectively, to make conforming changes.

Section 17 provides that the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A private firm or individual may experience an indeterminate fiscal impact if such party is disqualified from state term contract eligibility upon removal from the vendor list as specified within the bill.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on the government sector. Agencies may experience an increase in cost and/or labor in complying with the single source reporting requirement, establishing contract oversight teams (to the extent applicable), and complying with the three year contract compliance audit. The DMS may incur additional costs in establishing and disseminating certification and training requirements for certified contract negotiators and in performing training evaluations every five years.

Additionally, the six-month time limitation imposed on training for a contract manager responsible for contracts in excess of \$100,000 annually will likely require DMS to expend additional resources to ensure timely training. The DMS is responsible for contracting with Project Management Institute for certification as a PMP. This is a fairly expensive certification - approximately \$1,800. Many agencies likely will not have sufficient PMPs on staff to comply with the terms of the bill. Thus, the DMS will incur additional costs associated with facilitating certifications for PMPs. The Department of Financial Services may also incur nominal additional costs associated with specified training evaluation every 5 years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 287.042, 287.056, 287.057, and 287.136.

This bill creates the following section of the Florida Statutes: 287.1351.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Governmental Oversight and Accountability on March 24, 2021:**

The CS:

- Adds language to reenact s. 216.1366, F.S., and remove the July 1, 2021, termination date, to require each agency contract for services to include authorization for the agency to inspect certain records of the contractor.
- Adds the requirement prohibiting an agency from initiating a competitive solicitation that would require a change in law or change to the agency's budget, unless specifically authorized.
- Revises the requirement that an agency issuing a request for quote for commodities or contractual services issue the request to *all* approved vendors to require a request for quote issued for *contractual services* be issued to all approved vendors if there are fewer than 100 approved vendors and to at least 100 of the approved vendors when there are more than 100 approved vendors.
- Adds the requirement that DMS to report certain single source contract information received by agencies to the Governor and Legislature by a specified date.
- Removes the requirement that a contract manager who is responsible for contracts in excess of \$10 million annually be a Project Management Professional and instead requires such person to meet certain experience thresholds.
- Increases the threshold for when a contract administrator may also serve as a contract manager from a contract value of \$250,000 to a contract value of \$500,000.
- Specifies that for contracts in excess of \$195,000 that the evaluation is performed *independently*, and removes language regarding an evaluation *team*.
- Revises the experience requirements for qualification for certification as a contract negotiator, to require experience during the preceding 5 years in leading at least two, instead of three, federal, state, or local government negotiation teams through a negotiated procurement, or participation in at least three, instead of five, federal, state, or local government-negotiated procurements.
- Adds the requirement that supervisors of contract administrators or contract or grant managers must complete training within a specified period.
- Alters the membership requirements meeting requirements for the continuing oversight team (e.g., requires one member be the *certified* contract manager, rather

than the contract manager; and removes the requirement that for contracts over \$5 million that one member must be a PMP and instead imposes an experience threshold).

- Provides more specificity for the notice requirements for the continuing oversight team.
- Adds the requirement that a contract may not contain a nondisclosure clause exempting certain information.
- Adds new language addressing the process for suspending vendors and provides that vendors who are in default on any contract with an agency or has otherwise repeatedly demonstrated an inability to fulfill the terms and conditions of previous state contracts is disqualified from bidding on or renewing a contract with the state.
- Adds language providing a mechanism whereby a vendor placed on the suspended vendor list may petition for removal.
- Revises the requirement that each agency inspector general complete a compliance audit of all contracts executed by the agency every three years to completing a risk based compliance audit of all contracts executed by the agency.
- Makes conforming changes.

B. Amendments:

None.

By Senator Brodeur

9-01566-21

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1 A bill to be entitled
 2 An act relating to agency contracts for commodities
 3 and contractual services; amending s. 287.042, F.S.;
 4 providing that the Department of Management Services
 5 may enter into an agreement authorizing an agency to
 6 make purchases under certain contracts if the
 7 Secretary of Management Services makes a certain
 8 determination; amending s. 287.056, F.S.; providing
 9 that an agency must issue a request for quote to
 10 certain approved vendors when it issues a request for
 11 quote for commodities or contractual services;
 12 providing for the disqualification of certain firms or
 13 individuals from state term contract eligibility;
 14 amending s. 287.057, F.S.; revising the timeframe
 15 during which an agency must electronically post a
 16 description of certain services in certain
 17 circumstances; requiring an agency to report certain
 18 actions to the department in a specified manner and
 19 form; requiring an agency to submit a report
 20 concerning contract performance before certain
 21 contract renewals or amendments are executed;
 22 providing that a designated contract manager serves as
 23 a liaison between the contractor and the agency;
 24 prohibiting certain individuals from serving as a
 25 contract manager; providing the responsibilities of a
 26 contract manager; requiring the Chief Financial
 27 Officer to evaluate certain training at certain
 28 intervals; requiring that certain contract managers
 29 complete training and certification within a specified

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30 timeframe; requiring the department to establish and
 31 disseminate certain training and certification
 32 requirements; requiring the department to evaluate
 33 certain training at certain intervals; requiring
 34 certain contract managers to be certified Project
 35 Management Professionals; authorizing a contract
 36 administrator to also serve as a contract manager in
 37 certain circumstances; providing for specified teams
 38 to make certain evaluations and conduct certain
 39 negotiations; requiring a Project Management
 40 Professional to provide guidance based on certain
 41 qualifications; providing qualification requirements
 42 for contract negotiator certification; providing for a
 43 continuing oversight team in certain circumstances;
 44 providing requirements for continuing oversight team
 45 members and meetings; requiring a continuing oversight
 46 team to provide notice of certain changes in contract
 47 scope to certain entities; amending s. 287.136, F.S.;
 48 requiring each agency inspector general to complete
 49 certain audits of executed contracts at certain
 50 intervals; requiring the audits be submitted to
 51 certain persons; providing an effective date.
 52
 53 Be It Enacted by the Legislature of the State of Florida:
 54
 55 Section 1. Subsection (16) of section 287.042, Florida
 56 Statutes, is amended to read:
 57 287.042 Powers, duties, and functions.—The department shall
 58 have the following powers, duties, and functions:

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59 (16) To evaluate contracts let by the Federal Government,
60 another state, or a political subdivision for the provision of
61 commodities and contract services, and, if it is determined by
62 the Secretary of Management Services in writing to be cost-
63 effective and ~~in~~ the best ~~value to interest of~~ the state, to
64 enter into a written agreement authorizing an agency to make
65 purchases under such contract.

66 Section 2. Subsection (2) of section 287.056, Florida
67 Statutes, is amended, and subsection (4) is added to that
68 section, to read:

69 287.056 Purchases from purchasing agreements and state term
70 contracts.—

71 (2) Agencies and eligible users may use a request for quote
72 to obtain written pricing or services information from a state
73 term contract vendor for commodities or contractual services
74 available on state term contract from that vendor. The purpose
75 of a request for quote is to determine whether a price, term, or
76 condition more favorable to the agency or eligible user than
77 that provided in the state term contract is available. If an
78 agency issues a request for quote for commodities or contractual
79 services, the agency must issue a request for quote to all
80 vendors approved to provide such commodity or contractual
81 services. Use of a request for quote does not constitute a
82 decision or intended decision that is subject to protest under
83 s. 120.57(3).

84 (4) A firm or individual removed from the source of supply
85 pursuant to s. 287.042(1)(b) or placed on a disqualified vendor
86 list pursuant to s. 287.133 or s. 287.134 is immediately
87 disqualified from state term contract eligibility.

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88 Section 3. Paragraph (c) of subsection (3) and subsections
89 (13) through (16) of section 287.057, Florida Statutes, are
90 amended, and subsection (24) is added to that section, to read:

91 287.057 Procurement of commodities or contractual
92 services.—

93 (3) If the purchase price of commodities or contractual
94 services exceeds the threshold amount provided in s. 287.017 for
95 CATEGORY TWO, purchase of commodities or contractual services
96 may not be made without receiving competitive sealed bids,
97 competitive sealed proposals, or competitive sealed replies
98 unless:

99 (c) Commodities or contractual services available only from
100 a single source may be excepted from the competitive-
101 solicitation requirements. If an agency believes that
102 commodities or contractual services are available only from a
103 single source, the agency shall electronically post a
104 description of the commodities or contractual services sought
105 for at least 15 ~~7~~ business days. The description must include a
106 request that prospective vendors provide information regarding
107 their ability to supply the commodities or contractual services
108 described. If it is determined in writing by the agency, after
109 reviewing any information received from prospective vendors that
110 the commodities or contractual services are available only from
111 a single source, the agency shall provide notice of its intended
112 decision to enter a single-source purchase contract in the
113 manner specified in s. 120.57(3). Each agency shall report all
114 such actions to the department on a quarterly basis in a manner
115 and form prescribed by the department.

116 (13) Contracts for commodities or contractual services may

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117 be renewed for a period that may not exceed 3 years or the term
 118 of the original contract, whichever is longer. Renewal of a
 119 contract for commodities or contractual services must be in
 120 writing and is subject to the same terms and conditions set
 121 forth in the initial contract and any written amendments signed
 122 by the parties. If the commodity or contractual service is
 123 purchased as a result of the solicitation of bids, proposals, or
 124 replies, the price of the commodity or contractual service to be
 125 renewed must be specified in the bid, proposal, or reply, except
 126 that an agency may negotiate lower pricing. A renewal contract
 127 may not include any compensation for costs associated with the
 128 renewal. Renewals are contingent upon satisfactory performance
 129 evaluations by the agency and subject to the availability of
 130 funds. Exceptional purchase contracts pursuant to paragraphs
 131 (3) (a) and (c) may not be renewed. With the exception of
 132 subsection (10), if a contract amendment results in a longer
 133 contract term or increased payments, a state agency may not
 134 renew or amend a contract for the outsourcing of a service or
 135 activity that has an original term value exceeding \$5 ~~\$10~~
 136 million before submitting a written report concerning contract
 137 performance to the Governor, the President of the Senate, and
 138 the Speaker of the House of Representatives at least 90 days
 139 before execution of the renewal or amendment.

140 (14) (a) For each contractual services contract, the agency
 141 shall designate an employee to function as contract manager who
 142 is responsible for enforcing performance of the contract terms
 143 and conditions and serve as a liaison between ~~with~~ the
 144 contractor and the agency. The contract manager may not be an
 145 individual who has been employed, within the previous 5 years,

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146 by the vendor awarded the contractual services contract. The
 147 primary responsibilities of a contract manager include:
 148 1. Participating in the solicitation development and review
 149 of contract documents.
 150 2. Monitoring the contractor's progress and performance to
 151 ensure procured products and services conform to the contract
 152 requirements and to keep timely records of findings.
 153 3. Managing and documenting any changes to the contract
 154 through the amendment process authorized by the terms of the
 155 contract.
 156 4. Monitoring the contract budget to ensure sufficient
 157 funds are available throughout the term of the contract.
 158 5. Exercising applicable remedies, as appropriate, when a
 159 contractor's performance is deficient.
 160 (b) (a) Each contract manager who is responsible for
 161 contracts in excess of the threshold amount for CATEGORY TWO
 162 must, at a minimum, complete training conducted by the Chief
 163 Financial Officer for accountability in contracts and grant
 164 management. The Chief Financial Officer shall evaluate such
 165 training every 5 years to assess its effectiveness and update
 166 the training curriculum. The Chief Financial Officer shall
 167 establish and disseminate uniform procedures pursuant to s.
 168 17.03(3) to ensure that contractual services have been rendered
 169 in accordance with the contract terms before the agency
 170 processes the invoice for payment. The procedures must include,
 171 but need not be limited to, procedures for monitoring and
 172 documenting contractor performance, reviewing and documenting
 173 all deliverables for which payment is requested by vendors, and
 174 providing written certification by contract managers of the

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175 agency's receipt of goods and services.

176 ~~(c)(b)~~ Each contract manager who is responsible for

177 contracts in excess of \$100,000 annually must, in addition to

178 the accountability in contracts and grant management training

179 required in paragraph (b) and within 6 months after being

180 assigned responsibility for such contracts, complete training in

181 contract management and become a certified contract manager. The

182 department is responsible for establishing and disseminating the

183 training and certification requirements for certified contract

184 managers. Training must promote best practices and procedures

185 related to negotiating, managing, and ensuring accountability in

186 agency contracts and grant agreements, which must include the

187 use of case studies based upon previous audits, contracts, and

188 grant agreements. A certified contract manager must complete

189 training every 5 years for certification renewal requirements

190 for certification which include completing the training

191 conducted by the Chief Financial Officer for accountability in

192 contracts and grant management. Training and certification must

193 be coordinated by the department, and the training must be

194 conducted jointly by the department and the Department of

195 Financial Services. The department shall evaluate such training

196 every 5 years to assess its effectiveness and update the

197 training curriculum ~~Training must promote best practices and~~

198 ~~procedures related to negotiating, managing, and ensuring~~

199 ~~accountability in agency contracts and grant agreements, which~~

200 ~~must include the use of case studies based upon previous audits,~~

201 ~~contracts, and grant agreements. All agency contract managers~~

202 ~~must become certified within 24 months after establishment of~~

203 ~~the training and certification requirements by the department~~

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204 ~~and the Department of Financial Services.~~

205 (d) Each contract manager who is responsible for contracts

206 in excess of \$10 million annually must, in addition to the

207 training required in paragraph (b) and the training and

208 certification required in paragraph (c), be a Project Management

209 Professional, as certified by the Project Management Institute.

210 (15) Each agency shall designate at least one employee who

211 shall serve as a contract administrator responsible for

212 maintaining a contract file and financial information on all

213 contractual services contracts and who shall serve as a liaison

214 with the contract managers and the department. For a contract of

215 \$250,000 or less annually, the contract administrator may also

216 serve as the contract manager if he or she has completed the

217 required training. For a contract in excess of \$250,000

218 annually, the contract administrator may not serve as both the

219 contract administrator and the contract manager.

220 (16) (a) For a contract in excess of the threshold amount

221 provided in s. 287.017 for CATEGORY FOUR, the agency head shall

222 appoint:

223 1. At least three persons to an evaluation team to evaluate

224 proposals and replies. The members of the evaluation team must

225 ~~who~~ collectively have experience and knowledge in the program

226 areas and service requirements for the commodity which

227 ~~commodities~~ or contractual services are sought.

228 2. At least three persons to a negotiation team to conduct

229 negotiations during a competitive sealed reply procurement. The

230 negotiation team members must ~~who~~ collectively have experience

231 and knowledge in negotiating contracts, contract procurement,

232 and the program areas and service requirements for the commodity

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233 ~~which commodities or contractual services are sought.~~

234 (b) 1. If the value of a contract is in excess of \$1 million
 235 in any fiscal year, at least one of the persons conducting
 236 negotiations must be ~~certified as a certified~~ certified contract
 237 negotiator ~~based upon department rules in order to ensure that~~
 238 ~~certified contract negotiators are knowledgeable about effective~~
 239 ~~negotiation strategies, capable of successfully implementing~~
 240 ~~those strategies, and involved appropriately in the procurement~~
 241 ~~process. At a minimum, the rules must address the qualifications~~
 242 ~~required for certification, the method of certification, and the~~
 243 ~~procedure for involving the certified negotiator.~~

244 2. If the value of a contract is in excess of \$10 million
 245 in any fiscal year, at least one of the persons conducting
 246 negotiations must be a Project Management Professional, as
 247 certified by the Project Management Institute. The Project
 248 Management Professional shall provide guidance based on his or
 249 her experience, education, and competency to lead and direct
 250 complex projects.

251 3. The department is responsible for establishing and
 252 disseminating the certification and training requirements for
 253 certified contract negotiators. Training must ensure that
 254 certified contract negotiators are knowledgeable about effective
 255 negotiation strategies, capable of successfully implementing
 256 those strategies, and appropriately involved in the procurement
 257 process. The department shall evaluate such training every 5
 258 years in order to assess its effectiveness and update the
 259 training curriculum. A certified contract negotiator is required
 260 to complete training every 5 years for certification renewal.
 261 Qualification requirements for certification must include:

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262 a. At least 12 months' experience as a purchasing agent,
 263 contract manager, or contract administrator for an agency or
 264 local governmental entity where at least 50 percent of the
 265 designated duties included procuring commodities or contractual
 266 services, participating in contract negotiation, contract
 267 management, or contract administration, or working as an agency
 268 attorney whose duties included providing legal counsel to the
 269 agency's purchasing or contracting staff.

270 b. Experience during the preceding 5 years in leading at
 271 least three federal, state, or local government negotiation
 272 teams through a negotiated procurement, or participation in at
 273 least five federal, state, or local government negotiated
 274 procurements.

275 (24) (a) For each contractual services contract in excess of
 276 \$1 million, the agency head shall establish a continuing
 277 oversight team after the contract has been awarded. The agency
 278 head shall appoint at least four persons, one of whom must be
 279 the contract manager, to the continuing oversight team. If the
 280 value of the contractual services contract is in excess of \$5
 281 million, at least one of the persons on the continuing oversight
 282 team must be a Project Management Professional, as certified by
 283 the Project Management Institute. Members of the continuing
 284 oversight team must collectively have experience and knowledge
 285 in contract management, contract administration, contract
 286 enforcement, and the program areas and service requirements for
 287 the contractual services purchased.

288 (b) Continuing oversight teams must meet at least quarterly
 289 to discuss the status of the contract, the pace of deliverables,
 290 and contractor performance. The contract administrator must be

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291 present at each meeting with the contract file and all
 292 applicable financial information. The continuing oversight team
 293 must notify, in writing:

294 1. The agency head and the department of any deficiency in
 295 a contractor's performance.

296 2. The agency head, the department, and the Office of
 297 Policy and Budget in the Executive Office of the Governor of any
 298 significant change in contract scope and any increase in the
 299 cost of the contract that is 5 percent of the planned contract
 300 cost or greater within the fiscal year for contractual service
 301 contracts of less than \$5 million.

302 3. The agency head, the department, the Office of Policy
 303 and Budget in the Executive Office of the Governor, and the
 304 legislative appropriations committees of any significant change
 305 in contract scope and any increase in the cost of the contract
 306 that is 5 percent of the planned contract cost or greater within
 307 the fiscal year for contractual service contracts of \$5 million
 308 or greater.

309 Section 4. Section 287.136, Florida Statutes, is amended to
 310 read:

311 287.136 Audit of executed contract documents.—

312 (1) After execution of a contract, the Chief Financial
 313 Officer shall perform audits of the executed contract document
 314 and contract manager's records to ensure that adequate internal
 315 controls are in place for complying with the terms and
 316 conditions of the contract and for the validation and receipt of
 317 goods and services.

318 (a) ~~(1)~~ At the conclusion of the audit, the Chief Financial
 319 Officer's designee shall discuss the audit and potential

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320 findings with the official whose office is subject to audit. The
 321 final audit report shall be submitted to the agency head.

322 (b) ~~(2)~~ Within 30 days after receipt of the final audit
 323 report, the agency head shall submit to the Chief Financial
 324 Officer or designee his or her written statement of explanation
 325 or rebuttal concerning findings requiring corrective action,
 326 including corrective action to be taken to preclude a
 327 recurrence.

328 (2) Beginning October 1, 2021, and every 3 years
 329 thereafter, each agency inspector general shall complete a
 330 compliance audit of all contract documents executed by the
 331 agency for the preceding 3 fiscal years. The audit must include
 332 an evaluation of and identify any trend in vendor preference.
 333 The audit findings must be submitted to the agency head, the
 334 Secretary of the Department of Management Services, and the
 335 Governor.

336 Section 5. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ray Wesley Rodrigues, Chair
Committee on Government Oversight and Accountability

Subject: Committee Agenda Request

Date: March 3, 2021

I respectfully request that **Senate Bill 1616**, relating to Agency Contracts for Commodities and Contractual Services, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Notwithstanding the expiration date in section
106 of chapter 2020-114, Laws of Florida, section 216.1366,
Florida Statutes, is reenacted and amended to read:
216.1366 Contract terms.—

(1) In order to preserve the interest of the state in the
prudent expenditure of state funds, each public agency contract



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11 for services entered into or amended on or after July 1, 2020,
12 shall authorize the public agency to inspect the:

13 (a) Financial records, papers, and documents of the
14 contractor that are directly related to the performance of the
15 contract or the expenditure of state funds.

16 (b) Programmatic records, papers, and documents of the
17 contractor which the public agency determines are necessary to
18 monitor the performance of the contract or to ensure that the
19 terms of the contract are being met.

20 (2) The contract shall require the contractor to provide
21 such records, papers, and documents requested by the public
22 agency within 10 business days after the request is made.

23 ~~(3) This section expires July 1, 2021.~~

24 Section 2. Subsection (16) of section 287.042, Florida
25 Statutes, is amended to read:

26 287.042 Powers, duties, and functions.—The department shall
27 have the following powers, duties, and functions:

28 (16) To evaluate contracts let by the Federal Government,
29 another state, or a political subdivision for the provision of
30 commodities and contract services, and, if it is determined by
31 the Secretary of Management Services in writing to be cost-
32 effective and in the best value to interest of the state, to
33 enter into a written agreement authorizing an agency to make
34 purchases under such contract.

35 Section 3. Subsection (2) of section 287.056, Florida
36 Statutes, is amended, and subsection (4) is added to that
37 section, to read:

38 287.056 Purchases from purchasing agreements and state term
39 contracts.—



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40 (2) Agencies and eligible users may use a request for quote
41 to obtain written pricing or services information from a state
42 term contract vendor for commodities or contractual services
43 available on state term contract from that vendor. The purpose
44 of a request for quote is to determine whether a price, term, or
45 condition more favorable to the agency or eligible user than
46 that provided in the state term contract is available. If an
47 agency issues a request for quote for contractual services for
48 any contract with 100 vendors or fewer, the agency must issue a
49 request for quote to all vendors approved to provide such
50 contractual services. For any contract with more than 100
51 vendors, the agency must issue a request for quote to a minimum
52 of 100 vendors approved to provide such contractual services.
53 Use of a request for quote does not constitute a decision or
54 intended decision that is subject to protest under s. 120.57(3).

55 (4) A firm or individual placed on the suspended vendor
56 list pursuant to s. 287.1351 or placed on a disqualified vendor
57 list pursuant to s. 287.133 or s. 287.134 is immediately
58 disqualified from state term contract eligibility.

59 Section 4. Subsections (4) through (16) and (17) through
60 (23) of section 287.057, Florida Statutes, are renumbered as
61 subsections (5) through (17) and (19) through (25),
62 respectively, paragraph (c) of subsection (3) and present
63 subsections (13) through (16) are amended, and new subsections
64 (4), (18), and (26) are added to that section, to read:

65 287.057 Procurement of commodities or contractual
66 services.—

67 (3) If the purchase price of commodities or contractual
68 services exceeds the threshold amount provided in s. 287.017 for



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69 CATEGORY TWO, purchase of commodities or contractual services
70 may not be made without receiving competitive sealed bids,
71 competitive sealed proposals, or competitive sealed replies
72 unless:

73 (c) Commodities or contractual services available only from
74 a single source may be excepted from the competitive-
75 solicitation requirements. If an agency believes that
76 commodities or contractual services are available only from a
77 single source, the agency shall electronically post a
78 description of the commodities or contractual services sought
79 for at least 15 ~~7~~ business days. The description must include a
80 request that prospective vendors provide information regarding
81 their ability to supply the commodities or contractual services
82 described. If it is determined in writing by the agency, after
83 reviewing any information received from prospective vendors that
84 the commodities or contractual services are available only from
85 a single source, the agency shall provide notice of its intended
86 decision to enter a single-source purchase contract in the
87 manner specified in s. 120.57(3). Each agency shall report all
88 such actions to the department on a quarterly basis in a manner
89 and form prescribed by the department and the department shall
90 report such information to the Governor, the President of the
91 Senate, and the Speaker of the House of Representatives no later
92 than January 1, 2022, and each January 1 thereafter.

93 (4) A state agency may not initiate a competitive
94 solicitation for a product or service if the completion of such
95 competitive solicitation would:

96 (a) Require a change in law; or

97 (b) Require a change to the agency's budget other than a



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98 transfer authorized in s. 216.292(2) or (3), unless the
99 initiation of such competitive solicitation is specifically
100 authorized in law, in the General Appropriations Act, or by the
101 Legislative Budget Commission.

102 (c) This subsection does not apply to a competitive
103 solicitation for which the agency head certifies that a valid
104 emergency exists.

105 (14) ~~(13)~~ Contracts for commodities or contractual services
106 may be renewed for a period that may not exceed 3 years or the
107 term of the original contract, whichever is longer. Renewal of a
108 contract for commodities or contractual services must be in
109 writing and is subject to the same terms and conditions set
110 forth in the initial contract and any written amendments signed
111 by the parties. If the commodity or contractual service is
112 purchased as a result of the solicitation of bids, proposals, or
113 replies, the price of the commodity or contractual service to be
114 renewed must be specified in the bid, proposal, or reply, except
115 that an agency may negotiate lower pricing. A renewal contract
116 may not include any compensation for costs associated with the
117 renewal. Renewals are contingent upon satisfactory performance
118 evaluations by the agency and subject to the availability of
119 funds. Exceptional purchase contracts pursuant to paragraphs
120 (3) (a) and (c) may not be renewed. With the exception of
121 subsection (11) ~~(10)~~, if a contract amendment results in a
122 longer contract term or increased payments, a state agency may
123 not renew or amend a contract for the outsourcing of a service
124 or activity that has an original term value exceeding \$5 ~~\$10~~
125 million before submitting a written report concerning contract
126 performance to the Governor, the President of the Senate, and



127 the Speaker of the House of Representatives at least 90 days
128 before execution of the renewal or amendment.

129 (15) (a) ~~(14)~~ For each contractual services contract, the
130 agency shall designate an employee to function as contract
131 manager who is responsible for enforcing performance of the
132 contract terms and conditions and serve as a liaison between
133 ~~with~~ the contractor and the agency. The contract manager may not
134 be an individual who has been employed, within the previous 5
135 years, by the vendor awarded the contractual services contract.
136 The primary responsibilities of a contract manager include:

137 1. Participating in the solicitation development and review
138 of contract documents.

139 2. Monitoring the contractor's progress and performance to
140 ensure procured products and services conform to the contract
141 requirements and keep timely records of findings.

142 3. Managing and documenting any changes to the contract
143 through the amendment process authorized by the terms of the
144 contract.

145 4. Monitoring the contract budget to ensure sufficient
146 funds are available throughout the term of the contract.

147 5. Exercising applicable remedies, as appropriate, when a
148 contractor's performance is deficient.

149 (b) ~~(a)~~ Each contract manager who is responsible for
150 contracts in excess of the threshold amount for CATEGORY TWO
151 must, at a minimum, complete training conducted by the Chief
152 Financial Officer for accountability in contracts and grant
153 management. The Chief Financial Officer shall evaluate such
154 training every 5 years to assess its effectiveness and update
155 the training curriculum. The Chief Financial Officer shall



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156 establish and disseminate uniform procedures pursuant to s.
157 17.03(3) to ensure that contractual services have been rendered
158 in accordance with the contract terms before the agency
159 processes the invoice for payment. The procedures must include,
160 but need not be limited to, procedures for monitoring and
161 documenting contractor performance, reviewing and documenting
162 all deliverables for which payment is requested by vendors, and
163 providing written certification by contract managers of the
164 agency's receipt of goods and services.

165 (c) ~~(b)~~ Each contract manager who is responsible for
166 contracts in excess of \$100,000 annually must, in addition to
167 the accountability in contracts and grant management training
168 required in paragraph (b) and within 6 months after being
169 assigned responsibility for such contracts, complete training in
170 contract management and become a certified contract manager. The
171 department is responsible for establishing and disseminating the
172 training and certification requirements for certified contract
173 managers. Training must promote best practices and procedures
174 related to negotiating, managing, and ensuring accountability in
175 agency contracts and grant agreements, which must include the
176 use of case studies based upon previous audits, contracts, and
177 grant agreements. A certified contract manager must complete
178 training every 5 years for certification renewal requirements
179 for certification which include completing the training
180 conducted by the Chief Financial Officer for accountability in
181 contracts and grant management. Training and certification must
182 be coordinated by the department, and the training must be
183 conducted jointly by the department and the Department of
184 Financial Services. The department shall evaluate such training



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185 every 5 years to assess its effectiveness and update the
186 training curriculum. ~~Training must promote best practices and~~
187 ~~procedures related to negotiating, managing, and ensuring~~
188 ~~accountability in agency contracts and grant agreements, which~~
189 ~~must include the use of case studies based upon previous audits,~~
190 ~~contracts, and grant agreements. All agency contract managers~~
191 ~~must become certified within 24 months after establishment of~~
192 ~~the training and certification requirements by the department~~
193 ~~and the Department of Financial Services.~~

194 (d) Each contract manager who is responsible for contracts
195 in excess of \$10 million annually must, in addition to the
196 training required in paragraph (b) and the training and
197 certification required in paragraph (c), possess at least 5
198 years of experience managing contracts in excess of \$5 million
199 annually.

200 (16) ~~(15)~~ Each agency shall designate at least one employee
201 who shall serve as a contract administrator responsible for
202 maintaining a contract file and financial information on all
203 contractual services contracts and who shall serve as a liaison
204 with the contract managers and the department. For a contract of
205 \$500,000 or less annually, the contract administrator may also
206 serve as the contract manager if he or she has completed the
207 required training. For a contract in excess of \$500,000
208 annually, the contract administrator may not serve as both the
209 contract administrator and the contract manager.

210 (17) (a) ~~(16) (a)~~ For a contract in excess of the threshold
211 amount provided in s. 287.017 for CATEGORY FOUR, the agency head
212 shall appoint:

213 1. At least three persons to independently evaluate



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214 proposals and replies who collectively have experience and
215 knowledge in the program areas and service requirements for the
216 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

217 2. At least three persons to a negotiation team to conduct
218 negotiations during a competitive sealed reply procurement. The
219 negotiation team members must ~~who~~ collectively have experience
220 and knowledge in negotiating contracts, contract procurement,
221 and the program areas and service requirements for the commodity
222 ~~which commodities~~ or contractual services ~~are~~ sought.

223 (b)1. If the value of a contract is in excess of \$1 million
224 in any fiscal year, at least one of the persons conducting
225 negotiations must be ~~certified as a~~ certified contract
226 negotiator. ~~based upon department rules in order to ensure that~~
227 ~~certified contract negotiators are knowledgeable about effective~~
228 ~~negotiation strategies, capable of successfully implementing~~
229 ~~those strategies, and involved appropriately in the procurement~~
230 ~~process. At a minimum, the rules must address the qualifications~~
231 ~~required for certification, the method of certification, and the~~
232 ~~procedure for involving the certified negotiator.~~

233 2. If the value of a contract is in excess of \$10 million
234 in any fiscal year, at least one of the persons conducting
235 negotiations must be a Project Management Professional, as
236 certified by the Project Management Institute. The Project
237 Management Professional shall provide guidance based on his or
238 her experience, education, and competency to lead and direct
239 complex projects.

240 3. The department is responsible for establishing and
241 disseminating the certification and training requirements for
242 certified contract negotiators. Training must ensure that



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243 certified contract negotiators are knowledgeable about effective
244 negotiation strategies, capable of successfully implementing
245 those strategies, and involved appropriately in the procurement
246 process. The department shall evaluate such training every 5
247 years in order to assess its effectiveness and update the
248 training curriculum. A certified contract negotiator is required
249 to complete training every 5 years for certification renewal.

250 Qualification requirements for certification must include:

251 a. At least 12 months' experience as a purchasing agent,
252 contract manager, or contract administrator for an agency or
253 local governmental entity where at least 50 percent of the
254 designated duties included procuring commodities or contractual
255 services, participating in contract negotiation, contract
256 management, or contract administration, or working as an agency
257 attorney whose duties included providing legal counsel to the
258 agency's purchasing or contracting staff.

259 b. Experience during the preceding 5 years in leading at
260 least two federal, state, or local government negotiation teams
261 through a negotiated procurement, or participation in at least
262 three federal, state, or local government negotiated
263 procurements.

264 (18) Any person who supervises contract administrators or
265 contract or grant managers that meet criteria for certification
266 in subsection (15) shall annually complete public procurement
267 training for supervisors within 12 months of appointment to the
268 supervisory position. The department is responsible for
269 establishing and disseminating the training course content
270 required for supervisors and training shall commence no later
271 than July 1, 2022.



272 (26) (a) For each contractual services contract in excess of
273 \$1 million, the agency head shall establish a continuing
274 oversight team after the contract has been awarded. The agency
275 head shall appoint at least four persons, one of whom must be
276 the certified contract manager, to the continuing oversight
277 team. If the value of the contractual services contract is in
278 excess of \$5 million, at least one of the persons on the
279 continuing oversight team must possess at least 5 years of
280 experience in managing contracts of a similar scope or size. If
281 the value of the contractual services contract is in excess of
282 \$20 million, the continuing oversight team shall consist of at
283 least five persons, at least one of the persons on the
284 continuing oversight team must be from a state agency other than
285 the agency or agencies participating in the contract. Members of
286 the continuing oversight team must be employees of the state and
287 must collectively have experience and knowledge in contract
288 management, contract administration, contract enforcement, and
289 the program areas and service requirements for the contractual
290 services purchased.

291 (b)1. For contracts in excess of \$1 million, each
292 continuing oversight team must meet at least quarterly.

293 2. For contracts in excess of \$10 million, each continuing
294 oversight team must meet at least monthly. A representative of
295 the contractor must be made available to members of the
296 continuing oversight team for at least one meeting every
297 calendar quarter to respond to any questions or requests for
298 information from the continuing oversight team concerning
299 contractor performance.

300 (c)1. Within 30 days of the formation of the continuing



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301 oversight team, the continuing oversight team must convene an
302 initial meeting with representatives of the contractor to
303 achieve a mutual understanding of the contract requirements, to
304 provide the contractor with an orientation to the contract
305 management process, and to provide an explanation of the role of
306 the continuing oversight team, contract manager, and contract
307 administrator.

308 2. The continuing oversight team must meet to discuss the
309 status of the contract, the pace of deliverables, the quality of
310 deliverables, contractor responsiveness, and contractor
311 performance. The contract administrator must be present at each
312 meeting with the contract file and all applicable financial
313 information. The continuing oversight team may submit written
314 questions to the contractor concerning any items discussed
315 during a continuing oversight team meeting. The contractor must
316 respond to the team's questions within 10 business days after
317 receiving the written questions. The questions and responses
318 must be included in the contract file.

319 (d) The continuing oversight team must notify, in writing:

320 1. The agency head and the department of any deficiency in
321 a contractor's performance which substantially affects the pace
322 of deliverables or the likelihood of the successful completion
323 of the contract.

324 2. The agency head, the department, and the Office of
325 Policy and Budget in the Executive Office of the Governor of any
326 significant change in contract scope or any increase in the cost
327 of the contract that is 5 percent of the planned contract cost
328 or greater within the fiscal year for contractual service
329 contracts of at least \$5 million.



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330 3. The agency head, the department, the Office of Policy
331 and Budget in the Executive Office of the Governor, and the
332 legislative appropriations committees of any significant change
333 in contract scope or any increase in the cost of the contract
334 that is 5 percent of the planned contract cost or greater within
335 the fiscal year for contractual service contracts of \$10 million
336 or greater.

337 Section 5. Subsection (7) is added to section 287.058,
338 Florida Statutes, to read:

339 287.058 Contract document.—

340 (7) A contract may not contain a nondisclosure clause that
341 prohibits the contractor from disclosing information relevant to
342 the performance of the contract to members or staff of the
343 Senate or the House of Representatives.

344 Section 6. Section 287.1351, Florida Statutes, is created
345 to read:

346 287.1351 Suspended vendors; state contracts.—

347 (1) As used in this section, the term "vendor" means a
348 person or an entity that provides goods or services to an agency
349 under a contract or submits a bid, proposal, or reply to provide
350 goods or services to an agency.

351 (2) (a) A vendor that is in default on any contract with an
352 agency or has otherwise repeatedly demonstrated a recent
353 inability to fulfill the terms and conditions of previous state
354 contracts or to adequately perform its duties under those
355 contracts may not submit a bid, proposal, or reply to an agency
356 or enter into or renew a contract to provide any goods or
357 services to an agency after its placement, pursuant to this
358 section, on the suspended vendor list.



359 (b) An agency may not accept a bid, proposal, or reply
360 from, or enter into or renew any contract with, a vendor on the
361 suspended vendor list until such vendor has been removed from
362 the suspended vendor list and returned to the vendor list
363 maintained by the department pursuant to s. 287.042(1)(a) and
364 (b) and the vendor has reimbursed the agency for any
365 reprocurement costs.

366 (3) An agency shall notify the department of any vendor
367 that has met the grounds for suspension described in paragraph
368 (2)(a). The agency must provide documentation to the department
369 evidencing the vendor's default or other grounds for suspension.
370 The department shall review the documentation provided and
371 determine whether good cause exists to remove the vendor from
372 the vendor list and to place it on the suspended vendor list. If
373 good cause exists, the department must notify the vendor in
374 writing of its intent to remove the vendor from the vendor list
375 and of the vendor's right to an administrative hearing and the
376 applicable procedures and time requirements for any such
377 hearing. If the vendor does not request an administrative
378 hearing, the department must enter a final order removing the
379 vendor from the vendor list. A vendor may not be removed from
380 the vendor list without receiving an individual notice of intent
381 from the department.

382 (4) Within 21 days after receipt of the notice of intent,
383 the vendor may file with the department a petition for a formal
384 hearing pursuant to ss. 120.569 and 120.57 to challenge the
385 department's decision to remove the vendor from the vendor list.
386 A vendor that fails to timely file a petition in accordance with
387 this subsection is deemed to have waived its right to a hearing,



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388 and the department's decision to remove the vendor from the
389 vendor list becomes final agency action.

390 (5) (a) The department shall place any vendor removed from
391 the vendor list pursuant to this section on the suspended vendor
392 list. One year or more after entry of the final order of its
393 suspension, a suspended vendor may file a petition with the
394 department for removal from the suspended vendor list. The
395 proceeding on the petition must be conducted in accordance with
396 chapter 120. The vendor may be removed from the suspended vendor
397 list if the administrative law judge determines that removal
398 from the list would be in the public interest. In determining
399 whether removal from the list would be in the public interest,
400 the administrative law judge may consider, but is not limited
401 to, whether the suspended vendor has prepared a corrective
402 action plan that addresses the original grounds for default or
403 failure to fulfill the terms and conditions of the contract,
404 reimbursed the agency for any procurement costs, or provided
405 additional evidence that the vendor has taken other remedial
406 action.

407 (b) If a petition for removal from the suspended vendor
408 list is denied, the vendor may not petition for another hearing
409 on removal for a period of at least 9 months after the date of
410 the denial. The department may petition for the suspended
411 vendor's removal before the expiration of such period if, in the
412 department's discretion, the department determines that removal
413 from the suspended vendor list would be in the public interest.

414 Section 7. Section 287.136, Florida Statutes, is amended to
415 read:

416 287.136 Audit of executed contract documents.—



104964

446 An act relating to agency contracts for commodities
447 and contractual services; reenacting and amending s.
448 216.1366, F.S.; abrogating the scheduled expiration of
449 provisions relating to certain public agency contracts
450 for services; amending s. 287.042, F.S.; providing
451 that the Department of Management Services may enter
452 into an agreement authorizing an agency to make
453 purchases under certain contracts if the Secretary of
454 Management Services makes a certain determination;
455 amending s. 287.056, F.S.; providing that an agency
456 must issue a request for quote to certain approved
457 vendors when it issues a request for quote for
458 contractual services; providing for the
459 disqualification of certain firms or individuals from
460 state term contract eligibility; amending s. 287.057,
461 F.S.; revising the period of time during which an
462 agency must electronically post a description of
463 certain services in certain circumstances; requiring
464 an agency to report certain actions to the department
465 in a specified manner and form; requiring the
466 department to annually report certain information to
467 the Governor and the Legislature by a specified date;
468 prohibiting an agency from initiating a competitive
469 solicitation in certain circumstances; requiring an
470 agency to submit a report concerning contract
471 performance before certain contract renewals or
472 amendments are executed; providing that a designated
473 contract manager serves as a liaison between the
474 contractor and the agency; prohibiting certain



475 individuals from serving as a contract manager;
476 providing the responsibilities of a contract manager;
477 requiring the Chief Financial Officer to evaluate
478 certain training at certain intervals; requiring that
479 certain contract managers complete training and
480 certification within a specified timeframe; requiring
481 the department to establish and disseminate certain
482 training and certification requirements; requiring the
483 department to evaluate certain training at certain
484 intervals; requiring certain contract managers to
485 possess certain experience in managing contracts;
486 authorizing a contract administrator to also serve as
487 a contract manager in certain circumstances; providing
488 that evaluations of proposals and replies must be
489 conducted independently; providing for specified teams
490 to conduct certain negotiations; requiring a Project
491 Management Professional to provide guidance based on
492 certain qualifications; providing qualification
493 requirements for contract negotiator certification;
494 requiring supervisors of contract administrators or
495 contract and grant managers meeting certain criteria
496 to complete training within a specified period;
497 providing that the department is responsible for
498 establishing and disseminating supervisor training by
499 a date certain; providing for a continuing oversight
500 team in certain circumstances; providing requirements
501 for continuing oversight team members and meetings;
502 requiring a continuing oversight team to provide
503 notice of certain deficiencies and changes in contract



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504 scope to certain entities; amending s. 287.058, F.S.;

505 prohibiting a contract document for certain

506 contractual services from containing a certain

507 nondisclosure clause; creating s. 287.1351, F.S.;

508 defining the term "vendor"; prohibiting certain

509 vendors from submitting bids, proposals, or replies

510 from, or entering into or renewing any contract with,

511 an agency; prohibiting an agency from accepting a bid,

512 proposal, or reply from, or entering into a contract

513 with, a suspended vendor until certain conditions are

514 met; requiring an agency to notify the department of,

515 and provide certain information regarding, any such

516 vendors; requiring the department to review any vendor

517 reported by an agency; requiring the department to

518 notify a vendor of any intended removal from the

519 vendor list; specifying administrative remedies, and

520 applicable procedures, for an affected vendor;

521 requiring the department to place any such vendor on

522 the suspended vendor list; authorizing the removal of

523 a suspended vendor from the suspended vendor list in

524 accordance with specified procedures; specifying

525 requirements and limitations; amending s. 287.136,

526 F.S; requiring each agency inspector general to

527 complete certain audits of executed contracts at

528 certain intervals; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Notwithstanding the expiration date in section
106 of chapter 2020-114, Laws of Florida, section 216.1366,
Florida Statutes, is reenacted and amended to read:

216.1366 Contract terms.—

(1) In order to preserve the interest of the state in the
prudent expenditure of state funds, each public agency contract



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11 for services entered into or amended on or after July 1, 2020,
12 shall authorize the public agency to inspect the:

13 (a) Financial records, papers, and documents of the
14 contractor that are directly related to the performance of the
15 contract or the expenditure of state funds.

16 (b) Programmatic records, papers, and documents of the
17 contractor which the public agency determines are necessary to
18 monitor the performance of the contract or to ensure that the
19 terms of the contract are being met.

20 (2) The contract shall require the contractor to provide
21 such records, papers, and documents requested by the public
22 agency within 10 business days after the request is made.

23 ~~(3) This section expires July 1, 2021.~~

24 Section 2. Subsection (16) of section 287.042, Florida
25 Statutes, is amended to read:

26 287.042 Powers, duties, and functions.—The department shall
27 have the following powers, duties, and functions:

28 (16) To evaluate contracts let by the Federal Government,
29 another state, or a political subdivision for the provision of
30 commodities and contract services, and, if it is determined by
31 the Secretary of Management Services in writing to be cost-
32 effective and in the best value to interest of the state, to
33 enter into a written agreement authorizing an agency to make
34 purchases under such contract.

35 Section 3. Subsection (2) of section 287.056, Florida
36 Statutes, is amended, and subsection (4) is added to that
37 section, to read:

38 287.056 Purchases from purchasing agreements and state term
39 contracts.—



40 (2) Agencies and eligible users may use a request for quote
41 to obtain written pricing or services information from a state
42 term contract vendor for commodities or contractual services
43 available on state term contract from that vendor. The purpose
44 of a request for quote is to determine whether a price, term, or
45 condition more favorable to the agency or eligible user than
46 that provided in the state term contract is available. If an
47 agency issues a request for quote for contractual services for
48 any contract with 100 vendors or fewer, the agency must issue a
49 request for quote to all vendors approved to provide such
50 contractual services. For any contract with more than 100
51 vendors, the agency must issue a request for quote to a minimum
52 of 100 vendors approved to provide such contractual services.
53 Use of a request for quote does not constitute a decision or
54 intended decision that is subject to protest under s. 120.57(3).

55 (4) A firm or individual placed on the suspended vendor
56 list pursuant to s. 287.1351 or placed on a disqualified vendor
57 list pursuant to s. 287.133 or s. 287.134 is immediately
58 disqualified from state term contract eligibility.

59 Section 4. Present subsections (4) through (16) and (17)
60 through (23) of section 287.057, Florida Statutes, are
61 redesignated as subsections (5) through (17) and (19) through
62 (25), respectively, new subsections (4) and (18) and subsection
63 (26) are added to that section, and paragraph (c) of subsection
64 (3) and present subsections (13) through (16) of that section
65 are amended, to read:

66 287.057 Procurement of commodities or contractual
67 services.—

68 (3) If the purchase price of commodities or contractual



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69 services exceeds the threshold amount provided in s. 287.017 for
70 CATEGORY TWO, purchase of commodities or contractual services
71 may not be made without receiving competitive sealed bids,
72 competitive sealed proposals, or competitive sealed replies
73 unless:

74 (c) Commodities or contractual services available only from
75 a single source may be excepted from the competitive-
76 solicitation requirements. If an agency believes that
77 commodities or contractual services are available only from a
78 single source, the agency shall electronically post a
79 description of the commodities or contractual services sought
80 for at least 15 7 business days. The description must include a
81 request that prospective vendors provide information regarding
82 their ability to supply the commodities or contractual services
83 described. If it is determined in writing by the agency, after
84 reviewing any information received from prospective vendors that
85 the commodities or contractual services are available only from
86 a single source, the agency shall provide notice of its intended
87 decision to enter a single-source purchase contract in the
88 manner specified in s. 120.57(3). Each agency shall report all
89 such actions to the department on a quarterly basis in a manner
90 and form prescribed by the department, and the department shall
91 report such information to the Governor, the President of the
92 Senate, and the Speaker of the House of Representatives no later
93 than January 1, 2022, and each January 1 thereafter.

94 (4) A state agency may not initiate a competitive
95 solicitation for a product or service if the completion of such
96 competitive solicitation would:

97 (a) Require a change in law; or



98 (b) Require a change to the agency's budget other than a
99 transfer authorized in s. 216.292(2) or (3), unless the
100 initiation of such competitive solicitation is specifically
101 authorized in law, in the General Appropriations Act, or by the
102 Legislative Budget Commission.

103 (c) This subsection does not apply to a competitive
104 solicitation for which the agency head certifies that a valid
105 emergency exists.

106 (14) ~~(13)~~ Contracts for commodities or contractual services
107 may be renewed for a period that may not exceed 3 years or the
108 term of the original contract, whichever is longer. Renewal of a
109 contract for commodities or contractual services must be in
110 writing and is subject to the same terms and conditions set
111 forth in the initial contract and any written amendments signed
112 by the parties. If the commodity or contractual service is
113 purchased as a result of the solicitation of bids, proposals, or
114 replies, the price of the commodity or contractual service to be
115 renewed must be specified in the bid, proposal, or reply, except
116 that an agency may negotiate lower pricing. A renewal contract
117 may not include any compensation for costs associated with the
118 renewal. Renewals are contingent upon satisfactory performance
119 evaluations by the agency and subject to the availability of
120 funds. Exceptional purchase contracts pursuant to paragraphs
121 (3) (a) and (c) may not be renewed. With the exception of
122 subsection (11) ~~(10)~~, if a contract amendment results in a
123 longer contract term or increased payments, a state agency may
124 not renew or amend a contract for the outsourcing of a service
125 or activity that has an original term value exceeding \$5 ~~\$10~~
126 million before submitting a written report concerning contract



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127 performance to the Governor, the President of the Senate, and
128 the Speaker of the House of Representatives at least 90 days
129 before execution of the renewal or amendment.

130 (15) (a) ~~(14)~~ For each contractual services contract, the
131 agency shall designate an employee to function as contract
132 manager who is responsible for enforcing performance of the
133 contract terms and conditions and serve as a liaison between
134 with the contractor and the agency. The contract manager may not
135 be an individual who has been employed, within the previous 5
136 years, by the vendor awarded the contractual services contract.
137 The primary responsibilities of a contract manager include, but
138 are not limited to:

139 1. Participating in the solicitation development and review
140 of contract documents.

141 2. Monitoring the contractor's progress and performance to
142 ensure procured products and services conform to the contract
143 requirements and keeping timely records of findings.

144 3. Managing and documenting any changes to the contract
145 through the amendment process authorized by the terms of the
146 contract.

147 4. Monitoring the contract budget to ensure sufficient
148 funds are available throughout the term of the contract.

149 5. Exercising applicable remedies, as appropriate, when a
150 contractor's performance is deficient.

151 (b) ~~(a)~~ Each contract manager who is responsible for
152 contracts in excess of the threshold amount for CATEGORY TWO
153 must, at a minimum, complete training conducted by the Chief
154 Financial Officer for accountability in contracts and grant
155 management. The Chief Financial Officer shall evaluate such



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156 training every 5 years to assess its effectiveness and update
157 the training curriculum. The Chief Financial Officer shall
158 establish and disseminate uniform procedures pursuant to s.
159 17.03(3) to ensure that contractual services have been rendered
160 in accordance with the contract terms before the agency
161 processes the invoice for payment. The procedures must include,
162 but need not be limited to, procedures for monitoring and
163 documenting contractor performance, reviewing and documenting
164 all deliverables for which payment is requested by vendors, and
165 providing written certification by contract managers of the
166 agency's receipt of goods and services.

167 (c) ~~(b)~~ Each contract manager who is responsible for
168 contracts in excess of \$100,000 annually must, in addition to
169 the accountability in contracts and grant management training
170 required in paragraph (b) and within 6 months after being
171 assigned responsibility for such contracts, complete training in
172 contract management and become a certified contract manager. The
173 department is responsible for establishing and disseminating the
174 training and certification requirements for certified contract
175 managers. Training must promote best practices and procedures
176 related to negotiating, managing, and ensuring accountability in
177 agency contracts and grant agreements, which must include the
178 use of case studies based upon previous audits, contracts, and
179 grant agreements. A certified contract manager must complete
180 training every 5 years for certification renewal requirements
181 ~~for certification which include completing the training~~
182 ~~conducted by the Chief Financial Officer for accountability in~~
183 ~~contracts and grant management.~~ Training and certification must
184 be coordinated by the department, and the training must be



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185 conducted jointly by the department and the Department of
186 Financial Services. The department shall evaluate such training
187 every 5 years to assess its effectiveness and update the
188 training curriculum ~~Training must promote best practices and~~
189 ~~procedures related to negotiating, managing, and ensuring~~
190 ~~accountability in agency contracts and grant agreements, which~~
191 ~~must include the use of case studies based upon previous audits,~~
192 ~~contracts, and grant agreements. All agency contract managers~~
193 ~~must become certified within 24 months after establishment of~~
194 ~~the training and certification requirements by the department~~
195 ~~and the Department of Financial Services.~~

196 (d) Each contract manager who is responsible for contracts
197 in excess of \$10 million annually must, in addition to the
198 training required in paragraph (b) and the training and
199 certification required in paragraph (c), possess at least 5
200 years of experience managing contracts in excess of \$5 million
201 annually.

202 ~~(16)~~ ~~(15)~~ Each agency shall designate at least one employee
203 who shall serve as a contract administrator responsible for
204 maintaining a contract file and financial information on all
205 contractual services contracts and who shall serve as a liaison
206 with the contract managers and the department. For a contract of
207 \$500,000 or less annually, the contract administrator may also
208 serve as the contract manager if he or she has completed the
209 required training. For a contract in excess of \$500,000
210 annually, the contract administrator may not serve as both the
211 contract administrator and the contract manager.

212 ~~(17)~~ ~~(a)~~ ~~(a)~~ For a contract in excess of the threshold
213 amount provided in s. 287.017 for CATEGORY FOUR, the agency head



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214 shall appoint:

215 1. At least three persons to independently evaluate
216 proposals and replies who collectively have experience and
217 knowledge in the program areas and service requirements for the
218 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

219 2. At least three persons to a negotiation team to conduct
220 negotiations during a competitive sealed reply procurement. The
221 negotiation team members must ~~who~~ collectively have experience
222 and knowledge in negotiating contracts, contract procurement,
223 and the program areas and service requirements for the commodity
224 ~~which commodities~~ or contractual services ~~are~~ sought.

225 (b)1. If the value of a contract is in excess of \$1 million
226 in any fiscal year, at least one of the persons conducting
227 negotiations must be ~~certified as a~~ certified contract
228 negotiator ~~based upon department rules in order to ensure that~~
229 ~~certified contract negotiators are knowledgeable about effective~~
230 ~~negotiation strategies, capable of successfully implementing~~
231 ~~those strategies, and involved appropriately in the procurement~~
232 ~~process. At a minimum, the rules must address the qualifications~~
233 ~~required for certification, the method of certification, and the~~
234 ~~procedure for involving the certified negotiator.~~

235 2. If the value of a contract is in excess of \$10 million
236 in any fiscal year, at least one of the persons conducting
237 negotiations must be a Project Management Professional, as
238 certified by the Project Management Institute. The Project
239 Management Professional shall provide guidance based on his or
240 her experience, education, and competency to lead and direct
241 complex projects.

242 3. The department is responsible for establishing and



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243 disseminating the certification and training requirements for
244 certified contract negotiators. Training must ensure that
245 certified contract negotiators are knowledgeable about effective
246 negotiation strategies, capable of successfully implementing
247 those strategies, and involved appropriately in the procurement
248 process. The department shall evaluate such training every 5
249 years in order to assess its effectiveness and update the
250 training curriculum. A certified contract negotiator is required
251 to complete training every 5 years for certification renewal.

252 Qualification requirements for certification must include:

253 a. At least 12 months' experience as a purchasing agent,
254 contract manager, or contract administrator for an agency or a
255 local governmental entity where at least 50 percent of the
256 designated duties included procuring commodities or contractual
257 services; participating in contract negotiation, contract
258 management, or contract administration; or working as an agency
259 attorney whose duties included providing legal counsel to the
260 agency's purchasing or contracting staff; and

261 b. Experience during the preceding 5 years in leading at
262 least two federal, state, or local government negotiation teams
263 through a negotiated procurement, or participation in at least
264 three federal, state, or local government-negotiated
265 procurements.

266 (18) Any person who supervises contract administrators or
267 contract or grant managers who meet criteria for certification
268 in subsection (15) shall annually complete public procurement
269 training for supervisors within 12 months after appointment to
270 the supervisory position. The department is responsible for
271 establishing and disseminating the training course content



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272 required for supervisors, and training shall commence no later
273 than July 1, 2022.

274 (26) (a) For each contractual services contract in excess of
275 \$1 million, the agency head shall establish a continuing
276 oversight team after the contract has been awarded. The agency
277 head shall appoint at least four persons, one of whom must be
278 the certified contract manager, to the continuing oversight
279 team. If the value of the contractual services contract is in
280 excess of \$5 million, at least one of the persons on the
281 continuing oversight team must possess at least 5 years of
282 experience in managing contracts of a similar scope or size. If
283 the value of the contractual services contract is in excess of
284 \$20 million, the continuing oversight team shall consist of at
285 least five persons, at least one of the persons on the
286 continuing oversight team must be from a state agency other than
287 the agency or agencies participating in the contract. Members of
288 the continuing oversight team must be employees of the state and
289 must collectively have experience and knowledge in contract
290 management, contract administration, contract enforcement, and
291 the program areas and service requirements for the contractual
292 services purchased.

293 (b)1. For contracts in excess of \$1 million, each
294 continuing oversight team must meet at least quarterly.

295 2. For contracts in excess of \$10 million, each continuing
296 oversight team must meet at least monthly. A representative of
297 the contractor must be made available to members of the
298 continuing oversight team for at least one meeting every
299 calendar quarter to respond to any questions or requests for
300 information from the continuing oversight team concerning



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301 contractor performance.

302 (c)1. Within 30 days after the formation of the continuing
303 oversight team, the continuing oversight team must convene an
304 initial meeting with representatives of the contractor to
305 achieve a mutual understanding of the contract requirements, to
306 provide the contractor with an orientation to the contract
307 management process, and to provide an explanation of the role of
308 the continuing oversight team, contract manager, and contract
309 administrator.

310 2. The continuing oversight team must meet to discuss the
311 status of the contract, the pace of deliverables, the quality of
312 deliverables, contractor responsiveness, and contractor
313 performance. The contract administrator must be present at each
314 meeting with the contract file and all applicable financial
315 information. The continuing oversight team may submit written
316 questions to the contractor concerning any items discussed
317 during a continuing oversight team meeting. The contractor must
318 respond to the team's questions within 10 business days after
319 receiving the written questions. The questions and responses
320 must be included in the contract file.

321 (d) The continuing oversight team must notify, in writing:

322 1. The agency head and the department of any deficiency in
323 a contractor's performance which substantially affects the pace
324 of deliverables or the likelihood of the successful completion
325 of the contract.

326 2. The agency head, the department, and the Office of
327 Policy and Budget in the Executive Office of the Governor of any
328 significant change in contract scope or any increase in the cost
329 of the contract which is 5 percent of the planned contract cost



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330 or greater within the fiscal year for contractual service
331 contracts of at least \$5 million.

332 3. The agency head, the department, the Office of Policy
333 and Budget in the Executive Office of the Governor, and the
334 legislative appropriations committees of any significant change
335 in contract scope or any increase in the cost of the contract
336 which is 5 percent of the planned contract cost or greater
337 within the fiscal year for contractual service contracts of \$10
338 million or greater.

339 Section 5. Subsection (7) is added to section 287.058,
340 Florida Statutes, to read:

341 287.058 Contract document.—

342 (7) A contract may not contain a nondisclosure clause that
343 prohibits the contractor from disclosing information relevant to
344 the performance of the contract to members or staff of the
345 Senate or the House of Representatives.

346 Section 6. Section 287.1351, Florida Statutes, is created
347 to read:

348 287.1351 Suspended vendors; state contracts.—

349 (1) As used in this section, the term "vendor" means a
350 person or an entity that provides goods or services to an agency
351 under a contract or submits a bid, proposal, or reply to provide
352 goods or services to an agency.

353 (2) (a) A vendor that is in default on any contract with an
354 agency or has otherwise repeatedly demonstrated a recent
355 inability to fulfill the terms and conditions of previous state
356 contracts or to adequately perform its duties under those
357 contracts may not submit a bid, proposal, or reply to an agency
358 or enter into or renew a contract to provide any goods or



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359 services to an agency after its placement, pursuant to this
360 section, on the suspended vendor list.

361 (b) An agency may not accept a bid, proposal, or reply
362 from, or enter into or renew any contract with, a vendor on the
363 suspended vendor list until such vendor has been removed from
364 the suspended vendor list and returned to the vendor list
365 maintained by the department pursuant to s. 287.042(1)(a) and
366 (b) and the vendor has reimbursed the agency for any
367 reprocurement costs.

368 (3) An agency shall notify the department of any vendor
369 that has met the grounds for suspension described in paragraph
370 (2)(a). The agency must provide documentation to the department
371 evidencing the vendor's default or other grounds for suspension.
372 The department shall review the documentation provided and
373 determine whether good cause exists to remove the vendor from
374 the vendor list and to place it on the suspended vendor list. If
375 good cause exists, the department must notify the vendor in
376 writing of its intent to remove the vendor from the vendor list
377 and of the vendor's right to an administrative hearing and the
378 applicable procedures and time requirements for any such
379 hearing. If the vendor does not request an administrative
380 hearing, the department must enter a final order removing the
381 vendor from the vendor list. A vendor may not be removed from
382 the vendor list without receiving an individual notice of intent
383 from the department.

384 (4) Within 21 days after receipt of the notice of intent,
385 the vendor may file with the department a petition for a formal
386 hearing pursuant to ss. 120.569 and 120.57 to challenge the
387 department's decision to remove the vendor from the vendor list.



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388 A vendor that fails to timely file a petition in accordance with
389 this subsection is deemed to have waived its right to a hearing,
390 and the department's decision to remove the vendor from the
391 vendor list becomes final agency action.

392 (5) (a) The department shall place any vendor removed from
393 the vendor list pursuant to this section on the suspended vendor
394 list. One year or more after entry of the final order of its
395 suspension, a suspended vendor may file a petition with the
396 department for removal from the suspended vendor list. The
397 proceeding on the petition must be conducted in accordance with
398 chapter 120. The vendor may be removed from the suspended vendor
399 list if the administrative law judge determines that removal
400 from the list would be in the public interest. In determining
401 whether removal from the list would be in the public interest,
402 the administrative law judge may consider, but is not limited
403 to, whether the suspended vendor has prepared a corrective
404 action plan that addresses the original grounds for default or
405 failure to fulfill the terms and conditions of the contract,
406 reimbursed the agency for any procurement costs, or provided
407 additional evidence that the vendor has taken other remedial
408 action.

409 (b) If a petition for removal from the suspended vendor
410 list is denied, the vendor may not petition for another hearing
411 on removal for a period of at least 9 months after the date of
412 the denial. The department may petition for the suspended
413 vendor's removal before the expiration of such period if, in the
414 department's discretion, the department determines that removal
415 from the suspended vendor list would be in the public interest.

416 Section 7. Section 287.136, Florida Statutes, is amended to



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417 read:

418 287.136 Audit of executed contract documents.—

419 (1) After execution of a contract, the Chief Financial
420 Officer shall perform audits of the executed contract document
421 and contract manager's records to ensure that adequate internal
422 controls are in place for complying with the terms and
423 conditions of the contract and for the validation and receipt of
424 goods and services.

425 (a) ~~(1)~~ At the conclusion of the audit, the Chief Financial
426 Officer's designee shall discuss the audit and potential
427 findings with the official whose office is subject to audit. The
428 final audit report shall be submitted to the agency head.

429 (b) ~~(2)~~ Within 30 days after receipt of the final audit
430 report, the agency head shall submit to the Chief Financial
431 Officer or designee his or her written statement of explanation
432 or rebuttal concerning findings requiring corrective action,
433 including corrective action to be taken to preclude a
434 recurrence.

435 (2) Beginning October 1, 2021, and every 3 years
436 thereafter, each agency inspector general shall complete a risk-
437 based compliance audit of all contracts executed by the agency
438 for the preceding 3 fiscal years. The audit must include an
439 evaluation of and identify any trend in vendor preference. The
440 audit findings must be submitted to the agency head, the
441 Secretary of the Department of Management Services, and the
442 Governor.

443 Section 8. Subsection (1) of section 43.16, Florida
444 Statutes, is amended to read:

445 43.16 Justice Administrative Commission; membership, powers



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446 and duties.-

447 (1) There is hereby created a Justice Administrative
448 Commission, with headquarters located in the state capital. The
449 necessary office space for use of the commission shall be
450 furnished by the proper state agency in charge of state
451 buildings. For purposes of the fees imposed on agencies pursuant
452 to s. 287.057(24) ~~s. 287.057(22)~~, the Justice Administrative
453 Commission shall be exempt from such fees.

454 Section 9. Paragraph (a) of subsection (2) of section
455 215.971, Florida Statutes, is amended to read:

456 215.971 Agreements funded with federal or state
457 assistance.-

458 (2) For each agreement funded with federal or state
459 financial assistance, the state agency shall designate an
460 employee to function as a grant manager who shall be responsible
461 for enforcing performance of the agreement's terms and
462 conditions and who shall serve as a liaison with the recipient
463 or subrecipient.

464 (a)1. Each grant manager who is responsible for agreements
465 in excess of the threshold amount for CATEGORY TWO under s.
466 287.017 must, at a minimum, complete training conducted by the
467 Chief Financial Officer for accountability in contracts and
468 grant management.

469 2. Effective December 1, 2014, each grant manager
470 responsible for agreements in excess of \$100,000 annually must
471 complete the training and become a certified contract manager as
472 provided under s. 287.057(15) ~~s. 287.057(14)~~. All grant managers
473 must become certified contract managers within 24 months after
474 establishment of the training and certification requirements by



475 the Department of Management Services and the Department of
476 Financial Services.

477 Section 10. Paragraph (a) of subsection (3) of section
478 287.0571, Florida Statutes, is amended to read:

479 287.0571 Business case to outsource; applicability.—

480 (3) This section does not apply to:

481 (a) A procurement of commodities and contractual services
482 listed in s. 287.057(3)(d) and (e) and (23) ~~(21)~~.

483 Section 11. Paragraph (b) of subsection (4) of section
484 295.187, Florida Statutes, is amended to read:

485 295.187 Florida Veteran Business Enterprise Opportunity
486 Act.—

487 (4) VENDOR PREFERENCE.—

488 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
489 veteran business enterprise entitled to the vendor preference
490 under this section and one or more businesses entitled to this
491 preference or another vendor preference provided by law submit
492 bids, proposals, or replies for procurement of commodities or
493 contractual services which are equal with respect to all
494 relevant considerations, including price, quality, and service,
495 the state agency shall award the procurement or contract to the
496 business having the smallest net worth.

497 Section 12. Paragraph (a) of subsection (1) of section
498 394.47865, Florida Statutes, is amended to read:

499 394.47865 South Florida State Hospital; privatization.—

500 (1) The Department of Children and Families shall, through
501 a request for proposals, privatize South Florida State Hospital.
502 The department shall plan to begin implementation of this
503 privatization initiative by July 1, 1998.



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504 (a) Notwithstanding s. 287.057(14) ~~s. 287.057(13)~~, the
505 department may enter into agreements, not to exceed 20 years,
506 with a private provider, a coalition of providers, or another
507 agency to finance, design, and construct a treatment facility
508 having up to 350 beds and to operate all aspects of daily
509 operations within the facility. The department may subcontract
510 any or all components of this procurement to a statutorily
511 established state governmental entity that has successfully
512 contracted with private companies for designing, financing,
513 acquiring, leasing, constructing, and operating major privatized
514 state facilities.

515 Section 13. Paragraph (b) of subsection (2) and subsection
516 (3) of section 402.7305, Florida Statutes, are amended to read:
517 402.7305 Department of Children and Families; procurement
518 of contractual services; contract management.—

519 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

520 (b) When it is in the best interest of a defined segment of
521 its consumer population, the department may competitively
522 procure and contract for systems of treatment or service that
523 involve multiple providers, rather than procuring and
524 contracting for treatment or services separately from each
525 participating provider. The department must ensure that all
526 providers that participate in the treatment or service system
527 meet all applicable statutory, regulatory, service quality, and
528 cost control requirements. If other governmental entities or
529 units of special purpose government contribute matching funds to
530 the support of a given system of treatment or service, the
531 department shall formally request information from those funding
532 entities in the procurement process and may take the information



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533 received into account in the selection process. If a local
534 government contributes matching funds to support the system of
535 treatment or contracted service and if the match constitutes at
536 least 25 percent of the value of the contract, the department
537 shall afford the governmental match contributor an opportunity
538 to name an employee as one of the persons required by s.
539 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain
540 contracts, unless the department sets forth in writing the
541 reason why the inclusion would be contrary to the best interest
542 of the state. Any employee so named by the governmental match
543 contributor shall qualify as one of the persons required by s.
544 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of
545 special purpose government may not name an employee as one of
546 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
547 any of its political subdivisions, executive agencies, or
548 special districts, intends to compete for the contract to be
549 awarded. The governmental funding entity or contributor of
550 matching funds must comply with all procurement procedures set
551 forth in s. 287.057 when appropriate and required.

552 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
553 Department of Children and Families shall review the time period
554 for which the department executes contracts and shall execute
555 multiyear contracts to make the most efficient use of the
556 resources devoted to contract processing and execution. Whenever
557 the department chooses not to use a multiyear contract, a
558 justification for that decision must be contained in the
559 contract. Notwithstanding s. 287.057(15) ~~s. 287.057(14)~~, the
560 department is responsible for establishing a contract management
561 process that requires a member of the department's Senior



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562 Management or Selected Exempt Service to assign in writing the
563 responsibility of a contract to a contract manager. The
564 department shall maintain a set of procedures describing its
565 contract management process which must minimally include the
566 following requirements:

567 (a) The contract manager shall maintain the official
568 contract file throughout the duration of the contract and for a
569 period not less than 6 years after the termination of the
570 contract.

571 (b) The contract manager shall review all invoices for
572 compliance with the criteria and payment schedule provided for
573 in the contract and shall approve payment of all invoices before
574 their transmission to the Department of Financial Services for
575 payment.

576 (c) The contract manager shall maintain a schedule of
577 payments and total amounts disbursed and shall periodically
578 reconcile the records with the state's official accounting
579 records.

580 (d) For contracts involving the provision of direct client
581 services, the contract manager shall periodically visit the
582 physical location where the services are delivered and speak
583 directly to clients receiving the services and the staff
584 responsible for delivering the services.

585 (e) The contract manager shall meet at least once a month
586 directly with the contractor's representative and maintain
587 records of such meetings.

588 (f) The contract manager shall periodically document any
589 differences between the required performance measures and the
590 actual performance measures. If a contractor fails to meet and



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591 comply with the performance measures established in the
592 contract, the department may allow a reasonable period for the
593 contractor to correct performance deficiencies. If performance
594 deficiencies are not resolved to the satisfaction of the
595 department within the prescribed time, and if no extenuating
596 circumstances can be documented by the contractor to the
597 department's satisfaction, the department must terminate the
598 contract. The department may not enter into a new contract with
599 that same contractor for the services for which the contract was
600 previously terminated for a period of at least 24 months after
601 the date of termination. The contract manager shall obtain and
602 enforce corrective action plans, if appropriate, and maintain
603 records regarding the completion or failure to complete
604 corrective action items.

605 (g) The contract manager shall document any contract
606 modifications, which shall include recording any contract
607 amendments as provided for in this section.

608 (h) The contract manager shall be properly trained before
609 being assigned responsibility for any contract.

610 Section 14. Subsection (2) of section 408.045, Florida
611 Statutes, is amended to read:

612 408.045 Certificate of need; competitive sealed proposals.-

613 (2) The agency shall make a decision regarding the issuance
614 of the certificate of need in accordance with the provisions of
615 s. 287.057(17) ~~s. 287.057(16)~~, rules adopted by the agency
616 relating to intermediate care facilities for the developmentally
617 disabled, and the criteria in s. 408.035, as further defined by
618 rule.

619 Section 15. Subsection (42) of section 570.07, Florida



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620 Statutes, is amended to read:

621 570.07 Department of Agriculture and Consumer Services;
622 functions, powers, and duties.—The department shall have and
623 exercise the following functions, powers, and duties:

624 (42) Notwithstanding the provisions of s. 287.057(24) ~~s.~~
625 ~~287.057(22)~~ that require all agencies to use the online
626 procurement system developed by the Department of Management
627 Services, the department may continue to use its own online
628 system. However, vendors utilizing such system shall be
629 prequalified as meeting mandatory requirements and
630 qualifications and shall remit fees pursuant to s. 287.057(24)
631 ~~s. 287.057(22)~~, and any rules implementing s. 287.057.

632 Section 16. Paragraph (e) of subsection (6) of section
633 627.351, Florida Statutes, is amended to read:

634 627.351 Insurance risk apportionment plans.—

635 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

636 (e) The corporation is subject to s. 287.057 for the
637 purchase of commodities and contractual services except as
638 otherwise provided in this paragraph. Services provided by
639 tradepersons or technical experts to assist a licensed adjuster
640 in the evaluation of individual claims are not subject to the
641 procurement requirements of this section. Additionally, the
642 procurement of financial services providers and underwriters
643 must be made pursuant to s. 627.3513. Contracts for goods or
644 services valued at or more than \$100,000 are subject to approval
645 by the board.

646 1. The corporation is an agency for purposes of s. 287.057,
647 except that, for purposes of s. 287.057(24) ~~s. 287.057(22)~~, the
648 corporation is an eligible user.



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649 a. The authority of the Department of Management Services
650 and the Chief Financial Officer under s. 287.057 extends to the
651 corporation as if the corporation were an agency.

652 b. The executive director of the corporation is the agency
653 head under s. 287.057, except for resolution of bid protests for
654 which the board would serve as the agency head.

655 2. The corporation must provide notice of a decision or
656 intended decision concerning a solicitation, contract award, or
657 exceptional purchase by electronic posting. Such notice must
658 contain the following statement: "Failure to file a protest
659 within the time prescribed in this section constitutes a waiver
660 of proceedings."

661 a. A person adversely affected by the corporation's
662 decision or intended decision to award a contract pursuant to s.
663 287.057(1) or (3)(c) who elects to challenge the decision must
664 file a written notice of protest with the executive director of
665 the corporation within 72 hours after the corporation posts a
666 notice of its decision or intended decision. For a protest of
667 the terms, conditions, and specifications contained in a
668 solicitation, including provisions governing the methods for
669 ranking bids, proposals, replies, awarding contracts, reserving
670 rights of further negotiation, or modifying or amending any
671 contract, the notice of protest must be filed in writing within
672 72 hours after posting the solicitation. Saturdays, Sundays, and
673 state holidays are excluded in the computation of the 72-hour
674 time period.

675 b. A formal written protest must be filed within 10 days
676 after the date the notice of protest is filed. The formal
677 written protest must state with particularity the facts and law



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678 upon which the protest is based. Upon receipt of a formal
679 written protest that has been timely filed, the corporation must
680 stop the solicitation or contract award process until the
681 subject of the protest is resolved by final board action unless
682 the executive director sets forth in writing particular facts
683 and circumstances that require the continuance of the
684 solicitation or contract award process without delay in order to
685 avoid an immediate and serious danger to the public health,
686 safety, or welfare.

687 (I) The corporation must provide an opportunity to resolve
688 the protest by mutual agreement between the parties within 7
689 business days after receipt of the formal written protest.

690 (II) If the subject of a protest is not resolved by mutual
691 agreement within 7 business days, the corporation's board must
692 transmit the protest to the Division of Administrative Hearings
693 and contract with the division to conduct a hearing to determine
694 the merits of the protest and to issue a recommended order. The
695 contract must provide for the corporation to reimburse the
696 division for any costs incurred by the division for court
697 reporters, transcript preparation, travel, facility rental, and
698 other customary hearing costs in the manner set forth in s.
699 120.65(9). The division has jurisdiction to determine the facts
700 and law concerning the protest and to issue a recommended order.
701 The division's rules and procedures apply to these proceedings;
702 the division's applicable bond requirements do not apply. The
703 protest must be heard by the division at a publicly noticed
704 meeting in accordance with procedures established by the
705 division.

706 c. In a protest of an invitation-to-bid or request-for-



707 proposals procurement, submissions made after the bid or
708 proposal opening which amend or supplement the bid or proposal
709 may not be considered. In protesting an invitation-to-negotiate
710 procurement, submissions made after the corporation announces
711 its intent to award a contract, reject all replies, or withdraw
712 the solicitation that amends or supplements the reply may not be
713 considered. Unless otherwise provided by law, the burden of
714 proof rests with the party protesting the corporation's action.
715 In a competitive-procurement protest, other than a rejection of
716 all bids, proposals, or replies, the administrative law judge
717 must conduct a de novo proceeding to determine whether the
718 corporation's proposed action is contrary to the corporation's
719 governing statutes, the corporation's rules or policies, or the
720 solicitation specifications. The standard of proof for the
721 proceeding is whether the corporation's action was clearly
722 erroneous, contrary to competition, arbitrary, or capricious. In
723 any bid-protest proceeding contesting an intended corporation
724 action to reject all bids, proposals, or replies, the standard
725 of review by the board is whether the corporation's intended
726 action is illegal, arbitrary, dishonest, or fraudulent.

727 d. Failure to file a notice of protest or failure to file a
728 formal written protest constitutes a waiver of proceedings.

729 3. The board, acting as agency head, shall consider the
730 recommended order of an administrative law judge in a public
731 meeting and take final action on the protest. Any further legal
732 remedy lies with the First District Court of Appeal.

733 Section 17. This act shall take effect July 1, 2021.

734
735 ===== T I T L E A M E N D M E N T =====



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736 And the title is amended as follows:

737 Delete everything before the enacting clause
738 and insert:

739 A bill to be entitled

740 An act relating to agency contracts for commodities
741 and contractual services; reenacting and amending s.
742 216.1366, F.S.; abrogating the scheduled expiration of
743 provisions relating to certain public agency contracts
744 for services; amending s. 287.042, F.S.; providing
745 that the Department of Management Services may enter
746 into an agreement authorizing an agency to make
747 purchases under certain contracts if the Secretary of
748 Management Services makes a certain determination;
749 amending s. 287.056, F.S.; providing that an agency
750 must issue a request for quote to certain approved
751 vendors when it issues certain requests for quote for
752 contractual services; providing for the
753 disqualification of certain firms or individuals from
754 state term contract eligibility; amending s. 287.057,
755 F.S.; revising the period of time during which an
756 agency must electronically post a description of
757 certain services in certain circumstances; requiring
758 an agency to periodically report certain actions to
759 the department in a specified manner and form;
760 requiring the department to annually report certain
761 information to the Governor and the Legislature by a
762 specified date; prohibiting an agency from initiating
763 a competitive solicitation in certain circumstances;
764 providing applicability; revising the maximum value of



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765 certain contracts that may not be renewed or amended
766 by state agency before submitting a written report to
767 the Governor and the Legislature; requiring the agency
768 to designate a contract manager to serve as a liaison
769 between the contractor and the agency; prohibiting
770 certain individuals from serving as a contract
771 manager; providing the responsibilities of a contract
772 manager; requiring the Chief Financial Officer to
773 evaluate certain training at certain intervals;
774 requiring that certain contract managers complete
775 training and certification within a specified
776 timeframe; requiring the department to establish and
777 disseminate certain training and certification
778 requirements; requiring the department to evaluate
779 certain training at certain intervals; requiring
780 certain contract managers to possess certain
781 experience in managing contracts; authorizing a
782 contract administrator to also serve as a contract
783 manager in certain circumstances; providing that
784 evaluations of proposals and replies must be conducted
785 independently; providing for specified teams to
786 conduct certain negotiations; requiring a Project
787 Management Professional to provide guidance based on
788 certain qualifications; providing qualification
789 requirements for contract negotiator certification;
790 requiring supervisors of contract administrators or
791 contract and grant managers meeting certain criteria
792 to complete training within a specified period;
793 providing that the department is responsible for



794 establishing and disseminating supervisor training by
795 a certain date; providing for a continuing oversight
796 team in certain circumstances; providing requirements
797 for continuing oversight team members and meetings;
798 requiring a continuing oversight team to provide
799 notice of certain deficiencies and changes in contract
800 scope to certain entities; amending s. 287.058, F.S.;
801 prohibiting a contract document for certain
802 contractual services from containing a certain
803 nondisclosure clause; creating s. 287.1351, F.S.;
804 defining the term "vendor"; prohibiting certain
805 vendors from submitting bids, proposals, or replies
806 to, or entering into or renewing any contract with, an
807 agency; prohibiting an agency from accepting a bid,
808 proposal, or reply from, or entering into a contract
809 with, a suspended vendor until certain conditions are
810 met; requiring an agency to notify the department of,
811 and provide certain information regarding, any such
812 vendors; requiring the department to review any vendor
813 reported by an agency; requiring the department to
814 notify a vendor of any intended removal from the
815 vendor list; specifying administrative remedies and
816 applicable procedures for an affected vendor;
817 requiring the department to place certain vendors on
818 the suspended vendor list; authorizing the removal of
819 a suspended vendor from the suspended vendor list in
820 accordance with specified procedures; specifying
821 requirements and limitations; amending s. 287.136,
822 F.S.; requiring each agency inspector general to



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823 complete certain audits of executed contracts at
824 certain intervals; amending ss. 43.16, 215.971,
825 287.0571, 295.187, 394.47865, 402.7305, 408.045,
826 570.07, and 627.351, F.S.; conforming cross-references
827 to changes made by the act; providing an effective
828 date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1626

INTRODUCER: Senator Albritton

SUBJECT: Administrative Procedures

DATE: March 23, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1626 amends the Administrative Procedures Act (APA) to ensure timely rulemaking and provide a mechanism to ensure agencies reduce unnecessary rules. Specifically, the bill:

- Creates a process called “repromulgation” and defines the term to mean the publication and adoption of an existing rule following an agency’s review of the rule for consistency with the power and duties granted by its enabling statute;
- Defines the term “technical change” to mean a change limited to correcting grammatical, typographical, or similar errors not affecting the substance of the rule;
- Authorizes a third timeframe for the completion of rulemaking - 180 days after the effective date of the act granting rulemaking authority;
- Requires a notice of intended action be published in the Florida Administrative Register (FAR) for at least 7 days after the publication of the notice of rule development;
- Provides that, after December 31, 2021, material proposed to be incorporated by reference in the notice of intended action be made available as provided in the APA;
- Requires an agency to publish a notice of correction if any information – other than substantive changes to the rule text - required to be included in the notice is omitted or is incorrect;
- Provides that a notice of correction does not affect the timeframes for filing the rule of adoption;
- Requires an agency to provide notice to the Joint Administrative Procedures Committee (JAPC) of any regulatory alternative offered to the agency by the rules ombudsman of the Executive Office of the Governor before filing the rule for adoption;
- Provides that, after December 31, 2021, material proposed to be incorporated by reference in a notice of modification or withdrawal must be made available as provided in the APA;
- Requires the JAPC to notify the Department of State (DOS) if an agency has not withdrawn a rule within 30 days after notice by JAPC that the date for adoption of the rule has expired, and the DOS must publish a notice of withdrawal of the proposed rule;

- Establishes a procedure to renew an emergency rule;
- Requires an emergency rule intended to replace an existing rule with an effective period greater than 90 days, that a note must be added to the history note of the existing rule ;
- Requires emergency rules must be published in the Florida Administrative Code (FAC);
- Authorizes an agency to supersede an emergency rule in effect through adoption of another emergency rule;
- Permits an agency to make technical changes to an emergency rule within the first 7 days after the rule is adopted and must be published in FAR;
- Requires an agency to provide a copy of a petition to initiate rulemaking to the JAPC;
- Requires an agency to provide to the JAPC a copy of any proposal received for a lower cost regulatory alternative before filing the rule for adoption;
- Requires the DOS to publish all material incorporated by reference as part of the FAC for adopted rules and to provide a listing, at the beginning of each agency's section of the FAC, of all forms and material incorporated by reference adopted by rule which are used by the agency;
- Provides that after December 31, 2021, the DOS must require any material incorporated by reference in adopted and repromulgated rules be filed in electronic form;
- Requires the DOS to include the date of any technical changes to a rule in the history note;
- Provide that a technical change does not affect the effective date of the rule and that a technical change made after the adoption of a rule must be published as a notice of correction;
- Authorizes the DOS to prescribe any rule requiring that documents created by an agency which are proposed to be incorporated by reference in a notice of intended action and notice of modification or withdrawal be coded in the same manner as notices of intended action;
- Requires an agency's regulatory plan include a list of rules scheduled for review and repromulgation and a 5 year schedule for the review and repromulgation of all rules existing as of July 1, 2021;
- Requires an agency to take specific action if, in a prior year, a law was identified as a law requiring rulemaking to implement, but a notice of proposed rule was not published; and
- Establish requirements for the regulatory plan.

Agencies are expected to experience increased workload and associated costs as they comply with the repromulgation and new regulatory plan requirements.

The bill will take effect July 1, 2021.

II. Present Situation:

Rulemaking

The Legislature, as the sole branch of government with the inherent power to create laws,¹ may delegate to agencies in the executive branch the quasi-legislative ability, or authority, to create rules.² The Administrative Procedure Act (APA)³ sets forth a uniform set of procedures agencies

¹ Article III, s. 1, FLA. CONST.; *see also* art. II, s. 3, FLA. CONST.

² *See Whiley v. Scott*, 79 So. 3d 702, 710 (Fla. 2011), stating “[r]ulemaking is a derivative of lawmaking.”

³ Chapter 120, F.S.

must follow when exercising delegated rulemaking authority. A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.⁴ Rulemaking authority is delegated by the Legislature through statute and authorizes agencies to “adopt, develop, establish, or otherwise create”⁵ rules. Usually, the Legislature delegates rulemaking authority to a given agency because an agency has “expertise in a particular area for which they are charged with oversight.”⁶ Agencies do not have the discretion in and of themselves to engage in rulemaking.⁷ To adopt a rule, an agency must have a general grant of authority to implement a specific law by rulemaking.⁸ The grant of rulemaking authority itself need not be detailed. The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.⁹

An agency begins the formal rulemaking process¹⁰ by filing a notice of rule development of proposed rules in the Florida Administrative Register (FAR) indicating the subject area to be addressed by the rule development and including a short, plain explanation of the purpose and effect of the rule.¹¹ The notice may include the preliminary text of the proposed rule, but it is not necessary. Such notice is required for all rulemaking, except for rule repeals. Next, an agency must file, upon approval of the agency head, a notice of proposed rule.¹² The notice of proposed rule is published by the Department of State (DOS) in the FAR¹³ and must contain the full text of the proposed rule or amendment and a summary thereof.¹⁴ Prior to 2012, the FAR was published weekly, resulting in a period of at least seven days between the publication of a notice of rule development and a notice of proposed rule.¹⁵ In 2012, the Legislature changed the FAR from a weekly publication to a publication that is continuously revised and, as a result, eliminated the seven day period between the two notices.¹⁶

After publication of a notice of proposed rule, an agency must hold a hearing on the proposed rule if a person requests a hearing within 21 days.¹⁷ If, after the hearing is held or after the time for requesting a hearing has expired, the agency does not change the rule, other than a technical change, the agency must file a notice stating no changes have been made to the rule with the Joint Administrative Procedures Committee (JAPC) at least seven days before filing the rule for

⁴ Section 120.52(16), F.S.

⁵ Section 120.52(17), F.S.

⁶ *Whiley v. Scott*, 79 So. 3d 702, 711 (Fla. 2011).

⁷ Section 120.54(1)(a), F.S.

⁸ Sections 120.52(8) and 120.536(1), F.S.

⁹ *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

¹⁰ Alternatively, a person regulated by an agency or having substantial interest in an agency rule may petition the agency to adopt, amend, or repeal a rule. Section 120.54(7), F.S.

¹¹ Section 120.54(2), F.S.

¹² Section 120.54(3)(a), F.S.

¹³ Section 120.55(1)(b), F.S.

¹⁴ Section 120.54(3)(a), F.S.

¹⁵ Chapter 2012-63, Laws of Fla.

¹⁶ *Id.*

¹⁷ Section 120.54(3)(c), F.S.

adoption.¹⁸ However, if a hearing is requested, the agency may, based upon the comments received at the hearing, publish a notice of change.¹⁹

If any person timely asserts that the person's substantial interest will be affected and affirmatively demonstrates that the proceeding does not provide adequate opportunity to protect those interests, a separate proceeding may be convened.²⁰ If an agency determines that the rulemaking proceeding is not adequate to protect the person's interests, it shall suspend the rule making proceeding and convene a separate proceeding.²¹ Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

Once an agency has completed the steps of rulemaking, the agency may file for rule adoption with the DOS and the rule becomes effective 20 days later, unless a different date is indicated in the rule.²² Most adopted rules are published in the Florida Administrative Code (FAC).²³ The validity of a rule or a proposed rule may be challenged at the Division of Administrative Hearings (DOAH)²⁴ as an invalid delegation of legislative authority.²⁵

An invalid delegation of legislative authority is an action that goes beyond the powers, functions, and duties delegated by the Legislature.²⁶ A rule or proposed rule is an invalid delegation of legislative authority if:

- The agency has materially failed to follow the rulemaking procedures in the APA;
- The agency has exceeded its grant of rulemaking authority;
- The rule enlarges, modifies, or contravenes the specific provisions of the law implemented;
- The rule is vague, fails to establish adequate standards for agency decisions; or vests the agency with unbridled discretion;
- The rule is arbitrary or capricious; or
- The rule imposes regulatory costs on the regulated person, county, or municipality that could have been reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.²⁷

An administrative law judge (ALJ) at DOAH hears the rule challenge in a de novo proceeding and, within 30 days of the hearing, makes a determination on the rule's validity based upon a preponderance of the evidence standard.²⁸ The ALJ's decision constitutes final agency action,

¹⁸ Section 120.54(3)(d)1., F.S.

¹⁹ *Id.*

²⁰ Section 120.54(3)(c)2., F.S.

²¹ *Id.*

²² Section 120.54(7)(a), F.S.

²³ Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or a state university rules relating to internal personnel or business and finance are not published in the FAC. Forms are not published in the FAC. Section 120.55(1)(a), F.S. Emergency rules are also not published in the FAC.

²⁴ 5 DOAH is an agency in the executive branch, administratively housed under the Department of Management Services but not subject to its control. DOAH employs ALJs who serve as neutral arbiters presiding over disputes arising under the APA. Section 120.65, F.S.

²⁵ Section 120.56(1), F.S.

²⁶ Section 120.52(8), F.S.

²⁷ Section 120.52(8)(a)-(f), F.S.

²⁸ Section 120.56(1)(e), F.S.

which means an agency may not alter the decision after its issuance,²⁹ but an agency may appeal the decision to the District Court of Appeal where the agency maintains its headquarters (Generally, the First DCA in Leon County).³⁰

Petition To Initiate Rulemaking

As an alternative to the agency initiated process delineated above, a person regulated by the agency or having a substantial interest in an agency rule may petition the agency to adopt, amend, or repeal a rule.³¹ The petitioner must specify the proposed rule and action requested.³² The agency can either initiate rulemaking or decline to do so; however, if the agency chooses the latter it must issue a written statement of the reasons for the denial.³³

Publications of Notices – Coding Requirement

All notices that are required to be published in FAR must be submitted electronically through the DOS's electronic rulemaking website.³⁴ Rule 1-1.011(2)(c)1., F.A.C., requires that all rule notices submitted for publication in the FAR be coded.

A new rule must be coded by underlining all, all text, including spaces and punctuation.³⁵ Amended rules must be coded by underlining new text and by striking through deleted text.³⁶ New text inserted in an amended rule is not to immediately precede remaining text or stricken text.³⁷ A portion of a word is not to be amended without completely striking through existing text and inserting new text unless the amendment changes the capitalization of the word.³⁸ Any subsection, paragraph, subparagraph, or sub-subparagraph not being amended shall not be included and be noted as "No change," unless inclusion is necessary to make the publication of the amended rule complete and meaningful.

If an amendment to a rule is so extensive that coding would hinder, rather than assist the understanding of the amendment, the notice must only contain the underlined new text.³⁹ The rule number and the existing rule title, legal citations and history note lines shall not be underlined. Amendments to the rule title, legal citations, or history notes shall be coded to indicate new or deleted text. A directory line⁴⁰ is required to be inserted immediately before the rule number and rule title of the substantially reworded rule and the present text of the rule must not be included in the notice.

²⁹ *Id.*

³⁰ Section 120.68(2)(a), F.S.

³¹ Section 120.54(7)(a), F.S.

³² *Id.*

³³ *Id.*

³⁴ Rule 1-1.011, F.A.C.

³⁵ Example: (1) The petitioner shall contact the agency.

³⁶ Rule 1-1.011(2)(c)2., F.A.C.

³⁷ Example of incorrect coding: The petitioner~~arty~~ shall contact the agency head. Example of correct coding: The petitioner~~arty~~ shall contact the agency.

³⁸ Example: Ppetitioner).

³⁹ Rule 1-1.001(2)(c)3., F.A.C.

⁴⁰ "Substantial rewording of Rule _____ follows. See Florida Administrative Code for present text."

Rule repeals must be coded by underlining the word “Repealed” in the history note.⁴¹ The full text of the rule is not required to be published in the FAR. Only a reference to the rule number, rule title, legal citations and history notes must be published, provided that the rule summary portion of the notice fully describes the subject matter of the repealed rule text. Partial rule repeals will be treated in the same manner as an amendment.

The Statement of Estimated Regulatory Cost & The Lower Cost Regulatory Alternative

A statement of estimated regulatory cost (SERC) is an agency estimate of the potential impact of a proposed rule on the public, particularly the potential costs to the public of complying with the rule as well as to the agency and other governmental entities to implement the rule.⁴² Agencies are encouraged to prepare a SERC before adopting, amending, or repealing any rule.⁴³ However, a SERC is required if the proposed rule will have a negative impact on small businesses or increase regulatory costs by more than \$200,000 in the aggregate within one year after implementation of the rule.⁴⁴ If the agency revises a rule before adoption and the revision increases the regulatory costs of the rule, the agency must revise the SERC to reflect that alteration.⁴⁵

A person substantially affected by a proposed rule may, within 21 days after publication of a notice of adoption, amendment, or repeal of a rule, submit a lower cost regulatory alternative (LCRA).⁴⁶ The LCRA must be a good faith written proposal that substantially accomplishes the objectives of the law being implemented.⁴⁷ A LCRA may recommend that a rule not be adopted at all, if it explains how the “lower costs and objectives of the law will be achieved by not adopting any rule.”⁴⁸ If a LCRA is submitted to an agency, the agency must prepare a SERC if one has not been previously prepared, or revise its prior SERC, and either adopt the LCRA or provide a statement to explain the reasons for rejecting the LCRA.⁴⁹ Additionally, if a LCRA is submitted, the 90-day period for filing a rule is extended an additional 21 days.⁵⁰ At least 21 days before filing a rule for adoption, an agency that is required to revise a SERC in response to a LCRA must provide the SERC to the person who submitted the LCRA and to JAPC and must provide notice on the agency’s website that it is available to the public.⁵¹ Just as in the case of an agency’s failure to prepare a SERC, an agency’s failure to respond to a LCRA may be raised in a proceeding at DOAH to invalidate a rule as an invalid delegation of legislative authority if its raised within one year of the effective date of the rule and is raised by a person whose substantial interests are affected by the regulatory costs of the rule.⁵²

⁴¹ Rule 1-1.001(2)(c)4., F.A.C.

⁴² Section 120.541(2), F.S.

⁴³ Section 120.54(3)(b)1., F.S.

⁴⁴ *Id.*

⁴⁵ Section 120.541(1)(c), F.S.

⁴⁶ Section 120.541(1)(a), F.S.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Section 120.541(1)(d), F.S.

⁵² Section 120.541(1)(f), F.S.

Agency Review of Rules – Annual Regulatory Review

The APA requires each agency to formally review its rules.⁵³ Although an agency may amend or repeal the rule, rules generally do not expire or sunset and many agencies have adopted rules that have not been updated in years.

Annually, each agency must prepare a regulatory plan that includes a list of each law enacted during the previous 12 months, which creates or modifies the duties or authority of the agency, and state whether the agency must adopt rules to implement the newly adopted laws.⁵⁴ The plan must also include a list of each additional law not otherwise listed that the agency expects to implement by rulemaking before the following July 1, except emergency rules. The plan must include a certification by the agency head or, if the agency head is a collegial body, the presiding officer, and the individual acting as principal legal advisor to the agency verifying the persons have reviewed the plan, verifying the agency regularly reviews all of its rules, and identifying the period during which all rules have most recently been reviewed to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.⁵⁵ By October 1 of each year, the plan must be published on the agency's website or on another state website established for publication of administrative law records with a hyperlink to the plan. The agency must also deliver a copy of the certification to JAPC and publish a notice in the FAR identifying the date of publication of the agency's regulatory plan.⁵⁶

Deadline for Rulemaking

If a newly-enacted law requires implementation of the act by rule, s. 120.54(1)(b), F.S., requires the agency charged with rulemaking to publish notice of rule development by November 1 after enactment for each law identified in the agency's regulatory plan. The notice of proposed rule must be published by April 1 of the year following the regulatory plan. However, agencies are allowed to file extensions to any rulemaking plans/notices under this provision. Thus, this provision does not necessarily ensure that agencies adopt rules mandated by the Legislature in a timely manner.

Emergency Rules

Agencies are authorized to respond to immediate dangers to the public health, safety, or welfare by adopting emergency rules.⁵⁷ Emergency rules are not adopted using the same procedures required of other rules.⁵⁸ The notice of the emergency rule and the text of the rule is published in the first available issue of the FAR, however, there is no requirement that an emergency rule be published in the FAC.⁵⁹ The agency must publish prior to, or contemporaneous with, the rule's promulgation the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare.⁶⁰ Emergency rules are effective immediately, or on a date less than 20 days

⁵³ See s. 120.74, F.S.

⁵⁴ Section 120.74(1), F.S.

⁵⁵ Section 120.74(1)(d), F.S.

⁵⁶ Section 120.74(2), F.S.

⁵⁷ Section 120.54(4), F.S.

⁵⁸ Section 120.54(4)(a)1., F.S.

⁵⁹ Section 120.54(4)(a)3, F.S.

⁶⁰ *Id.*

after filing if specified in the rule,⁶¹ but are only effective for a period of no longer than 90 days.⁶² An emergency rule is not renewable, except when the agency has initiated rulemaking to adopt rules relating to the subject of the emergency rule and a challenge to the proposed rules has been filed and remains pending or the proposed rule is awaiting ratification by the Legislature.⁶³ The validity of an emergency rule may be challenged at DOAH subject to an expedited filing and hearing schedule.⁶⁴

The Rules Ombudsman

The Governor must appoint a rules ombudsman in the Executive Office of the Governor for the purpose of considering the impact of agency rules on the state citizens and businesses.⁶⁵ The duties of the ombudsman include reviewing state agency rules that adversely or disproportionately impact businesses, particularly those relating to small and minority businesses;⁶⁶ and making recommendations on any existing or proposed rules to alleviate unnecessary or disproportionate adverse effects to business.⁶⁷ Each agency must cooperate fully with the rules ombudsman in identifying such rules, and take the necessary steps to waive, modify, or otherwise minimize the adverse effects of any such rules.⁶⁸

Joint Administrative Procedures Committee

JAPC is a standing committee of the Legislature established by joint rule and created to maintain a continuous review of administrative rules, the statutory authority upon which those rules are based, and the administrative rulemaking process.⁶⁹ Specifically, JAPC may examine existing rules and must examine each proposed rule to determine whether:

- The rule is an invalid exercise of delegated legislative authority;
- The statutory authority for the rule has been repealed;
- The rule reiterates or paraphrases statutory material;
- The rule is in proper form;
- The notice given prior to adoption was sufficient;
- The rule is consistent with expressed legislative intent;
- The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law that the rule implements;
- The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule;
- The rule could be made less complex or more easily comprehensible to the general public;
- The rule's statement of estimated regulatory cost complies with the requirements of the APA and whether the rule does not impose regulatory costs on the regulated person, county, or

⁶¹ Section 120.54(4)(d), F.S.

⁶² Section 120.54(4)(c), F.S.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Section 288.7015, F.S.

⁶⁶ Section 288.7015(2), F.S.

⁶⁷ Section 288.7015(3), F.S.

⁶⁸ Section 288.7015, F.S.

⁶⁹ 2 Fla. Leg. J. Rule 4.6; see also s. 120.545, F.S.

municipality that could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives; or

- The rule will require additional appropriations.⁷⁰

An agency is required to respond to an objection filed by the JAPC that relates to a proposed rule, existing rule, or a SERC.⁷¹

Incorporation by Reference

The APA allows an agency to incorporate material external to the text of the rule by reference.⁷² The material to be incorporated must exist on the date the rule is adopted.⁷³ If after the rule has been adopted the agency wishes to alter the material incorporated by reference, the rule itself must be amended for the change to be effective.⁷⁴ However, an agency rule that incorporates another rule by reference automatically incorporates subsequent amendments to the referenced rule.⁷⁵ A rule cannot be amended by reference only.⁷⁶ An agency may not incorporate a rule by reference unless:

- The material has been submitted in the prescribed electronic format to the DOS and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the FAC; or
- The agency has determined that posting the material publicly on the Internet would constitute a violation of federal copyright law, in which case a statement stating such, along with the address of locations at the DOS and the agency at which the material is available for public inspection and examination, must be included in the notice.⁷⁷

The DOS has adopted a rule governing the requirements for materials incorporated by reference through an adopted rule.⁷⁸ The rule requires each agency incorporating material by reference in an administrative rule to certify that the materials incorporated have been filed with the DOS electronically or, if the agency claims the posting of the material would constitute a violation of federal copyright law, the location where the public may view the material.⁷⁹

Florida Administrative Code

The FAC is an electronic compilation of all rules adopted by each agency and maintained by the DOS.⁸⁰ The DOS retains the copyright over the FAC.⁸¹ Each rule in the FAC must cite the grant of rulemaking authority and the specific law implemented, as well as a history note detailing the

⁷⁰ Section 120.545(1), F.S.

⁷¹ Section 120.545(3), F.S.

⁷² Section 120.54(1)(i), F.S.; see also r. 1-1.013, F.A.C.

⁷³ Section 120.54(1)(i)1., F.S.

⁷⁴ *Id.*

⁷⁵ Section 120.54(1)(i)2., F.S.

⁷⁶ Section 120.54(1)(i)4., F.S.

⁷⁷ Section 120.54(1)(i)3., F.S.

⁷⁸ Rule 1-1.013, F.A.C.

⁷⁹ Rule 1-1.013(5)(d), F.A.C.

⁸⁰ Section 120.55(1)(a)1., F.S.

⁸¹ *Id.*

initial promulgation of the rule and any subsequent changes.⁸² Rules applicable to only one school district, community college district, or county or state university rules relating to internal personnel or business and finance are not required to be included in the FAC.⁸³ DOS is required to publish the following information at the beginning of each section of the code concerning an agency:

- The address and telephone number of the executive offices of the agency;
- The manner by which the agency indexes its rules; and
- A listing of all rules of that agency excluded from publication in the FAC and a statement as to where those rules may be inspected.⁸⁴

The DOS is required to adopt rules allowing adopted rules and material incorporated by reference to be filed in electronic form.⁸⁵ Further, the DOS is required to prescribe by rule the style and form required for rules, notices, and other materials submitted for filing in the FAC.⁸⁶ The DOS requires rules that are being amended to be coded by underlining new text and by striking through deleted text.⁸⁷

The Office of Fiscal Accountability and Regulatory Reform

On January 4, 2011, Governor Scott issued Executive Order Number 11-01 establishing the Office of Fiscal Accountability and Regulatory Reform (OFARR). Executive Order No. 11-01, was superseded by Executive Order 11-72, and then again by Executive Order 11-211. OFARR is tasked with the goal of ensuring that each agency headed by an official serving at the pleasure of the Governor create rules that do not hinder government performance and are fiscally responsible. OFARR reviews proposed and existing rules to, among other things, ensure that they do not unnecessarily restrict entry into a profession or occupation, adversely affects job creation or retention, and contravene statutory rulemaking directives.

Office of Legislative Services

Provision is made by statute for a permanent statutory revision plan to be implemented and maintained under the supervision of the Office of Legislative Services.⁸⁸ The Office of Legislative Services (OLS) is tasked recommending the deletion of all laws which have expired, become obsolete, and/or had their effect or served their purpose.⁸⁹ Similarly, the OLS is authorized to include duplicative, redundant, or unused statutory rulemaking authority among its recommended repeals in revisers bill recommendations.⁹⁰ The OLS is also authorized to:

- Award contracts for editorial work, and for printing, and to pay for such other things as authorized to be performed as part of the statutory revision program;⁹¹

⁸² *Id.*

⁸³ Section 120.55(1)(a)2., F.S.

⁸⁴ Section 120.55(1)(a)3., F.S.

⁸⁵ Section 120.55(1)(a)5., F.S.

⁸⁶ Section 120.55(1)(c), F.S.

⁸⁷ Rule 1-1.015(5)(a), F.A.C. referencing r. 1-1.011(3)(c), F.A.C.

⁸⁸ Section 11.241, F.S.

⁸⁹ Section 11.241(1)(i), F.S.

⁹⁰ Section 11.241(5)(j), F.S.

⁹¹ Section 11.241(6), F.S.

- Exchange Florida Statutes, and other available publications, with the officers, boards, and agencies of other states and of the United States, and with other governments;⁹² and
- Exercising all other powers, duties, and functions necessary or convenient for properly carrying out the provisions of this law and all other laws relating to statutory revision.⁹³

III. Effect of Proposed Changes:

Section 1 amends s. 120.52, F.S., relating to definitions applicable to the APA, to define the following terms:

- “Repromulgation” means the publication and adoption of an existing rule following an agency’s review of the rule for consistency with the power and duties granted by its enabling statute.
- “Technical change” means a change limited to correcting grammatical, typographical, or similar errors not affecting the substance of the rule.

Section 2 amends s. 120.54, F.S., relating to rulemaking procedures, to include clarifying language. This section amends s. 120.54(1)(b), F.S., to authorize a third timeframe for the completion of rulemaking - 180 days after the effective date of the act granting rulemaking authority.⁹⁴

This section updates language to include rules repromulgated after December 31, 2020, in the requirements for incorporating material by reference.

This section amends the notice of intended action (notice of intention to adopt, amend, or repeal a rule) to require such notice to include the proposed rule number. Current law requires the notice of intended action be published in the FAR not less than 28 days prior to the intended action. However, there is no timeframe between the publication of the notice of rule development and the notice of intended action/notice of proposed rule. The bill requires that the notice of intended action be published in FAR *for at least 7 days after* the publication of the notice of rule development. This section provides, after December 31, 2021, that material proposed to be incorporated by reference be made available (1) via electronic submission to the DOS and via electronic hyperlink in the FAR;⁹⁵ or (2) via a statement of address of locations for public inspection and examination, if posting would be a federal copyright law violation.⁹⁶

This section requires an agency to publish a notice of correction if any information other than substantive changes to the rule text - required to be included in the notice is omitted or is incorrect. A notice of correction does not affect the timeframes for filing the rule of adoption. This section expressly provides that technical changes are not required to be published as a notice of correction.

⁹² Section 11.241(7), F.S.

⁹³ Section 11.241(8), F.S.

⁹⁴ Prior to 2015, section 120.54, F.S., directed agencies to notice proposed rules within 180 days after the effective date of an act requiring mandatory rulemaking. This provision was removed with the enactment of the annual regulatory provision - s. 120. 74, F.S. Adding the 180-day rulemaking requirement will likely give the JAPC greater oversight authority.

⁹⁵ Section 120.(1)(i)3.a., F.S.

⁹⁶ Section 120.54(1)(i)3.b., F.S.

Section 2 requires an agency to provide notice to the JAPC of any regulatory alternative offered to the agency by the rules ombudsman of the Executive Office of the Governor before filing the rule for adoption.

This section provides that after December 31, 2021, material proposed to be incorporated by reference in the notice of modification or withdrawal must be made available (1) via electronic submission to the DOS and via electronic hyperlink in the FAR; or (2) via a statement of address of locations for public inspection and examination, if posting would be a federal copyright law violation.

Current law requires an agency to withdraw a rule if not adopted within the APA time limits or otherwise in noncompliance with the statutory rulemaking requirements and publish notice in the next available issue of FAR of such withdrawal. The bill provides that if an agency has not withdrawn a rule within 30 days after notice by the JAPC, the JAPC must notify the DOS that the date for adoption of the rule has expired and the DOS must publish a notice of withdrawal of the proposed rule.

This section provides for a procedure to renew an emergency rule. The bill requires notice of renewal of an emergency rule be published in the FAR before the expiration of the existing emergency rule. The notice of renewal must state the specific facts and reasons for such renewal. This section provides that for emergency rules intended to replace existing rules with an effective period greater than 90 days, a note must be added to the history note of the existing rule which specifically identifies the emergency rule that is intended to supersede the existing rule and includes the date that the emergency rule was filed with the DOS.

This section requires emergency rules must be published in the FAC.

This section authorizes an agency to supersede an emergency rule in effect through adoption of another emergency rule. The specific facts and reasons for adopting the new rule must be stated in the notice. The new rule is in effect during the effective period of the superseded rule.

This section permits an agency to make technical changes to an emergency rule within the first 7 days after the rule is adopted and must be published in FAR.

This section requires an agency to provide a copy of a petition to initiate rulemaking to the JAPC

Section 3 amends s. 120.541, F.S., to require an agency to provide to the JAPC a copy of any proposal received for a lower cost regulatory alternative before filing the rule for adoption.

Section 4 creates 120.3435, F.S., to establish a process called “repromulgation,” whereby each agency is required to review its rules for consistency with the powers and duties granted by the agency’s enabling statutes. If after such a review, an agency determines that substantive changes are not required, the agency must repromulgate the rule to reflect the date of the review. The bill provides that all rules adopted or repromulgated on or after July 1, 2021, must be reviewed within 5 years after their respective dates of adoption or repromulgation. Each agency must review its existing rules by July 1, 2026.

An agency, before repromulgation of a rule and upon approval by the agency head or his or her designee, must:

- Publish notice of repromulgation in the FAR, which is not required to include the text of the rule.
- File the rule for repromulgation with the DOS. A rule may not be filed for repromulgation less than 28 days before or more than 90 days after the publication of the notice.

An agency must file the notice of repromulgation with the JAPC at least 14 days before filing the rule for repromulgation. The JAPC must certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the JAPC.

This section provides that if a rule is not filed for repromulgation within the timeframe prescribed (not less than 28 days before or more than 90 days after the publication of the notice of repromulgation), the agency must withdraw the rule for repromulgation and give notice of its withdrawal in the next available issue of the FAR.

The bill expressly provides that a repromulgated rule is not subject to challenge as a proposed rule and that the APA's hearing requirements are not applicable to a repromulgated rule.

The bill requires each agency, upon the approval of the agency head or his or her designee, to file with the DOS three certified copies of the repromulgated rule it proposes to adopt and one certified copy of any material incorporated by reference in the rule. The rule is repromulgated upon its filing with the DOS. The DOS must update the history note of the rule in the FAC to reflect the effective date of the repromulgated rule. The bill directs the DOS to adopt rules to implement the repromulgation provisions by December 31, 2021.

Section 5 amends s. 120.55, F.S., which provides FAC publication requirements for the DOS. This section requires the DOS to publish all material incorporated by reference as part of the FAC for adopted rules. This section also provides that DOS, at the beginning of each agency's section of the FAC, provide a listing of all forms and material incorporated by reference adopted by rule which are used by the agency.

This section also provides clarifying language.

This section requires that after December 31, 2021, the DOS must require any material incorporated by reference in adopted and repromulgated rules be filed in electronic form.

This section requires the DOS to include the date of any technical changes to a rule in the history note of the rule in the FAC. A technical change does not affect the effective date of the rule. A technical change made after the adoption of a rule must be published as a notice of correction.

This section also amends the provision governing FAR to authorize the DOS to prescribe any rule requiring that documents created by an agency which are proposed to be incorporated by reference in a notice of intended action (s. 120.54(3)(a), F.S.) and notice of modification or withdrawal (s. 120.54(3)(d), F.S.) be coded in the same manner as notices of intended action pursuant to s. 120.54(3)(a)1., F.S.(number, title and effective date).

Section 6 amends s. 120.74, F.S., to require that an agency's regulatory plan include a list of rules scheduled for review and repromulgation and a 5 year schedule for the review and repromulgation of all rules existing as of July 1, 2021. The plan must include any desired update to the prior year's regulatory plan, or a supplement thereof, published in accordance with the APA.

This section provides that if, in a prior year, a law was identified as a law requiring rulemaking to implement, but a notice of proposed rule was not published, the agency must:

- Identify and again list such law, noting the applicable notice of rule development by citation to the FAR; or
- Identify the law, reference the citation to the applicable notice of rule in the FAR, and provide a concise written explanation of the reason the law may be implemented without rulemaking, if the agency determined rulemaking was unnecessary to implement the law.

This section requires the plan to include a list of all statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority, as set out in s. 11.242(5)(j), and a recommendation as to what statutes, laws, or parts thereof, should be repealed. The agency must also provide the list to the Division of Law Revision.

Sections 7, 8, 9, 10, and 11 amend ss. 120.80, 120.81, 420.9072, 420.9075, and 443.091, F.S., respectively, to correct cross references.

Section 12 provides that the bill will take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Agencies will likely experience increased workload and associated costs as they comply with the repromulgation and new regulatory plan requirements. The Department of State may experience an indeterminate increase in workload and associated costs in complying with the material incorporated by reference requirements and in publishing a notice of withdrawal pursuant to notification by the Joint Administrative Procedures Committee. The Joint Administrative Procedures Committee may experience increased workload and associated costs in issuing the required notifications related to untimely rulemaking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 684 to 687 provide:

including any rule requiring that documents created by an agency which are proposed to be incorporated by reference in notices published pursuant to s. 120.54(3)(a) and (d) *be coded* in the same manner as notices published pursuant to s. 120.54(3)(a)1.

The term “coded” is not used within the APA but is used within the DOS’s rule implementing s. 120.54, F.S.⁹⁷ It is suggested that an amendment be considered to clarify this language. For example, “be coded as prescribed by department rule.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.52, 120.54, 120.541, 120.5435, 120.55, 120.74, 120.80, 120.81, 420.9072, 420.9075, and 443.091.

This bill creates section 120.5435 of the Florida Statutes.

⁹⁷ Rule 1-011, F.A.C.

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 Albritton

26-01636-21

20211626__

1 A bill to be entitled
 2 An act relating to administrative procedures; amending
 3 s. 120.52, F.S.; defining terms; amending s. 120.54,
 4 F.S.; applying certain provisions applicable to all
 5 rules other than emergency rules to repromulgated
 6 rules; requiring a notice of proposed rule to include
 7 certain information; requiring such notices to be
 8 published within a specified timeframe; requiring that
 9 material proposed to be incorporated by reference be
 10 made available in a specified manner; providing for,
 11 and in certain instances, requiring agencies to
 12 publish a notice of correction; requiring an agency to
 13 provide a copy of a regulatory alternative to the
 14 Administrative Procedures Committee; requiring the
 15 committee, under certain circumstances, to notify the
 16 Department of State that the date for an agency to
 17 adopt a rule has expired; requiring the department to
 18 publish a notice of withdrawal under certain
 19 circumstances; requiring notice of renewal in the
 20 Florida Administrative Register; requiring a note in
 21 the history note for certain emergency rules;
 22 requiring emergency rules to be published in the
 23 Florida Administrative Code; authorizing agencies to
 24 supersede emergency rules with another emergency rule;
 25 authorizing an agency to make technical changes to an
 26 emergency rule within a specified timeframe; requiring
 27 technical changes to be published in the Florida
 28 Administrative Register; requiring an agency to file a
 29 copy of a certain petition with the committee;

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

26-01636-21

20211626__

30 amending s. 120.541, F.S.; requiring an agency to
 31 provide a copy of any proposal for a lower cost
 32 regulatory alternative to the committee within a
 33 certain timeframe; creating s. 120.5435, F.S.;
 34 providing legislative intent; requiring agency review
 35 of rules and repromulgation of rules that do not
 36 require substantive changes within a specified
 37 timeframe; requiring an agency to publish a notice of
 38 repromulgation in the Florida Administrative Register
 39 and file a rule for promulgation with the department
 40 within a specified timeframe; requiring an agency to
 41 file a notice of repromulgation with the committee
 42 within a specified timeframe; providing a requirement
 43 for the notice of repromulgation; requiring the
 44 committee to certify if the agency responded to all
 45 materials and written inquiries; requiring withdrawal
 46 of a rule proposed for repromulgation if the rule is
 47 not filed within a specified timeframe; providing that
 48 a repromulgated rule is not subject to challenge as a
 49 proposed rule and that certain hearing requirements do
 50 not apply; requiring an agency to file a specified
 51 number of certified copies of a proposed repromulgated
 52 rule and any material incorporated by reference;
 53 providing that a rule is a repromulgated rule upon
 54 filing with the department; requiring the department
 55 to update certain information in the Florida
 56 Administrative Code; requiring the department to adopt
 57 rules by a certain date; amending s. 120.55, F.S.;
 58 requiring materials incorporated by reference to be

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26-01636-21 20211626__
 59 filed and published in a specified manner; amending s.
 60 120.74, F.S.; adding components to be included in an
 61 agency's annual regulatory plan; amending ss. 120.80,
 62 120.81, 420.9072, 420.9075, and 443.091, F.S.;

63 conforming cross-references; providing an effective
 64 date.

65
 66 Be It Enacted by the Legislature of the State of Florida:

67
 68 Section 1. Present subsections (16) through (19) and
 69 subsections (20) through (22) of section 120.52, Florida
 70 Statutes, are redesignated as subsections (17) through (20) and
 71 subsections (22) through (24), respectively, and new subsections
 72 (16) and (21) are added to that section, to read:

73 120.52 Definitions.—As used in this act:

74 (16) "Repromulgation" means the notice and adoption of an
 75 existing rule following an agency's review of the rule for
 76 consistency with the powers and duties granted by its enabling
 77 statute.

78 (21) "Technical change" means a change limited to
 79 correcting grammatical, typographical, or similar errors not
 80 affecting the substance of the rule.

81 Section 2. Paragraphs (b) and (i) of subsection (1),
 82 paragraphs (a), (b), (d), and (e) of subsection (3), subsection
 83 (4), and paragraph (a) of subsection (7) of section 120.54,
 84 Florida Statutes, are amended to read:

85 120.54 Rulemaking.—

86 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
 87 EMERGENCY RULES.—

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 88 (b) Notwithstanding any other provision of law, whenever an
 89 act of the Legislature is enacted which requires implementation
 90 of the act by rules of an agency within the executive branch of
 91 state government, such rules shall be drafted and formally
 92 proposed as provided in this section within the times provided
 93 in s. 120.74(4) and (5), or within 180 days after the effective
 94 date of the act granting rulemaking authority.

95 (i)1. A rule may incorporate material by reference but only
 96 as the material exists on the date the rule is adopted. For
 97 purposes of the rule, changes in the material are not effective
 98 unless the rule is amended to incorporate the changes.

99 2. An agency rule that incorporates by specific reference
 100 another rule of that agency automatically incorporates
 101 subsequent amendments to the referenced rule unless a contrary
 102 intent is clearly indicated in the referencing rule. A notice of
 103 amendments to a rule that has been incorporated by specific
 104 reference in other rules of that agency must explain the effect
 105 of those amendments on the referencing rules.

106 3. In rules adopted after December 31, 2010, and rules
 107 repromulgated after December 31, 2021, material may not be
 108 incorporated by reference unless:

109 a. The material has been submitted in the prescribed
 110 electronic format to the Department of State and the full text
 111 of the material can be made available for free public access
 112 through an electronic hyperlink from the rule making the
 113 reference in the Florida Administrative Code; or

114 b. The agency has determined that posting the material on
 115 the Internet for purposes of public examination and inspection
 116 would constitute a violation of federal copyright law, in which

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117 case a statement to that effect, along with the address of
 118 locations at the Department of State and the agency at which the
 119 material is available for public inspection and examination,
 120 must be included in the notice required by subparagraph (3)(a)1.

121 4. A rule may not be amended by reference only. Amendments
 122 must set out the amended rule in full in the same manner as
 123 required by the State Constitution for laws.

124 5. Notwithstanding any contrary provision in this section,
 125 when an adopted rule of the Department of Environmental
 126 Protection or a water management district is incorporated by
 127 reference in the other agency's rule to implement a provision of
 128 part IV of chapter 373, subsequent amendments to the rule are
 129 not effective as to the incorporating rule unless the agency
 130 incorporating by reference notifies the committee and the
 131 Department of State of its intent to adopt the subsequent
 132 amendment, publishes notice of such intent in the Florida
 133 Administrative Register, and files with the Department of State
 134 a copy of the amended rule incorporated by reference. Changes in
 135 the rule incorporated by reference are effective as to the other
 136 agency 20 days after the date of the published notice and filing
 137 with the Department of State. The Department of State shall
 138 amend the history note of the incorporating rule to show the
 139 effective date of such change. Any substantially affected person
 140 may, within 14 days after the date of publication of the notice
 141 of intent in the Florida Administrative Register, file an
 142 objection to rulemaking with the agency. The objection shall
 143 specify the portions of the rule incorporated by reference to
 144 which the person objects and the reasons for the objection. The
 145 agency shall not have the authority under this subparagraph to

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146 adopt those portions of the rule specified in such objection.
 147 The agency shall publish notice of the objection and of its
 148 action in response in the next available issue of the Florida
 149 Administrative Register.

150 6. The Department of State may adopt by rule requirements
 151 for incorporating materials pursuant to this paragraph.

152 (3) ADOPTION PROCEDURES.—

153 (a) Notices.—

154 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
 155 any rule other than an emergency rule, an agency, upon approval
 156 of the agency head, shall give notice of its intended action,
 157 setting forth a short, plain explanation of the purpose and
 158 effect of the proposed action; the rule number and the full text
 159 of the proposed rule or amendment and a summary thereof; a
 160 reference to the grant of rulemaking authority pursuant to which
 161 the rule is adopted; and a reference to the section or
 162 subsection of the Florida Statutes or the Laws of Florida being
 163 implemented or interpreted. The notice must include a summary of
 164 the agency's statement of the estimated regulatory costs, if one
 165 has been prepared, based on the factors set forth in s.
 166 120.541(2); a statement that any person who wishes to provide
 167 the agency with information regarding the statement of estimated
 168 regulatory costs, or to provide a proposal for a lower cost
 169 regulatory alternative as provided by s. 120.541(1), must do so
 170 in writing within 21 days after publication of the notice; and a
 171 statement as to whether, based on the statement of the estimated
 172 regulatory costs or other information expressly relied upon and
 173 described by the agency if no statement of regulatory costs is
 174 required, the proposed rule is expected to require legislative

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175 ratification pursuant to s. 120.541(3). The notice must state
 176 the procedure for requesting a public hearing on the proposed
 177 rule. Except when the intended action is the repeal of a rule,
 178 the notice must include a reference both to the date on which
 179 and to the place where the notice of rule development that is
 180 required by subsection (2) appeared.

181 2. The notice ~~must shall~~ be published in the Florida
 182 Administrative Register for at least 7 days after the
 183 publication of the notice of rule development and at least not
 184 less than 28 days before prior to the intended action. The
 185 proposed rule, including all material proposed to be
 186 incorporated by reference, must shall be available for
 187 inspection and copying by the public at the time of the
 188 publication of notice. After December 31, 2021, material
 189 proposed to be incorporated by reference in the notice required
 190 by this paragraph must be made available in the manner
 191 prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph
 192 (1)(i)3.b.

193 3. The notice ~~must shall~~ be mailed to all persons named in
 194 the proposed rule and to all persons who have made, at least 14
 195 days before prior to such mailing, ~~have made~~ requests of the
 196 agency for advance notice of its proceedings. The agency shall
 197 also give such notice as is prescribed by rule to those
 198 particular classes of persons to whom the intended action is
 199 directed.

200 4. The adopting agency shall file with the committee, at
 201 least 21 days prior to the proposed adoption date, a copy of
 202 each rule it proposes to adopt; a copy of any material
 203 incorporated by reference in the rule; a detailed written

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204 statement of the facts and circumstances justifying the proposed
 205 rule; a copy of any statement of estimated regulatory costs that
 206 has been prepared pursuant to s. 120.541; a statement of the
 207 extent to which the proposed rule relates to federal standards
 208 or rules on the same subject; and the notice required by
 209 subparagraph 1.

210 5. If any of the information, other than substantive
 211 changes to the rule text, which is required to be included in
 212 the notice required by subparagraph 1. is omitted or is
 213 incorrect, the agency must publish a notice of correction. A
 214 notice of correction does not affect the timeframes for filing
 215 the rule for adoption as set forth in paragraph (e). Technical
 216 changes are not required to be published as a notice of
 217 correction.

218 (b) *Special matters to be considered in rule adoption.*—

219 1. Statement of estimated regulatory costs.—Before the
 220 adoption, amendment, or repeal of any rule other than an
 221 emergency rule, an agency is encouraged to prepare a statement
 222 of estimated regulatory costs of the proposed rule, as provided
 223 by s. 120.541. However, an agency must prepare a statement of
 224 estimated regulatory costs of the proposed rule, as provided by
 225 s. 120.541, if:

226 a. The proposed rule will have an adverse impact on small
 227 business; or

228 b. The proposed rule is likely to directly or indirectly
 229 increase regulatory costs in excess of \$200,000 in the aggregate
 230 in this state within 1 year after the implementation of the
 231 rule.

232 2. Small businesses, small counties, and small cities.—

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233 a. Each agency, before the adoption, amendment, or repeal
 234 of a rule, shall consider the impact of the rule on small
 235 businesses as defined by s. 288.703 and the impact of the rule
 236 on small counties or small cities as defined by s. 120.52.
 237 Whenever practicable, an agency shall tier its rules to reduce
 238 disproportionate impacts on small businesses, small counties, or
 239 small cities to avoid regulating small businesses, small
 240 counties, or small cities that do not contribute significantly
 241 to the problem the rule is designed to address. An agency may
 242 define "small business" to include businesses employing more
 243 than 200 persons, may define "small county" to include those
 244 with populations of more than 75,000, and may define "small
 245 city" to include those with populations of more than 10,000, if
 246 it finds that such a definition is necessary to adapt a rule to
 247 the needs and problems of small businesses, small counties, or
 248 small cities. The agency shall consider each of the following
 249 methods for reducing the impact of the proposed rule on small
 250 businesses, small counties, and small cities, or any combination
 251 of these entities:

252 (I) Establishing less stringent compliance or reporting
 253 requirements in the rule.

254 (II) Establishing less stringent schedules or deadlines in
 255 the rule for compliance or reporting requirements.

256 (III) Consolidating or simplifying the rule's compliance or
 257 reporting requirements.

258 (IV) Establishing performance standards or best management
 259 practices to replace design or operational standards in the
 260 rule.

261 (V) Exempting small businesses, small counties, or small

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262 cities from any or all requirements of the rule.

263 b.(I) If the agency determines that the proposed action
 264 will affect small businesses as defined by the agency as
 265 provided in sub-subparagraph a., the agency shall send written
 266 notice of the rule to the rules ombudsman in the Executive
 267 Office of the Governor at least 28 days before the intended
 268 action.

269 (II) Each agency shall adopt those regulatory alternatives
 270 offered by the rules ombudsman in the Executive Office of the
 271 Governor and provided to the agency no later than 21 days after
 272 the rules ombudsman's receipt of the written notice of the rule
 273 which it finds are feasible and consistent with the stated
 274 objectives of the proposed rule and which would reduce the
 275 impact on small businesses. When regulatory alternatives are
 276 offered by the rules ombudsman in the Executive Office of the
 277 Governor, the 90-day period for filing the rule in subparagraph
 278 (e)2. is extended for a period of 21 days. Before filing the
 279 rule for adoption, the agency shall provide a copy of any
 280 regulatory alternative offered to the agency to the committee.

281 (III) If an agency does not adopt all alternatives offered
 282 pursuant to this sub-subparagraph, it shall, before rule
 283 adoption or amendment and pursuant to subparagraph (d)1., file a
 284 detailed written statement with the committee explaining the
 285 reasons for failure to adopt such alternatives. Within 3 working
 286 days after the filing of such notice, the agency shall send a
 287 copy of such notice to the rules ombudsman in the Executive
 288 Office of the Governor.

289 (d) *Modification or withdrawal of proposed rules.-*

290 1. After the final public hearing on the proposed rule, or

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291 after the time for requesting a hearing has expired, if the rule
 292 has not been changed from the rule as previously filed with the
 293 committee, or contains only technical changes, the adopting
 294 agency shall file a notice to that effect with the committee at
 295 least 7 days prior to filing the rule for adoption. Any change,
 296 other than a technical change that does not affect the substance
 297 of the rule, must be supported by the record of public hearings
 298 held on the rule, must be in response to written material
 299 submitted to the agency within 21 days after the date of
 300 publication of the notice of intended agency action or submitted
 301 to the agency between the date of publication of the notice and
 302 the end of the final public hearing, or must be in response to a
 303 proposed objection by the committee. In addition, when any
 304 change is made in the a proposed rule, other than a technical
 305 change, the adopting agency must ~~shall~~ provide a copy of a
 306 notice of change by certified mail or actual delivery to any
 307 person who requests it in writing no later than 21 days after
 308 the notice required in paragraph (a). The agency shall file the
 309 notice of change with the committee, along with the reasons for
 310 the change, and provide the notice of change to persons
 311 requesting it, at least 21 days before ~~prior to~~ filing the rule
 312 for adoption. The notice of change must ~~shall~~ be published in
 313 the Florida Administrative Register at least 21 days prior to
 314 filing the rule for adoption. This subparagraph does not apply
 315 to emergency rules adopted pursuant to subsection (4). After
 316 December 31, 2021, material proposed to be incorporated by
 317 reference in the notice required by this paragraph must be made
 318 available in the manner prescribed by sub-subparagraph
 319 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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320 2. After the notice required by paragraph (a) and before
 321 ~~prior to~~ adoption, the agency may withdraw the rule in whole or
 322 in part.

323 3. After adoption and before the rule becomes effective, a
 324 rule may be modified or withdrawn only in the following
 325 circumstances:

326 a. When the committee objects to the rule;

327 b. When a final order, which is not subject to further
 328 appeal, is entered in a rule challenge brought pursuant to s.
 329 120.56 after the date of adoption but before the rule becomes
 330 effective pursuant to subparagraph (e)6.;

331 c. If the rule requires ratification, when more than 90
 332 days have passed since the rule was filed for adoption without
 333 the Legislature ratifying the rule, in which case the rule may
 334 be withdrawn but may not be modified; or

335 d. When the committee notifies the agency that an objection
 336 to the rule is being considered, in which case the rule may be
 337 modified to extend the effective date by not more than 60 days.

338 4. The agency shall give notice of its decision to withdraw
 339 or modify a rule in the first available issue of the publication
 340 in which the original notice of rulemaking was published, shall
 341 notify those persons described in subparagraph (a)3. in
 342 accordance with the requirements of that subparagraph, and shall
 343 notify the Department of State if the rule is required to be
 344 filed with the Department of State.

345 5. After a rule has become effective, it may be repealed or
 346 amended only through the rulemaking procedures specified in this
 347 chapter.

348 (e) *Filing for final adoption; effective date.*-

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349 1. If the adopting agency is required to publish its rules
 350 in the Florida Administrative Code, the agency, upon approval of
 351 the agency head, shall file with the Department of State three
 352 certified copies of the rule it proposes to adopt; one copy of
 353 any material incorporated by reference in the rule, certified by
 354 the agency; a summary of the rule; a summary of any hearings
 355 held on the rule; and a detailed written statement of the facts
 356 and circumstances justifying the rule. Agencies not required to
 357 publish their rules in the Florida Administrative Code shall
 358 file one certified copy of the proposed rule, and the other
 359 material required by this subparagraph, in the office of the
 360 agency head, and such rules shall be open to the public.

361 2. A rule may not be filed for adoption less than 28 days
 362 or more than 90 days after the notice required by paragraph (a),
 363 until 21 days after the notice of change required by paragraph
 364 (d), until 14 days after the final public hearing, until 21 days
 365 after a statement of estimated regulatory costs required under
 366 s. 120.541 has been provided to all persons who submitted a
 367 lower cost regulatory alternative and made available to the
 368 public, or until the administrative law judge has rendered a
 369 decision under s. 120.56(2), whichever applies. When a required
 370 notice of change is published prior to the expiration of the
 371 time to file the rule for adoption, the period during which a
 372 rule must be filed for adoption is extended to 45 days after the
 373 date of publication. If notice of a public hearing is published
 374 prior to the expiration of the time to file the rule for
 375 adoption, the period during which a rule must be filed for
 376 adoption is extended to 45 days after adjournment of the final
 377 hearing on the rule, 21 days after receipt of all material

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378 authorized to be submitted at the hearing, or 21 days after
 379 receipt of the transcript, if one is made, whichever is latest.
 380 The term "public hearing" includes any public meeting held by
 381 any agency at which the rule is considered. If a petition for an
 382 administrative determination under s. 120.56(2) is filed, the
 383 period during which a rule must be filed for adoption is
 384 extended to 60 days after the administrative law judge files the
 385 final order with the clerk or until 60 days after subsequent
 386 judicial review is complete.

387 3. At the time a rule is filed, the agency shall certify
 388 that the time limitations prescribed by this paragraph have been
 389 complied with, that all statutory rulemaking requirements have
 390 been met, and that there is no administrative determination
 391 pending on the rule.

392 4. At the time a rule is filed, the committee shall certify
 393 whether the agency has responded in writing to all material and
 394 timely written comments or written inquiries made on behalf of
 395 the committee. The department shall reject any rule that is not
 396 filed within the prescribed time limits; that does not comply
 397 with all statutory rulemaking requirements and rules of the
 398 department; upon which an agency has not responded in writing to
 399 all material and timely written inquiries or written comments;
 400 upon which an administrative determination is pending; or which
 401 does not include a statement of estimated regulatory costs, if
 402 required.

403 5. If a rule has not been adopted within the time limits
 404 imposed by this paragraph or has not been adopted in compliance
 405 with all statutory rulemaking requirements, the agency proposing
 406 the rule shall withdraw the rule and give notice of its action

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 407 in the next available issue of the Florida Administrative
 408 Register. If an agency has not withdrawn the rule within 30 days
 409 after notice by the committee, the committee must notify the
 410 Department of State that the date for adoption of the rule has
 411 expired, and the department must publish a notice of withdrawal
 412 of the proposed rule.

413 6. The proposed rule shall be adopted on being filed with
 414 the Department of State and become effective 20 days after being
 415 filed, on a later date specified in the notice required by
 416 subparagraph (a)1., on a date required by statute, or upon
 417 ratification by the Legislature pursuant to s. 120.541(3). Rules
 418 not required to be filed with the Department of State shall
 419 become effective when adopted by the agency head, on a later
 420 date specified by rule or statute, or upon ratification by the
 421 Legislature pursuant to s. 120.541(3). If the committee notifies
 422 an agency that an objection to a rule is being considered, the
 423 agency may postpone the adoption of the rule to accommodate
 424 review of the rule by the committee. When an agency postpones
 425 adoption of a rule to accommodate review by the committee, the
 426 90-day period for filing the rule is tolled until the committee
 427 notifies the agency that it has completed its review of the
 428 rule.

429
 430 For the purposes of this paragraph, the term "administrative
 431 determination" does not include subsequent judicial review.

432 (4) EMERGENCY RULES.—

433 (a) If an agency finds that an immediate danger to the
 434 public health, safety, or welfare requires emergency action, the
 435 agency may adopt any rule necessitated by the immediate danger.

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 436 The agency may adopt a rule by any procedure which is fair under
 437 the circumstances if:

438 1. The procedure provides at least the procedural
 439 protection given by other statutes, the State Constitution, or
 440 the United States Constitution.

441 2. The agency takes only that action necessary to protect
 442 the public interest under the emergency procedure.

443 3. The agency publishes in writing at the time of, or prior
 444 to, its action the specific facts and reasons for finding an
 445 immediate danger to the public health, safety, or welfare and
 446 its reasons for concluding that the procedure used is fair under
 447 the circumstances. In any event, notice of emergency rules,
 448 other than those of educational units or units of government
 449 with jurisdiction in only one or a part of one county, including
 450 the full text of the rules, shall be published in the first
 451 available issue of the Florida Administrative Register and
 452 provided to the committee along with any material incorporated
 453 by reference in the rules. The agency's findings of immediate
 454 danger, necessity, and procedural fairness shall be judicially
 455 reviewable.

456 (b) Rules pertaining to the public health, safety, or
 457 welfare shall include rules pertaining to perishable
 458 agricultural commodities or rules pertaining to the
 459 interpretation and implementation of the requirements of
 460 chapters 97-102 and chapter 105 of the Election Code.

461 (c) Unless otherwise provided by law, an emergency rule
 462 adopted under this subsection ~~may shall~~ not be effective for a
 463 period longer than 90 days and ~~is shall~~ not be renewable, except
 464 when the agency has initiated rulemaking to adopt rules

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465 addressing the subject of the emergency rule and either:

466 1. A challenge to the proposed rules has been filed and
467 remains pending; or

468 2. The proposed rules are awaiting ratification by the
469 Legislature pursuant to s. 120.541(3).

470

471 This paragraph does not prohibit ~~Nothing in this paragraph~~
472 ~~prohibits~~ the agency from adopting a rule or rules identical to
473 the emergency rule through the rulemaking procedures specified
474 in subsection (3).

475 (d) Notice of the renewal of an emergency rule must be
476 published in the Florida Administrative Register before the
477 expiration of the existing emergency rule. The notice of renewal
478 must state the specific facts and reasons for such renewal.

479 (e) For emergency rules with an effective period greater
480 than 90 days which are intended to replace existing rules, a
481 note must be added to the history note of the existing rule
482 which specifically identifies the emergency rule that is
483 intended to supersede the existing rule and includes the date
484 that the emergency rule was filed with the Department of State.

485 (f) Emergency rules must be published in the Florida
486 Administrative Code.

487 (g) An agency may supersede an emergency rule in effect
488 through adoption of another emergency rule. The reason for
489 adopting the new rule must be stated in accordance with the
490 procedures set forth in paragraph (a), and the new rule is in
491 effect during the effective period of the superseded rule.

492 (h) An agency may make technical changes to an emergency
493 rule within the first 7 days after the rule is adopted and must

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494 be published in the Florida Administrative Register.

495 (i) Subject to applicable constitutional and statutory
496 provisions, an emergency rule becomes effective immediately on
497 filing, or on a date less than 20 days thereafter if specified
498 in the rule, if the adopting agency finds that such effective
499 date is necessary because of immediate danger to the public
500 health, safety, or welfare.

501 (7) PETITION TO INITIATE RULEMAKING.—

502 (a) Any person regulated by an agency or having substantial
503 interest in an agency rule may petition an agency to adopt,
504 amend, or repeal a rule or to provide the minimum public
505 information required by this chapter. The petition must shall
506 specify the proposed rule and action requested. The agency shall
507 provide a copy of the petition to the committee. No ~~Not~~ later
508 than 30 calendar days following the date of filing a petition,
509 the agency shall initiate rulemaking proceedings under this
510 chapter, otherwise comply with the requested action, or deny the
511 petition with a written statement of its reasons for the denial.

512 Section 3. Paragraph (a) of subsection (1) of section
513 120.541, Florida Statutes, is amended to read:

514 120.541 Statement of estimated regulatory costs.—

515 (1) (a) Within 21 days after publication of the notice
516 required under s. 120.54(3) (a), a substantially affected person
517 may submit to an agency a good faith written proposal for a
518 lower cost regulatory alternative to a proposed rule which
519 substantially accomplishes the objectives of the law being
520 implemented. The agency shall provide to the committee a copy of
521 any proposal for a lower cost regulatory alternative before
522 filing the rule for adoption. The proposal may include the

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523 alternative of not adopting any rule if the proposal explains
 524 how the lower costs and objectives of the law will be achieved
 525 by not adopting any rule. If such a proposal is submitted, the
 526 90-day period for filing the rule is extended 21 days. Upon the
 527 submission of the lower cost regulatory alternative, the agency
 528 shall prepare a statement of estimated regulatory costs as
 529 provided in subsection (2), or shall revise its prior statement
 530 of estimated regulatory costs, and either adopt the alternative
 531 or provide a statement of the reasons for rejecting the
 532 alternative in favor of the proposed rule.

533 Section 4. Section 120.5435, Florida Statutes, is created
 534 to read:

535 120.5435 Repromulgation of rules.—

536 (1) It is the intent of the Legislature that each agency
 537 periodically review its rules for consistency with the powers
 538 and duties granted by its enabling statutes. If an agency
 539 determines after review that substantive changes to update a
 540 rule are not required, such agency must repromulgate the rule to
 541 reflect the date of the review. All rules adopted or
 542 repromulgated on or after July 1, 2021, must be reviewed within
 543 5 years after their respective dates of adoption or
 544 repromulgation. Each agency must review its existing rules in
 545 accordance with this section by July 1, 2026.

546 (2) Before repromulgating a rule, the agency shall, upon
 547 approval by the agency head:

548 (a) Publish a notice of repromulgation in the Florida
 549 Administrative Register. A notice of repromulgation is not
 550 required to include the text of the rule being repromulgated.

551 (b) File the rule for repromulgation with the Department of

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552 State. A rule may not be filed for repromulgation fewer than 28
 553 days, nor more than 90 days, after the date of publication of
 554 the notice required by paragraph (a).

555 (3) (a) The agency shall file a notice of repromulgation
 556 with the committee at least 14 days before filing the rule for
 557 repromulgation.

558 (b) The committee shall certify whether the agency has
 559 responded in writing to all material and timely written comments
 560 or written inquiries made on behalf of the committee.

561 (4) If a rule is not filed for repromulgation within the
 562 timeframe prescribed in paragraph (2) (b), the agency must
 563 withdraw the rule for repromulgation and give notice of its
 564 withdrawal in the next available issue of the Florida
 565 Administrative Register.

566 (5) A repromulgated rule is not subject to challenge as a
 567 proposed rule pursuant to s. 120.56(2).

568 (6) The hearing requirements of s. 120.54 do not apply to
 569 repromulgation of a rule.

570 (7) The agency, upon approval of the agency head or his or
 571 her designee, shall file with the Department of State three
 572 certified copies of the repromulgated rule it proposes to adopt
 573 and one certified copy of any material incorporated by reference
 574 in the rule.

575 (8) The rule is repromulgated upon its filing with the
 576 Department of State.

577 (9) The Department of State shall update the history note
 578 of the rule in the Florida Administrative Code to reflect the
 579 effective date of the repromulgated rule.

580 (10) The Department of State shall adopt rules to implement

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581 this section by December 31, 2021.

582 Section 5. Paragraphs (a), (b), and (c) of subsection (1)
583 of section 120.55, Florida Statutes, are amended to read:

584 120.55 Publication.—

585 (1) The Department of State shall:

586 (a)1. Through a continuous revision and publication system,
587 compile and publish electronically, on a website managed by the
588 department, the "Florida Administrative Code." The Florida
589 Administrative Code shall contain all rules adopted by each
590 agency, citing the grant of rulemaking authority and the
591 specific law implemented pursuant to which each rule was
592 adopted, all history notes as authorized in s. 120.545(7),
593 complete indexes to all rules and any material incorporated by
594 reference contained in the code, and any other material required
595 or authorized by law or deemed useful by the department. The
596 electronic code shall display each rule chapter currently in
597 effect in browse mode and allow full text search of the code and
598 each rule chapter. The department may contract with a publishing
599 firm for a printed publication; however, the department shall
600 retain responsibility for the code as provided in this section.
601 The electronic publication shall be the official compilation of
602 the administrative rules of this state. The Department of State
603 shall retain the copyright over the Florida Administrative Code.

604 2. Rules general in form but applicable to only one school
605 district, community college district, or county, or a part
606 thereof, or state university rules relating to internal
607 personnel or business and finance shall not be published in the
608 Florida Administrative Code. Exclusion from publication in the
609 Florida Administrative Code does shall not affect the validity

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610 or effectiveness of such rules.

611 3. At the beginning of the section of the code dealing with
612 an agency that files copies of its rules with the department,
613 the department shall publish the address and telephone number of
614 the executive offices of ~~the each~~ agency, the manner by which
615 the agency indexes its rules, a listing of all rules of that
616 agency excluded from publication in the code, a listing of all
617 forms and material incorporated by reference adopted by rule
618 which are used by the agency, and a statement as to where those
619 rules may be inspected.

620 4. Forms may shall not be published in the Florida
621 Administrative Code; but any form which an agency uses in its
622 dealings with the public, along with any accompanying
623 instructions, must shall be filed with the committee before it
624 is used. Any form or instruction that which meets the definition
625 of the term "rule" provided in s. 120.52 must shall be
626 incorporated by reference into the appropriate rule. The
627 reference must shall specifically state that the form is being
628 incorporated by reference and ~~shall~~ include the number, title,
629 and effective date of the form and an explanation of how the
630 form may be obtained. Each form created by an agency which is
631 incorporated by reference in a rule notice of which is given
632 under s. 120.54(3)(a) after December 31, 2007, must clearly
633 display the number, title, and effective date of the form and
634 the number of the rule in which the form is incorporated.

635 5. After December 31, 2021, the department shall require
636 any material incorporated by reference in adopted and
637 repromulgated rules allow adopted rules and material
638 ~~incorporated by reference~~ to be filed in electronic form as

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 639 prescribed by department rule. When a rule is filed for adoption
 640 with incorporated material in electronic form, the department's
 641 publication of the Florida Administrative Code on its website
 642 must contain a hyperlink from the incorporating reference in the
 643 rule directly to that material. The department may not allow
 644 hyperlinks from rules in the Florida Administrative Code to any
 645 material other than that filed with and maintained by the
 646 department, but may allow hyperlinks to incorporated material
 647 maintained by the department from the adopting agency's website
 648 or other sites.

649 6. The department shall include the date of any technical
 650 changes in the history note of the rule in the Florida
 651 Administrative Code. A technical change does not affect the
 652 effective date of the rule. A technical change made after the
 653 adoption of a rule must be published as a notice of correction.

654 (b) Electronically publish on a website managed by the
 655 department a continuous revision and publication entitled the
 656 "Florida Administrative Register," which shall serve as the
 657 official publication and must contain:

658 1. All notices required by s. 120.54(2) and (3) (a), showing
 659 the text of all rules proposed for consideration.

660 2. All notices of public meetings, hearings, and workshops
 661 conducted in accordance with s. 120.525, including a statement
 662 of the manner in which a copy of the agenda may be obtained.

663 3. A notice of each request for authorization to amend or
 664 repeal an existing uniform rule or for the adoption of new
 665 uniform rules.

666 4. Notice of petitions for declaratory statements or
 667 administrative determinations.

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 668 5. A summary of each objection to any rule filed by the
 669 Administrative Procedures Committee.
 670 6. A list of rules filed for adoption in the previous 7
 671 days.
 672 7. A list of all rules filed for adoption pending
 673 legislative ratification under s. 120.541(3). A rule shall be
 674 removed from the list once notice of ratification or withdrawal
 675 of the rule is received.
 676 8. Any other material required or authorized by law or
 677 deemed useful by the department.

678
 679 The department may contract with a publishing firm for a printed
 680 publication of the Florida Administrative Register and make
 681 copies available on an annual subscription basis.

682 (c) Prescribe by rule the style and form required for
 683 rules, notices, and other materials submitted for filing,
 684 including any rule requiring that documents created by an agency
 685 which are proposed to be incorporated by reference in notices
 686 published pursuant to s. 120.54(3) (a) and (d) be coded in the
 687 same manner as notices published pursuant to s. 120.54(3) (a)1.

688 Section 6. Paragraphs (e), (f), and (g) are added to
 689 subsection (1) of section 120.74, Florida Statutes, to read:
 690 120.74 Agency annual rulemaking and regulatory plans;
 691 reports.—

692 (1) REGULATORY PLAN.—By October 1 of each year, each agency
 693 shall prepare a regulatory plan.

694 (e) The plan must include:

695 1. A list of rules scheduled for review and repromulgation
 696 pursuant to s. 120.5435.

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697 2. A 5-year schedule for the review and repromulgation of
698 all rules existing as of July 1, 2021.

699 (f) The plan must include any desired update to the prior
700 year's regulatory plan, or a supplement thereof, published
701 pursuant to subsection (7). If, in a prior year, a law was
702 identified under this paragraph or subparagraph (a)1. as a law
703 requiring rulemaking to implement, but a notice of proposed rule
704 was not published:

705 1. The agency must identify and again list such law, noting
706 the applicable notice of rule development by citation to the
707 Florida Administrative Register; or

708 2. If the agency has subsequently determined that
709 rulemaking is not necessary to implement the law, the agency
710 must identify the law, reference the citation to the applicable
711 notice of rule development in the Florida Administrative
712 Register, and provide a concise written explanation of the
713 reason why the law may be implemented without rulemaking.

714 (g) The plan must include a list of all statutes and laws,
715 or parts thereof, which grant duplicative, redundant, or unused
716 rulemaking authority, as set out in s. 11.242(5)(j), and a
717 recommendation as to what statutes, laws, or parts thereof,
718 should be repealed. The agency must also provide the list to the
719 Division of Law Revision.

720 Section 7. Subsection (11) of section 120.80, Florida
721 Statutes, is amended to read:

722 120.80 Exceptions and special requirements; agencies.—

723 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
724 ~~120.52(16)~~, the enlistment, organization, administration,
725 equipment, maintenance, training, and discipline of the militia,

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726 National Guard, organized militia, and unorganized militia, as
727 provided by s. 2, Art. X of the State Constitution, are not
728 rules as defined by this chapter.

729 Section 8. Paragraph (c) of subsection (1) of section
730 120.81, Florida Statutes, is amended to read:

731 120.81 Exceptions and special requirements; general areas.—

732 (1) EDUCATIONAL UNITS.—

733 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests,
734 test scoring criteria, or testing procedures relating to student
735 assessment which are developed or administered by the Department
736 of Education pursuant to s. 1003.4282, s. 1008.22, or s.
737 1008.25, or any other statewide educational tests required by
738 law, are not rules.

739 Section 9. Paragraph (a) of subsection (1) of section
740 420.9072, Florida Statutes, is amended to read:

741 420.9072 State Housing Initiatives Partnership Program.—The
742 State Housing Initiatives Partnership Program is created for the
743 purpose of providing funds to counties and eligible
744 municipalities as an incentive for the creation of local housing
745 partnerships, to expand production of and preserve affordable
746 housing, to further the housing element of the local government
747 comprehensive plan specific to affordable housing, and to
748 increase housing-related employment.

749 (1)(a) In addition to the legislative findings set forth in
750 s. 420.6015, the Legislature finds that affordable housing is
751 most effectively provided by combining available public and
752 private resources to conserve and improve existing housing and
753 provide new housing for very-low-income households, low-income
754 households, and moderate-income households. The Legislature

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755 intends to encourage partnerships in order to secure the
 756 benefits of cooperation by the public and private sectors and to
 757 reduce the cost of housing for the target group by effectively
 758 combining all available resources and cost-saving measures. The
 759 Legislature further intends that local governments achieve this
 760 combination of resources by encouraging active partnerships
 761 between government, lenders, builders and developers, real
 762 estate professionals, advocates for low-income persons, and
 763 community groups to produce affordable housing and provide
 764 related services. Extending the partnership concept to encompass
 765 cooperative efforts among small counties as defined in s. 120.52
 766 ~~s. 120.52(19)~~, and among counties and municipalities is
 767 specifically encouraged. Local governments are also intended to
 768 establish an affordable housing advisory committee to recommend
 769 monetary and nonmonetary incentives for affordable housing as
 770 provided in s. 420.9076.

771 Section 10. Subsection (7) of section 420.9075, Florida
 772 Statutes, is amended to read:

773 420.9075 Local housing assistance plans; partnerships.-

774 (7) The moneys deposited in the local housing assistance
 775 trust fund shall be used to administer and implement the local
 776 housing assistance plan. The cost of administering the plan may
 777 not exceed 5 percent of the local housing distribution moneys
 778 and program income deposited into the trust fund. A county or an
 779 eligible municipality may not exceed the 5-percent limitation on
 780 administrative costs, unless its governing body finds, by
 781 resolution, that 5 percent of the local housing distribution
 782 plus 5 percent of program income is insufficient to adequately
 783 pay the necessary costs of administering the local housing

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784 assistance plan. The cost of administering the program may not
 785 exceed 10 percent of the local housing distribution plus 5
 786 percent of program income deposited into the trust fund, except
 787 that small counties, as defined in s. 120.52 ~~s. 120.52(19)~~, and
 788 eligible municipalities receiving a local housing distribution
 789 of up to \$350,000 may use up to 10 percent of program income for
 790 administrative costs.

791 Section 11. Paragraph (d) of subsection (1) of section
 792 443.091, Florida Statutes, is amended to read:

793 443.091 Benefit eligibility conditions.-

794 (1) An unemployed individual is eligible to receive
 795 benefits for any week only if the Department of Economic
 796 Opportunity finds that:

797 (d) She or he is able to work and is available for work. In
 798 order to assess eligibility for a claimed week of unemployment,
 799 the department shall develop criteria to determine a claimant's
 800 ability to work and availability for work. A claimant must be
 801 actively seeking work in order to be considered available for
 802 work. This means engaging in systematic and sustained efforts to
 803 find work, including contacting at least five prospective
 804 employers for each week of unemployment claimed. The department
 805 may require the claimant to provide proof of such efforts to the
 806 one-stop career center as part of reemployment services. A
 807 claimant's proof of work search efforts may not include the same
 808 prospective employer at the same location in 3 consecutive
 809 weeks, unless the employer has indicated since the time of the
 810 initial contact that the employer is hiring. The department
 811 shall conduct random reviews of work search information provided
 812 by claimants. As an alternative to contacting at least five

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 813 prospective employers for any week of unemployment claimed, a
 814 claimant may, for that same week, report in person to a one-stop
 815 career center to meet with a representative of the center and
 816 access reemployment services of the center. The center shall
 817 keep a record of the services or information provided to the
 818 claimant and shall provide the records to the department upon
 819 request by the department. However:

820 1. Notwithstanding any other provision of this paragraph or
 821 paragraphs (b) and (e), an otherwise eligible individual may not
 822 be denied benefits for any week because she or he is in training
 823 with the approval of the department, or by reason of s.
 824 443.101(2) relating to failure to apply for, or refusal to
 825 accept, suitable work. Training may be approved by the
 826 department in accordance with criteria prescribed by rule. A
 827 claimant's eligibility during approved training is contingent
 828 upon satisfying eligibility conditions prescribed by rule.

829 2. Notwithstanding any other provision of this chapter, an
 830 otherwise eligible individual who is in training approved under
 831 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 832 determined ineligible or disqualified for benefits due to
 833 enrollment in such training or because of leaving work that is
 834 not suitable employment to enter such training. As used in this
 835 subparagraph, the term "suitable employment" means work of a
 836 substantially equal or higher skill level than the worker's past
 837 adversely affected employment, as defined for purposes of the
 838 Trade Act of 1974, as amended, the wages for which are at least
 839 80 percent of the worker's average weekly wage as determined for
 840 purposes of the Trade Act of 1974, as amended.

841 3. Notwithstanding any other provision of this section, an

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 842 otherwise eligible individual may not be denied benefits for any
 843 week because she or he is before any state or federal court
 844 pursuant to a lawfully issued summons to appear for jury duty.

845 4. Union members who customarily obtain employment through
 846 a union hiring hall may satisfy the work search requirements of
 847 this paragraph by reporting daily to their union hall.

848 5. The work search requirements of this paragraph do not
 849 apply to persons who are unemployed as a result of a temporary
 850 layoff or who are claiming benefits under an approved short-time
 851 compensation plan as provided in s. 443.1116.

852 6. In small counties as defined in s. 120.52 ~~s. 120.52(19)~~,
 853 a claimant engaging in systematic and sustained efforts to find
 854 work must contact at least three prospective employers for each
 855 week of unemployment claimed.

856 7. The work search requirements of this paragraph do not
 857 apply to persons required to participate in reemployment
 858 services under paragraph (e).

859 Section 12. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ray Wesley Rodrigues, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 17, 2021

I respectfully request that **Senate Bill #1626**, relating to Administrative Procedures, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 3/24/2021 11:30:44 AM

Ends: 3/24/2021 12:42:10 PM

Length: 01:11:27

11:30:46 AM Meeting called to order by Chair Rodrigues
11:30:54 AM Roll call by Committee Administrative Assistant (CAA)
11:31:00 AM Quorum is present
11:31:06 AM Comments from Chair
11:31:55 AM Tab 13 - SB 1616 by Sen Brodeur
11:32:14 AM Senator Brodeur explains delete-all amendment 409402
11:32:59 AM No questions
11:33:12 AM No appearance forms
11:33:24 AM No debate
11:33:27 AM Sen Brodeur waives close on amendment
11:33:36 AM Amendment is adopted
11:33:41 AM Back on bill as amended
11:33:48 AM Senator Torres with questions
11:33:54 AM Senator Brodeur responds
11:34:21 AM Follow up question from Senator Torres
11:34:26 AM Senator Brodeur responds
11:34:35 AM Follow up question by Senator Torres
11:35:01 AM Response of sponsor
11:35:21 AM Back and forth in questions
11:35:44 AM No appearance forms
11:35:58 AM No debate
11:36:01 AM Sen Brodeur closes on bill
11:36:26 AM CS/SB 1616 reported favorably
11:36:40 AM Tab1 - Confirmation of Judge Peter Antonacci
11:36:57 AM Swearing in of witness
11:37:08 AM Judge Antonacci addresses committee
11:37:51 AM No questions
11:38:04 AM No appearance forms
11:38:11 AM Judge waives close
11:38:18 AM Motion by Senator Torres to recommend confirmation
11:38:45 AM Confirmation is recommended favorably
11:38:55 AM Comments from Senator Gruters
11:39:20 AM Tab 5 - SB 972 by Senator A Rodriguez
11:39:41 AM Senator Rodriguez explains bill
11:40:09 AM No questions
11:40:15 AM Amendment 167190
11:40:28 AM Senator Rodriguez explains amendment
11:40:34 AM No questions
11:40:39 AM No appearance forms
11:40:52 AM No debate
11:40:56 AM Senator Rodriguez waives close
11:41:00 AM Amendment is adopted
11:41:03 AM Back on bill as amended
11:41:08 AM No questions
11:41:13 AM No debate
11:41:35 AM Speaker Natalie Fausel waives in support of bill
11:41:47 AM No debate - Senator waives close on bill
11:41:53 AM CS/SB 972 reported favorably
11:42:12 AM Tab 10 - SB 1512 by Sen Wright
11:42:25 AM Chair Rodrigues apologizes to Senator Wright telling him he will be called after Senator Rodriguez
11:42:43 AM Tab 11 - SB 1570 by Sen Rodriguez
11:43:04 AM Sen Rodriguez explains bill

11:43:25 AM Delete-all Amendment 243780
11:43:46 AM Sponsor explains Amendment
11:44:23 AM Sen Torres with questions
11:44:45 AM Senator Rodriguez responds to questions
11:44:54 AM Back and forth in questions
11:45:34 AM No appearance forms
11:45:46 AM No debate
11:45:49 AM Sen Rodriguez waives close on amendment
11:46:08 AM Amendment is adopted
11:46:14 AM Back on bill as amended
11:46:19 AM No questions
11:46:22 AM No appearance forms
11:46:28 AM No debate
11:46:32 AM Sen Rodriguez waives close on bill
11:46:39 AM CS/SB 1570 is reported favorably
11:46:58 AM Tab 12 - SB 1606 by Sen Rodriguez
11:47:10 AM Sen Rodriguez explains bill
11:47:45 AM Amendment 260444
11:47:54 AM Senator Rodriguez explains amendment
11:49:03 AM No questions
11:49:06 AM No appearance forms
11:49:21 AM Senator Stewart in debate
11:50:29 AM Sen Rodriguez closes on amendment
11:51:28 AM Amendment is adopted
11:51:34 AM Back on the bill as amended
11:51:37 AM No questions
11:51:41 AM No appearance forms
11:51:47 AM No debate
11:51:50 AM Sen Rodriguez closes on bill
11:52:21 AM CS/SB 1606 reported favorably
11:52:40 AM Tab 10 - SB 1512 by Senator Wright
11:52:50 AM Senator Wright explains bill
11:53:34 AM No questions
11:53:37 AM No appearance forms
11:53:45 AM No debate
11:53:48 AM Senator Wright waives close
11:53:52 AM SB 1512 reported favorably
11:54:11 AM Tab 2 - SB 196 by Sen Berman
11:54:20 AM Senator Berman explains bill
11:55:15 AM Delete-all Amendment 733590
11:55:27 AM Sponsor explains amendment
11:56:04 AM No questions
11:56:07 AM No appearance forms
11:56:16 AM No debate
11:56:19 AM Senator Berman waives close on amendment
11:56:27 AM Delete-all amendment is adopted
11:56:31 AM Back on the bill as amended
11:56:37 AM No questions
11:56:41 AM No appearance forms
11:56:48 AM No debate
11:56:50 AM Senator Berman closes on bill
11:57:03 AM CS/SB 196 reported favorably
11:57:20 AM Tab 3 - SB 770 by Sen Burgess
11:57:34 AM Senator Burgess explains bill
11:59:14 AM No questions
11:59:20 AM Speaker LTC Terrence Gorman (Dept of Military Affairs) available for information only
11:59:54 AM No debate
11:59:58 AM Senator Burgess closes on bill
12:00:28 PM SB 770 reported favorably
12:00:50 PM Tab 8 - SB 1232 by Senator Book
12:01:01 PM Senator Book explains bill
12:02:25 PM Delete-all Amendment 181490

12:02:40 PM Senator Book explains amendment
12:02:56 PM No questions
12:02:59 PM No appearance forms
12:03:08 PM No debate
12:03:11 PM Sen Book waives close on bill
12:03:17 PM Amendment is adopted
12:03:21 PM Back on bill as amended
12:03:29 PM Sen Stargel in questions
12:03:46 PM Senator Book responds
12:04:28 PM Senator Stargel in questions
12:04:34 PM Response of sponsor
12:05:32 PM No appearance forms
12:05:40 PM Senator Stargel in debate
12:06:14 PM Senator Torres in debate
12:07:35 PM Senator Stewart in debate
12:08:27 PM Senator Book closes on bill
12:08:41 PM CS/SB 1232 is reported favorably
12:09:00 PM Tab 14 - SB 1626 by Senator Albritton
12:09:14 PM Sponsor explains bill
12:10:43 PM No questions on bill
12:10:49 PM No appearance forms
12:10:57 PM No debate
12:10:58 PM Senator Albritton waives close on bill
12:11:06 PM SB 1626 reported favorably
12:11:20 PM Chair Rodrigues passes the gavel to Vice Chair Gruters
12:11:32 PM Tab 7 - SB 1136 by Senator Rodrigues
12:11:40 PM Sponsor explains bill
12:13:20 PM No questions
12:13:24 PM No appearance forms
12:13:29 PM No debate
12:13:33 PM Senator Rodrigues closes on bill
12:14:17 PM SB 1136 reported favorably
12:14:30 PM Gavel turned back over to Chair Rodrigues
12:14:38 PM Short recess
12:14:57 PM Recording Paused
12:16:06 PM Recording Resumed
12:16:11 PM Called back to order
12:16:18 PM Tab 6 - SR 1074 by Senator Jones
12:16:54 PM Bill explained by Senator Jones
12:18:06 PM Questions from Senator Stargel
12:19:10 PM Response of sponsor
12:19:20 PM Back and forth in questions
12:19:58 PM Speaker Sofia Herrera, waives in support
12:20:11 PM Speaker Alyssa Ackbar, waives in support
12:20:25 PM Speaker Carrie Boyd, waives in support
12:20:35 PM Speaker Karen Woodall waives in support
12:20:47 PM Speaker Jessica Lewis, waives in support
12:21:03 PM Senator Torres in debate
12:22:18 PM Senator Stargel in debate
12:24:31 PM Senator Jones closes on Resolution
12:25:43 PM SR 1074 reported favorably
12:25:57 PM Tab 4 - SB 836 by Senator Jones
12:26:06 PM Delete-all Amendment 303242
12:26:19 PM Sponsor explains amendment
12:27:55 PM No questions
12:28:03 PM Speaker Alyssa Ackbar
12:30:16 PM Speaker Sofia Herrera
12:32:30 PM No debate
12:32:32 PM Senator Jones waives close on amendment
12:32:39 PM Amendment is adopted
12:32:43 PM Back on the bill as amended
12:32:47 PM Senator Stargel in questions

12:32:55 PM Senator Jones responds to question
12:33:27 PM Chair comments
12:34:14 PM Carrie Boyd, waives in support
12:34:28 PM Karen Woodall waives in support
12:34:38 PM Pastor Rhonda Thomas waives in support
12:34:46 PM Senator Stargel in debate
12:35:24 PM Senator Stewart in debate
12:36:06 PM Comments from Chair
12:36:44 PM Senator Jones waives close
12:36:50 PM CS/SB 836 reported favorably
12:37:06 PM Tab 9 - SB 1448 by Senator Jones
12:37:17 PM Delete-all Amendment 720732
12:37:28 PM Senator Jones explains amendment
12:40:03 PM No questions
12:40:11 PM No appearance forms
12:40:17 PM No debate
12:40:19 PM Senator Jones waives close on amendment
12:40:24 PM Amendment is adopted
12:40:30 PM Back on bill as amended
12:40:36 PM No questions
12:40:38 PM No appearance forms
12:40:46 PM No debate
12:40:48 PM Senator Jones closes on bill
12:41:19 PM CS/SB 1448 reported favorably
12:41:50 PM Senator Gruters moves to adjourn
12:41:56 PM Meeting is adjourned