

Tab 1 **HB 529 by Fine (CO-INTRODUCERS) Andrade, Drake, Fischer, Leek, Massullo; (Similar to CS/S 00282)**
Moments of Silence in Public Schools

844728	A	S	UNFAV	RC, Thurston	Delete L.48 - 50:	04/14 04:54 PM
383548	A	S		RC, Thurston	Delete L.48 - 50:	04/12 05:10 PM

Tab 2 **CS/SB 78 by JU, Rodrigues; (Identical to H 00947) Dues and Uniform Assessments**

~~538638~~	A	S	WD	RC, Thurston	Delete L.57 - 103.	04/06 07:10 AM
417610	A	S		RC, Rodrigues	Delete L.57 - 90:	04/05 07:33 AM
~~841216~~	AA	S	WD	RC, Rodrigues	Delete L.5 - 29:	04/05 05:27 PM
520890	AA	S		RC, Rodrigues	Delete L.5 - 29:	04/05 05:26 PM
~~177924~~	AA	S	WD	RC, Thurston	Delete L.5 - 29:	04/12 06:27 PM
717212	A	S		RC, Thurston	Delete L.57 - 103.	04/05 09:00 AM

Tab 3 **CS/CS/SB 90 by GO, EE, Baxley; (Compare to CS/H 07041) Election Administration**

940740	D	S	UNFAV	RC, Thurston	Delete everything after	04/14 07:27 PM
262784	D	S	FAV	RC, Baxley	Delete everything after	04/14 07:27 PM
937796	AA	S	UNFAV	RC, Farmer	Delete L.58 - 344:	04/14 07:27 PM
524636	AA	S	FAV	RC, Brandes	btw L.60 - 61:	04/14 07:27 PM
~~105356~~	AA	S	WD	RC, Thurston	Delete L.185 - 195:	04/14 07:27 PM
139050	AA	S	UNFAV	RC, Brandes	Delete L.185 - 195:	04/14 07:27 PM
396232	AA	S	FAV	RC, Farmer, Mayfield	btw L.388 - 389:	04/14 07:27 PM
112822	AA	S	FAV	RC, Brandes	btw L.388 - 389:	04/14 07:27 PM
525218	AA	S	UNFAV	RC, Brandes	Delete L.463 - 497:	04/14 07:27 PM
284554	AA	S	UNFAV	RC, Farmer	Delete L.661 - 666.	04/14 07:27 PM
742050	AA	S	UNFAV	RC, Farmer	Delete L.759 - 771.	04/14 07:27 PM
153722	AA	S	UNFAV	RC, Farmer	Delete L.772 - 776.	04/14 07:27 PM
522990	AA	S	UNFAV	RC, Brandes	btw L.896 - 897:	04/14 07:27 PM
~~869832~~	D	S	WD	RC, Brandes	Delete everything after	04/14 07:27 PM
539276	A	S		RC, Thurston	Before L.42:	04/12 01:15 PM
143600	A	S		RC, Farmer	Delete L.57 - 84.	04/05 09:11 AM
237818	A	S		RC, Farmer	Delete L.85 - 88.	04/05 09:09 AM
955778	A	S		RC, Farmer	Delete L.175 - 321:	04/05 09:07 AM
270846	A	S		RC, Farmer	Delete L.322 - 335.	04/05 09:04 AM
581454	A	S		RC, Farmer	Delete L.336 - 343.	04/05 09:06 AM

Tab 4 **CS/SB 220 by GO, Brandes (CO-INTRODUCERS) Rodrigues; (Identical to 1ST ENG/H 00997) Public Records and Public Meetings****Tab 5** **CS/SB 266 by CA, Perry (CO-INTRODUCERS) Baxley; (Similar to CS/H 00403) Home-based Businesses**

248258	A	S	RCS	RC, Perry	Delete L.33 - 78:	04/14 03:13 PM

Tab 6 **CS/CS/SB 426 by CA, TR, Boyd; (Identical to CS/CS/H 00267) State Preemption of Seaport Regulations**

189734	A	S	RCS	RC, Boyd	Delete L.112 - 158:	04/14 03:16 PM
~~803408~~	A	S	WD	RC, Brandes	Delete L.141:	04/14 03:16 PM

Tab 7 **CS/CS/SB 522 by AP, RI, Diaz; (Similar to CS/H 00219) Vacation Rentals**

888468	A	S		RC, Diaz	Delete L.303 - 446:	04/13 03:47 PM

Tab 8 **CS/SB 1014 by GO, Baxley; (Compare to CS/CS/CS/H 00835) Employee Organizations**

162200	D	S		RC, Baxley	Delete everything after	04/13 08:51 AM

Tab 9 SB 2012 by Stargel; (Compare to CS/H 01475) Promoting Equality of Athletic Opportunity						
407712	A	S	RC, Book	btw L.176 - 177:	04/12 04:36 PM	
315338	A	S	RC, Farmer	btw L.176 - 177:	04/12 05:35 PM	
746008	A	S	RC, Powell	btw L.176 - 177:	04/13 08:40 AM	
Tab 10 SB 7070 by ED; (Compare to CS/H 00937) Impact of COVID-19 on Educational Institutions						
502390	D	S	RC, Gruters	Delete everything after	04/12 06:19 PM	
959540	AA	S	RC, Gruters	Delete L.92 - 139:	04/14 08:27 AM	
487960	AA	S	RC, Thurston	btw L.142 - 143:	04/13 03:44 PM	
269424	AA	S	RC, Thurston	btw L.142 - 143:	04/13 04:33 PM	
Tab 11 CS/CS/HB 259 by JDC, EEC, Williamson, Byrd (CO-INTRODUCERS) Andrade, Bell, Beltran, Brannan, DiCeglie, Duggan, Fine, Fischer, Grall, Gregory, Harding, Hawkins, Ingoglia, Leek, Maggard, Maney, Massullo, McClain, Overdorf, Payne, Roach, Robinson, W., Rommel, Sabatini, Salzman, Shoaf, Sirois, Smith, D., Snyder, Yarborough; (Similar to CS/S 00498) Safety of Religious Institutions						
706888	A	S	RC, Thurston	Delete L.12 - 26:	04/13 08:33 AM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES

Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Wednesday, April 14, 2021

TIME: 9:00 a.m.—2:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Garcia, Vice Chair; Senators Albritton, Baxley, Bean, Book, Bracy, Brandes, Diaz, Farmer, Gibson, Gruters, Hutson, Mayfield, Powell, Stargel, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
Pending Reconsideration:			
1	HB 529 Fine (Similar CS/S 282)	Moments of Silence in Public Schools; Requires principals to require teachers to set aside time for moment of silence; prohibits teachers from making suggestions to nature of any reflection during moment of silence; deletes provision authorizing district school boards to provide brief period of silent prayer or meditation; requires certain teachers encourage parents or guardians to discuss moment of silence & make suggestions as to the best use of this time. RC 04/06/2021 Pending reconsideration (Favorable) RC 04/14/2021 Failed reconsideration (Favorable)	Motion to Reconsider Failed -- Final Vote: Favorable Yeas 12 Nays 5
2	CS/SB 78 Judiciary / Rodrigues (Identical H 947)	Dues and Uniform Assessments; Requiring that a public employee who desires to join an employee organization sign a membership authorization form; requiring an employee organization to revoke an employee's membership upon receipt of the employee's request for revocation; providing that certain deductions commence upon the employer's receipt and confirmation of the employee's signed deduction authorization form; specifying the time period that an employee's authorization to deduct dues and uniform assessments remains in effect, etc. GO 01/27/2021 Favorable JU 02/01/2021 Temporarily Postponed JU 02/10/2021 Fav/CS RC 02/18/2021 Not Received RC 03/04/2021 Not Considered RC 04/06/2021 Temporarily Postponed RC 04/14/2021 Temporarily Postponed	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Rules

Wednesday, April 14, 2021, 9:00 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/CS/SB 90 Governmental Oversight and Accountability / Ethics and Elections / Baxley (Compare CS/H 7041)	Election Administration; Limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; requiring vote-by-mail ballot requests to include additional identifying information regarding the requesting elector; prohibiting the display of an absent elector's party affiliation or other partisan information on the outside of vote-by-mail ballots and return and secrecy envelopes; prohibiting the use of drop boxes for the return of vote-by-mail ballots, etc. EE 02/16/2021 Fav/CS GO 03/10/2021 Fav/CS RC 04/06/2021 Temporarily Postponed RC 04/14/2021 Amendments Adopted - Temporarily Postponed	Amendments Adopted - Temporarily Postponed
4	CS/SB 220 Governmental Oversight and Accountability / Brandes (Identical H 997)	Public Records and Public Meetings; Providing an exemption from public records requirements for any personal identifying information of an applicant for president of a state university or a Florida College System institution held by a state university or a Florida College System institution; specifying when the personal identifying information of applicants who are in the final group of applicants is no longer confidential and exempt; specifying that certain meetings are not exempt from public meeting requirements; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. ED 01/26/2021 Favorable GO 02/17/2021 Fav/CS RC 04/14/2021 Not Considered	Not Considered
5	CS/SB 266 Community Affairs / Perry (Similar CS/H 403)	Home-based Businesses; Specifying conditions under which a business is considered a home-based business; providing requirements for home-based businesses; authorizing a home-based business to operate in a residential zone under certain circumstances; specifying that home-based businesses are subject to certain business taxes; prohibiting a local government from taking certain actions relating to home-based businesses, etc. CA 03/10/2021 Fav/CS CM 03/22/2021 Favorable RC 04/14/2021 Fav/CS	Fav/CS Yeas 12 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Rules

Wednesday, April 14, 2021, 9:00 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/CS/SB 426 Community Affairs / Transportation / Boyd (Identical CS/CS/H 267)	State Preemption of Seaport Regulations; Prohibiting a local ballot initiative or referendum from restricting maritime commerce in the seaports of this state; providing that such a local ballot initiative, referendum, or action adopted therein is prohibited, void, and expressly preempted to the state; prohibiting municipalities and certain special districts from restricting maritime commerce in the seaports of this state with respect to any federally authorized passenger cruise vessel; providing that certain actions relating to such restrictions are prohibited, void, and expressly preempted to the state; clarifying remaining authority of certain local entities, etc. TR 03/10/2021 Fav/CS CA 03/24/2021 Fav/CS RC 04/14/2021 Fav/CS	Fav/CS Yeas 12 Nays 5
7	CS/CS/SB 522 Appropriations / Regulated Industries / Diaz (Similar CS/H 219, Compare H 1481, S 1988)	Vacation Rentals; Requiring advertising platforms to collect and remit taxes for certain transactions; revising an exemption to the prohibition against certain local regulation of vacation rentals; preempting the regulation of advertising platforms to the state; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; authorizing the department to adopt emergency rules; providing requirements and an expiration for such rules, etc. RI 02/16/2021 Fav/CS AP 03/11/2021 Fav/CS RC 04/14/2021 Not Considered	Not Considered
8	CS/SB 1014 Governmental Oversight and Accountability / Baxley (Similar CS/CS/H 835)	Employee Organizations; Requiring certain employee organizations to petition the Public Employees Relations Commission for recertification; prohibiting an employee organization from having its dues and uniform assessments deducted and collected by a district school board; requiring an employee organization certified as the bargaining agent for a unit of Florida College System institution instructional personnel to include specified information and documentation in an application for registration renewal; requiring an employee organization certified as the bargaining agent for a unit of State University System institution instructional personnel to include specified information and documentation in an application for registration renewal, etc. GO 03/17/2021 Fav/CS RC 04/06/2021 Temporarily Postponed RC 04/14/2021 Not Considered	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Rules

Wednesday, April 14, 2021, 9:00 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 2012 Stargel (Compare CS/H 1475)	Promoting Equality of Athletic Opportunity; Creating the "Promoting Equality of Athletic Opportunity Act"; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic teams or sports designated for female students from being open to male students; specifying conditions under which persons who transition from male to female are eligible to compete in the female category; requiring a student that fails to comply with certain conditions to be suspended from female competition for 12 months; requiring the Board of Governors of the State University System to adopt regulations and the State Board of Education to adopt rules regarding the resolution of disputes, etc. ED 03/23/2021 Favorable HP 03/31/2021 Favorable RC 04/14/2021 Temporarily Postponed	Temporarily Postponed
10	SB 7070 Education (Compare CS/H 937, CS/H 1261, CS/S 1296)	Impact of COVID-19 on Educational Institutions; Requiring the Board of Nursing to extend an approved program's probationary status under certain circumstances; prohibiting an educational institution that has taken certain reasonably necessary actions to diminish the impact or spread of COVID-19 from being civilly liable for such actions; providing that general publications of educational institutions are not evidence of an implied contract to provide specified services during the COVID-19 public health emergency; authorizing school grades calculated during a certain school year to be used for eligibility for the Florida School Recognition Program, etc. RC 04/14/2021 Not Considered	Not Considered
11	CS/CS/HB 259 Judiciary Committee / Education and Employment Committee / Williamson / Byrd (Similar CS/S 498)	Safety of Religious Institutions; Authorizes, for specified purposes, concealed weapons or firearms licensee to carry firearm on certain property of church, synagogue, or other religious institution. RC 04/14/2021 Not Considered	Not Considered

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: HB 529

INTRODUCER: Representative Fine and others

SUBJECT: Moments of Silence in Public Schools

DATE: April 2, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Brick	Phelps	RC	Favorable

I. Summary:

HB 529 requires a moment of silence to be set aside for students during each school day.

The bill revises current law that allows a district school board to set aside a brief period of time for silent prayer or meditation. Instead, the bill requires each teacher during first period to set aside 1 to 2 minutes for a moment of silence. A teacher may not make suggestions as to the nature of any reflection, and a student may not interfere with another student's participation.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2021.

II. Present Situation:

District school boards may set aside up to two minutes for silent prayer or meditation at the start of each school day or each school week in the public schools in the district.¹

Fourteen states require a moment of silence or a period for contemplation or prayer during each school day.² An additional eighteen states authorize the school district, school, or classroom to observe a period of silence or prayer during each school day.³

¹ Section 1003.45, F.S., added in s. 1, ch. 80-336, L.O.F.

² Ala. Code s. 16-1-20; Ark. Code Ann. s. 6-10-115; Conn. Gen. Stat. s. 10-16a; Ga. Code Ann. s. 20-2-150; 105 Ill. Comp. Stat. 20/1; Ind. Code s. 20-30-5-4.5; Mass. Gen. Laws Ann. ch. 71, s. 1A; Nev. Rev. Stat. Ann. s. 388.075; N.H. Rev. Stat. s. 189:1-b; R.I. Gen. Laws s. 16-12-3.1; S.C. Code Ann. s. 59-1-443; Tenn. Code Ann. s. 49-6-1004; Tex. Code Ann. s. 25.082(d); Va. Code Ann. s. 22.1-203.

³ Ariz. Rev. Stat. Ann. s. 15-342(21); Del. Code Ann. tit. 14, s. 4101A; Section 1003.45, F.S.; Kan. Stat. Ann. s. 72-9929; Ky. Rev. Stat. Ann. s. 158.175; La. Rev. Stat. Ann. s. 17:2115; Me. Rev. Stat. Ann. tit. 20-a., s. 4805; Md. Code, Educ. s. 7-104; Mich. Comp. Laws Ann. s. 380.1565; Minn. Stat. Ann. s. 121A.10; Mont. Code Ann. s. 20-7-112; N.M. Stat. Ann. s. 22-27-3; N.Y. law s. 3029-a; N.C. Gen. Stat. s. 115C-47(29); N.D. Cent. Code s. 15.1-19-03.1; Ohio Rev. Code s. 3313.601; 24 Pa. Const. Stat. s. 15-1516.1; Utah Code Ann. s. 53G-7-207.

III. Effect of Proposed Changes:

HB 529 amends s. 1003.45, F.S., to require that a moment of silence be set aside for students during each school day. Currently, a district school board *may* provide a brief period of meditation or silent prayer not to exceed two minutes.

The bill directs the principal of each public school to require teachers in first-period classrooms in all grades to set aside 1 to 2 minutes daily⁴ for a moment of silence, during which students may not interfere with other students' participation.

The bill provides that a teacher:

- May not make suggestions as to the nature of any reflection that a student may engage in during the moment of silence.
- Must encourage parents to discuss the moment of silence with their children and to make suggestions as to the best use of this time.

The bill provides legislative findings for the value of a moment of daily reflection.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁴ One to 2 minutes daily accumulates to 3 to 6 hours of instructional time over the course of the school year. Florida Department of Education, *Senate Bill 282 Agency Analysis* (December 18, 2020), p. 3-4.

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 1003.45, 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.



844728

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 50
and insert:
parents or guardians to discuss with their children how to best
use the moment of silence.

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

And the title is amended as follows:

Delete lines 15 - 16
and insert:



844728

12 with their children how to best use the moment of
13 silence; providing an effective date.



383548

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 50
and insert:
parents or guardians to discuss with their children how to best
use the moment of silence.

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

And the title is amended as follows:

Delete lines 14 - 16
and insert:



383548

12 parents or guardians to discuss with their children
13 how to best use the moment of silence; providing an
14 effective date.

HB 529

2021

1 A bill to be entitled
 2 An act relating to moments of silence in public
 3 schools; amending s. 1003.45, F.S.; providing
 4 legislative findings; requiring that public school
 5 principals require certain teachers to set aside time
 6 for a moment of silence at the beginning of each
 7 school day; specifying the duration of the required
 8 moment of silence; prohibiting teachers from making
 9 suggestions as to the nature of any reflection that a
 10 student may engage in during the moment of silence;
 11 deleting a provision authorizing district school
 12 boards to provide a brief period of silent prayer or
 13 meditation; requiring certain teachers to encourage
 14 parents or guardians to discuss the moment of silence
 15 with their children and to make suggestions as to the
 16 best use of this time; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Section 1003.45, Florida Statutes, is amended
 21 to read:
 22 1003.45 Permitting study of the Bible and religion;
 23 requiring a moment of silence ~~permitting brief meditation~~
 24 ~~period.~~
 25 (1) The district school board may install in the public

Page 1 of 3

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

hb0529-00

HB 529

2021

26 schools in the district a secular program of education
 27 including, but not limited to, an objective study of the Bible
 28 and of religion.
 29 (2) The Legislature finds that in today's hectic society
 30 too few persons are able to experience even a moment of quiet
 31 reflection before plunging headlong into the activities of daily
 32 life. Young persons are particularly affected by the absence of
 33 an opportunity for a moment of quiet reflection. The Legislature
 34 finds that our youth, and society as a whole, would be well
 35 served if students in the public schools were afforded a moment
 36 of silence at the beginning of each school day.
 37 (3) The principal of each public school shall require
 38 teachers in first-period classrooms in all grades to set aside
 39 at least 1 minute, but ~~district school board may provide that a~~
 40 ~~brief period,~~ not more than to exceed 2 minutes, daily, ~~for a~~
 41 ~~moment~~ the purpose of silence, during which students may not
 42 interfere with other students' participation. A teacher may not
 43 make suggestions as to the nature of any reflection that a
 44 student may engage in during the moment of silence ~~silent prayer~~
 45 ~~or meditation be set aside at the start of each school day or~~
 46 ~~each school week in the public schools in the district.~~
 47 (4) Each first-period classroom teacher shall encourage
 48 parents or guardians to discuss the moment of silence with their
 49 children and to make suggestions as to the best use of this
 50 time.

Page 2 of 3

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

hb0529-00

HB 529

2021

51 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 Rules

BILL: CS/SB 78

INTRODUCER: Judiciary Committee and Senator Rodrigues

SUBJECT: Dues and Uniform Assessments

DATE: March 2, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3. <u>McVaney</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 78 requires a public employee wanting to join a union to submit a signed membership authorization form that includes a specific statutory notice. The union must revoke the membership if the employee submits a signed request for revocation. The union may not require a reason for the employee's decision to revoke membership in the union.

The bill also requires a public employee to submit a signed dues deduction form before an employer may deduct union dues from an employee's pay. The employer must, within 30 days, confirm with the employee that the employee authorized the deduction. Such authorization to deduct ends automatically when the members of the employee organization ratify a new collective bargaining agreement or after three years, whichever occurs earlier.

Public employers may experience an indeterminate, but likely insignificant, increase in workload and costs associated with the administration of the authorization and revocation of dues deductions.

The bill takes effect upon becoming a law.

II. Present Situation:

Collective Bargaining

Article 1, section 6 of the State Constitution guarantees that “the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” To implement this constitutional provision, the Legislature enacted ch. 447, F.S. Part II of the chapter, which part is solely applicable to public employees and public employee unions, provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.¹ Through collective bargaining, public employees² may collectively negotiate with their public employer³ in the determination of the terms and conditions of their employment.⁴ The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.⁵

An “employee organization” is any “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.”⁶ When an employee organization is approved by the employees, recognized by the employer, and authorized to conduct collective bargaining, it is referred to as a certified bargaining agent, and becomes the exclusive representative of all employees in that unit.⁷

After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of wages, hours, and terms and

¹ Section 447.201, F.S.

² Section 447.203(3), F.S., defines the term “public employee” to mean any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
 - 1. Federal license requirement.
 - 2. Federal autonomy regarding investigation and disciplining of appointees.
 - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

³ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁴ Section 447.301(2), F.S.

⁵ Section 447.201(3), F.S.

⁶ Section 447.203(11), F.S.

⁷ Sections 447.203(12), 447.307(1), F.S.

conditions of employment of the employees.⁸ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.⁹ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁰ Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.¹¹

Right-to-Work

The State Constitution forbids an employer from denying citizens the right to work based on membership or non-membership in any employee organization.¹² As such, public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.¹³

Union Dues and Deductions in Florida

Section 447.303, F.S., authorizes a certified bargaining agent, a union, to have its dues and uniform assessments collected by a public employer by deducting such payments from the salaries of those employees who choose to authorize the practice. The employee's authorization is revocable with 30 days written notice to the employer and union, but otherwise continues for the length of the union's duration as certified bargaining agent. The deductions commence upon the bargaining agent's written request to the employer. While employers may make salary deductions for dues and uniform assessments, employers are expressly prohibited from any involvement in collecting fines, penalties, or special assessments.

Section 110.114, F.S., governs all employee wage deductions for state employment. The state, its departments, bureaus, commissions, and officers are permitted to make deductions from employees' salaries when authorized and requested by the employee.¹⁴ All records of employee requests and employer authorizations for deductions from an employee's wage or salary, or the legal authority for the deduction, shall be maintained by each employing entity.¹⁵

According to the Department of Management Services, 72,356 state employees (excluding state university system employees) were represented by unions during Fiscal Year 2018-19. Of these employees, 8,998 paid union dues and assessments.¹⁶ Local government union membership levels are unknown.

⁸ Section 447.309(1), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 447.309(5), F.S.

¹² FLA. CONST. art. 1, s. 6.

¹³ Section 447.301(1) and (2), F.S.

¹⁴ *Id.*

¹⁵ Section 110.114(4), F.S.

¹⁶ State Personnel System, *Annual Workforce Report for Fiscal Year 2018-2019*, page 26,

[https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_\(FINAL\).pdf](https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_(FINAL).pdf)
(last visited January 27, 2021).

III. Effect of Proposed Changes:

Section 1 amends s. 447.301, F.S., to require a public employee wanting to join a union to sign a membership authorization form. The form must include the following acknowledgement:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

Furthermore, the section requires an employee organization to revoke an employee's membership upon receipt of written request. Any form required to fulfill this request may not require the employee to disclose a reason for membership revocation.

Section 2 amends s. 447.303, F.S., to require that before an employer begins deducting union dues from an employee's pay, the employer must receive a signed authorization form from the bargaining agent and confirm such authorization with the employee. Confirmation must be completed within 30 days. The means of confirmation is not specified and thus will be determined by the employing entity. The section further provides that such authorization will end automatically when the employee organization ratifies a new collective bargaining agreement or after three years, whichever occurs first.

Section 3 reenacts s. 110.114(3), F.S., in order to incorporate the changes made in section 1 of the bill.

Section 4 provides that the bill takes effect upon becoming a law.

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:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent to which the new requirements depress union membership or salary deductions for union dues or increase costs associated with the creation and use of membership authorization and dues deduction forms, public sector unions may experience a negative fiscal impact.

C. Government Sector Impact:

Public agencies may experience additional workload relating to administering the authorization and revocation of dues deductions for public employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 447.301 and 447.303.

This bill reenacts section 110.114, 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 Judiciary on February 10, 2021:

The CS added a provision requiring that employer confirmation of a deduction of union dues be completed within 30 days.

B. Amendments:

None.

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



538638

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/06/2021	.	
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The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 103.

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

And the title is amended as follows:

Delete lines 13 - 21

and insert:

the revocation; providing an



417610

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 90

and insert:

3. This paragraph does not apply to law enforcement officers as defined in s. 943.10(1) or firefighters as defined in s. 633.102.

Section 2. Section 447.303, Florida Statutes, is amended to read:

447.303 Dues; deduction and collection.—

(1) An ~~Any~~ employee organization that ~~which~~ has been



417610

certified as a bargaining agent has ~~shall have~~ the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.

(2) (a) Deductions shall commence when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee, electronically or by other means, that he or she authorized the deduction of dues and uniform assessments. The employer must make such confirmation within 30 days after receiving the signed deduction authorization form.

(b) An employee's authorization to deduct dues and uniform assessments remains in effect until the members of the bargaining unit approve a new collective bargaining agreement with the public employer or for 3 years after the date on which the deduction begins, whichever is earlier.

(c) This subsection does not apply to law enforcement officers as defined in s. 943.10(1) or firefighters as defined in s. 633.102.

(3) Notwithstanding paragraph (2) (b), ~~However, such~~ authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. ~~Said deductions shall commence upon the bargaining agent's written request to the employer.~~

(4) Reasonable costs to the employer of said deductions is ~~shall be~~ a proper subject of collective bargaining.

(5) Such right to deduction, unless revoked under ~~pursuant to~~ s. 447.507, is ~~shall be~~ in force for so long as the employee organization remains the certified bargaining agent for the



417610

employees in the unit.

(6) The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

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

And the title is amended as follows:

Delete lines 13 - 18

and insert:

the revocation; providing applicability; amending s.
447.303, F.S.; providing that certain deductions
commence upon the employer's receipt and confirmation
of the employee's signed deduction authorization form;
specifying the time period that an employee's
authorization to deduct dues and uniform assessments
remains in effect; providing applicability; reenacting



841216

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/05/2021	.	
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The Committee on Rules (Rodrigues) recommended the following:

Senate Amendment to Amendment (417610)

Delete lines 5 - 29
and insert:

3. This paragraph does not apply to members of bargaining
units that represent law enforcement officers as defined in s.
943.10 or firefighters as defined in s. 633.102.

Section 2. Section 447.303, Florida Statutes, is amended to
read:

447.303 Dues; deduction and collection.—

(1) An ~~Any~~ employee organization that ~~which~~ has been



841216

certified as a bargaining agent has ~~shall have~~ the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.

(2) (a) Deductions shall commence when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee, electronically or by other means, that he or she authorized the deduction of dues and uniform assessments. The employer must make such confirmation within 30 days after receiving the signed deduction authorization form.

(b) An employee's authorization to deduct dues and uniform assessments remains in effect until the members of the bargaining unit approve a new collective bargaining agreement with the public employer or for 3 years after the date on which the deduction begins, whichever is earlier.

(c) This subsection does not apply to members of bargaining units that represent law enforcement officers as defined in s. 943.10 or firefighters as defined



520890

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Rodrigues) recommended the following:

Senate Amendment to Amendment (417610)

Delete lines 5 - 29
and insert:

3. This paragraph does not apply to members of bargaining units that represent law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10 or firefighters as defined in s. 633.102.

Section 2. Section 447.303, Florida Statutes, is amended to read:

447.303 Dues; deduction and collection.—



520890

12 (1) An ~~Any~~ employee organization that ~~which~~ has been
13 certified as a bargaining agent ~~has~~ ~~shall have~~ the right to have
14 its dues and uniform assessments deducted and collected by the
15 employer from the salaries of those employees who authorize the
16 deduction of said dues and uniform assessments.

17 (2) (a) Deductions shall commence when the employer receives
18 a signed deduction authorization form from the bargaining agent
19 and confirms with the employee, electronically or by other
20 means, that he or she authorized the deduction of dues and
21 uniform assessments. The employer must make such confirmation
22 within 30 days after receiving the signed deduction
23 authorization form.

24 (b) An employee's authorization to deduct dues and uniform
25 assessments remains in effect until the members of the
26 bargaining unit approve a new collective bargaining agreement
27 with the public employer or for 3 years after the date on which
28 the deduction begins, whichever is earlier.

29 (c) This subsection does not apply to members of bargaining
30 units that represent law enforcement officers, correctional
31 officers, or correctional probation officers as those terms are
32 defined in s. 943.10 or firefighters as defined



177924

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2021	.	
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The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (417610)

Delete lines 5 - 29
and insert:

3. This paragraph does not apply to members of bargaining units that represent law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10, registered nurses as defined in s. 464.003, or firefighters as defined in s. 633.102.

Section 2. Section 447.303, Florida Statutes, is amended to read:



177924

12 447.303 Dues; deduction and collection.—

13 (1) An ~~Any~~ employee organization that ~~which~~ has been
14 certified as a bargaining agent ~~has~~ ~~shall have~~ the right to have
15 its dues and uniform assessments deducted and collected by the
16 employer from the salaries of those employees who authorize the
17 deduction of said dues and uniform assessments.

18 (2) (a) Deductions shall commence when the employer receives
19 a signed deduction authorization form from the bargaining agent
20 and confirms with the employee, electronically or by other
21 means, that he or she authorized the deduction of dues and
22 uniform assessments. The employer must make such confirmation
23 within 30 days after receiving the signed deduction
24 authorization form.

25 (b) An employee's authorization to deduct dues and uniform
26 assessments remains in effect until the members of the
27 bargaining unit approve a new collective bargaining agreement
28 with the public employer or for 3 years after the date on which
29 the deduction begins, whichever is earlier.

30 (c) This subsection does not apply to members of bargaining
31 units that represent law enforcement officers, correctional
32 officers, or correctional probation officers as those terms are
33 defined in s. 943.10, registered nurses as defined in s.
34 464.003, or firefighters as defined



717212

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 103.

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

And the title is amended as follows:

Delete lines 13 - 21

and insert:

the revocation; providing an

By the Committee on Judiciary; and Senator Rodrigues

590-02047-21

202178c1

A bill to be entitled

An act relating to dues and uniform assessments; amending s. 447.301, F.S.; requiring that a public employee who desires to join an employee organization sign a membership authorization form; requiring that the form include a specified acknowledgement; requiring an employee organization to revoke an employee's membership upon receipt of the employee's request for revocation; requiring certain employees to provide specified notice to his or her employer to revoke certain deductions; providing that a revocation form may not require an employee to state a reason for the revocation; amending s. 447.303, F.S.; providing that certain deductions commence upon the employer's receipt and confirmation of the employee's signed deduction authorization form; specifying the time period that an employee's authorization to deduct dues and uniform assessments remains in effect; reenacting s. 110.114(3), F.S., relating to employee wage deductions, to incorporate the amendment made to s. 447.303, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (1) of section 447.301, Florida Statutes, is amended to read:

447.301 Public employees' rights; organization and representation.—

Page 1 of 4

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

590-02047-21

202178c1

(1) ~~(a)~~ Public employees ~~shall~~ have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

(b)1. An employee who desires to join an employee organization must sign a membership authorization form with the bargaining agent. The membership authorization form must contain the following acknowledgment in bold letters and in at least a 14-point type:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

2. An employee organization must revoke an employee's membership upon receipt of his or her written request for revocation. However, an employee who has authorized the deduction of dues and uniform assessments by his or her employer must also submit notice to his or her employer as provided in s. 447.303 for the revocation of such deductions. If an employee must complete a form to request revocation from the employee organization, the form may not require a reason for the employee's decision to revoke his or her membership.

Section 2. Section 447.303, Florida Statutes, is amended to read:

Page 2 of 4

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

590-02047-21

202178c1

447.303 Dues; deduction and collection.—

(1) ~~An Any~~ employee organization ~~that which~~ has been certified as a bargaining agent ~~has shall have~~ the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.

(2) (a) Deductions shall commence when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee, electronically or by other means, that he or she authorized the deduction of dues and uniform assessments. The employer must make such confirmation within 30 days after receiving the signed deduction authorization form.

(b) An employee's authorization to deduct dues and uniform assessments remains in effect until the members of the bargaining unit approve a new collective bargaining agreement with the public employer or for 3 years after the date on which the deduction begins, whichever is earlier.

(c) Notwithstanding paragraph (b), ~~However, such~~ authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. ~~Said deductions shall commence upon the bargaining agent's written request to the employer.~~

(3) Reasonable costs to the employer of said deductions is ~~shall be~~ a proper subject of collective bargaining.

(4) Such right to deduction, unless revoked under pursuant ~~to s. 447.507, is shall be~~ in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit.

590-02047-21

202178c1

(5) The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

Section 3. For the purpose of incorporating the amendment made by this act to section 447.303, Florida Statutes, in a reference thereto, subsection (3) of section 110.114, Florida Statutes, is reenacted to read:

110.114 Employee wage deductions.—

(3) Notwithstanding the provisions of subsections (1) and (2), the deduction of an employee's membership dues deductions as defined in s. 447.203(15) for an employee organization as defined in s. 447.203(11) shall be authorized or permitted only for an organization that has been certified as the exclusive bargaining agent pursuant to chapter 447 for a unit of state employees in which the employee is included. Such deductions shall be subject to the provisions of s. 447.303.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 90

INTRODUCER: Governmental Oversight and Accountability Committee; Ethics and Elections
Committee and Senator Baxley

SUBJECT: Election Administration

DATE: April 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Candeleria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Biehl</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 90 makes the following changes to the Election Code:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and

- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

The bill takes effect July 1, 2021.

II. Present Situation:

Please see “Effect of Proposed Changes.”

III. Effect of Proposed Changes:

Request for Vote-by-Mail Ballot (Section 1)

Present Situation

Florida law allows an elector to request a vote-by-mail (VBM) ballot to be used in lieu of voting at the polls during early voting or on Election Day. An elector does not need to provide a reason for a VBM ballot request.

An elector can request a VBM ballot in person, in writing, or by telephone.¹ In addition, a request for a VBM ballot can be made by the elector’s legal guardian or, if directed by the elector, a member of the elector’s immediate family. The person making the request must disclose:

- The name of the elector for whom the ballot is requested;
- The elector’s address;
- The elector’s date of birth;
- The requester’s name;
- The requester’s address;
- The requester’s driver license number, if available;
- The requester’s relationship to the elector; and
- The requester’s signature, if the request is made in writing.²

If an elector requests a VBM ballot to be sent to an address not on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector, unless the elector is an absent uniformed service voter or overseas voter.³

Current law does not specifically prohibit a supervisor of elections (supervisor) from mailing or otherwise providing a VBM ballot without a request.

For each request for a vote-by-mail ballot received, the supervisor must record:

- The date the request was made;
- The date the vote-by-mail ballot was delivered to the voter or voter’s designee⁴ or to the post office or other carrier;

¹ Sections 101.62(1)(a)-(b), F.S.

² Section 101.62(1)(b), F.S.

³ Section 101.62(1)(b), F.S.

⁴ An elector may designate in writing a person to pick up the VBM ballot for the elector, in compliance with ballot possession limitations (s. 101.62(4)(c)4., F.S.).

- The date the ballot was received by the supervisor;
- The absence of the elector's signature on the voter's certificate, if applicable; and
- Such other information he or she may deem necessary.⁵

Effect of Proposed Changes

Section 1 requires a person making a written or telephonic request for a VBM ballot to additionally provide one of the following identifiers:

- The elector's Florida driver license number;
- The elector's Florida identification card number; or
- The last four digits of the elector's social security number.

Section 1 also prohibits a supervisor from mailing or otherwise providing a VBM ballot unless a request is made.

Section 1 adds to the types of information related to vote-by-mail ballots that supervisors must record to also include whether the voter's certificate on a returned ballot contains a signature that does not match the elector's signature in the registration books or precinct register.⁶

Delivery of Vote-by-Mail Ballot (Section 2)

Present Situation

Current law requires a supervisor to enclose with each VBM ballot two envelopes:

- A secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and
- A mailing envelope, into which the absent elector shall then place the secrecy envelope.⁷

Current law does not prohibit display of partisan information on the outside of VBM ballots or accompanying envelopes.

Effect of Proposed Changes

Section 2 provides that the outside of a VBM ballot and the secrecy and mailing envelopes may not display the party affiliation of the absent elector who has been issued such ballot or display any other partisan information.

Return of Vote-by-Mail Ballot (Sections 3, 5, and 6)

Present Situation

Current law allows a voter to return a completed VBM ballot via mail or drop it off at an authorized site. It requires supervisors to allow voters to physically return completed VBM ballots by placing the envelope containing the marked ballot in a secure drop box.⁸ Secure drop boxes must be placed at the main office of the supervisor, at each branch office of the supervisor, and each early voting site. Drop boxes may also be placed at any other site that would otherwise

⁵ Section 101.62(3), F.S.

⁶ Section 98.461(2), F.S., requires a computer printout or electronic database to be used at the polls as a precinct register. The precinct register must contain the date of the election, the precinct number, specified information related to each registered voter, and spaces for the voter's signature and for the initials of the witnessing clerk or inspector.

⁷ Section 101.64(1), F.S.

⁸ Section 101.69(2), F.S.

qualify as an early voting site if such site is staffed during the county's early voting hours of operation by an employee of the supervisor's office or a sworn law enforcement officer.⁹

Current law makes it a first-degree misdemeanor for a person to provide or offer to provide, and for any person to accept, a benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two VBM ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member.¹⁰

Effect of Proposed Changes

Section 5 prohibits the use of drop boxes for return of completed VBM ballots.

Section 6 also limits persons who may lawfully possess a VBM ballot to the voter and his or her immediate family and makes a conforming change to persons who may be designated by an elector to pick up his or her VBM ballot.

Effective Period for Vote-by-Mail Ballot Request (Sections 1 and 7)

Present Situation

A general election is held on the first Tuesday after the first Monday in November of every even-numbered year – this means that a general election is held every two years.¹¹ A primary election is held 11 weeks before each general election.¹² The dates for the next primary election and general election are:

- Primary election – August 23, 2022; and
- General election – November 8, 2022.

Florida law provides that one request from an elector for a VBM ballot is sufficient to receive a VBM ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election,¹³ unless the elector indicates at the time of the request the elections for which he or she would like to receive a VBM ballot.¹⁴ A request for a VBM ballot may be considered canceled when any first-class mail sent by the supervisor of elections (supervisor) to the elector is returned as undeliverable.¹⁵

Since the establishment of Florida's absentee/vote-by-mail program, the number of elections for which one request for a VBM ballot is sufficient has varied, including:

- All elections held within a calendar year;¹⁶

⁹ *Id.*

¹⁰ Section 104.0616(2), F.S. The term "immediate family" means a person's spouse or the parent, child, grandparent, or sibling of the person or the person's spouse (s. 104.0616(1), F.S.).

¹¹ Article VI, s. 5(a), FLA. CONST.; and s. 100.031, F.S. A general election is held to choose a successor to each elective federal, state, county, and district officer whose term will expire before the next general election.

¹² Section 100.061, F.S. A primary election is held to determine party nominees to be on the ballot in the general election to fill each federal, state, county, or district office.

¹³ For example, under the current law, if a voter makes a general request for a VBM ballot in February 2021, then he or she would receive VBM ballots for all elections through the end of 2024, because the next two general elections will be held in November 2022 and November 2024, respectively.

¹⁴ Section 101.62(1)(a), F.S.

¹⁵ *Id.*

¹⁶ *See, e.g.,* the 2006 Florida Statutes.

- All elections through the next regularly scheduled general election;¹⁷
- All elections through the next two regularly scheduled general elections;¹⁸ and
- All elections through the end of the calendar year of the second ensuing regularly scheduled general election.¹⁹

In addition to Florida law, the federal Uniformed and Overseas Citizens Absentee Voter Act (UOCAVA) provides absentee voting requirements for federal offices for voters who are United States uniformed services members on active duty, Merchant Marine members, spouses or dependents thereof, or United States citizens residing outside of the United States.²⁰ In part, the UOCAVA requires establishment of an official post card form, known as the federal post card application (FPCA), to be used for voter registration application and absentee ballot application.²¹ The UOCAVA does not specify a length of time for which one FPCA request is effective. The Federal Voting Assistance Program, which is tasked with administrative responsibilities for the UOCAVA, currently provides guidance that the FPCA request allow an eligible voter to request an absentee ballot for all federal elections in the calendar year.²² The guidance further recommends that eligible voters send in a new FPCA request every January and each time they move.²³

Effect of Proposed Changes

Section 1 reduces the number of elections for which one request for a VBM ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election.²⁴

Section 7 specifically provides that if an elector has already submitted a VBM ballot request that would, under the current law, be effective through the end of the calendar year of the second ensuing regularly scheduled general election, he or she must resubmit a VBM ballot request after the effective date of the bill in order to receive VBM ballots for the 2022 primary election and general election.

¹⁷ See, e.g., ch. 2010-167, s. 7, L.O.F.

¹⁸ See, e.g., ch. 2007-30, s. 30, L.O.F.

¹⁹ See, e.g., ch. 2011-40, s. 37, L.O.F.

²⁰ 52 U.S.C. 203.

²¹ 52 U.S.C. ss. 20301(b)(2) and 20302(a)(4).

²² Federal Voting Assistance Program, *Frequently Asked Questions about Absentee Voting*, available at <https://www.fvap.gov/guide/appendix/faq>, last accessed February 17, 2021.

²³ *Id.*

²⁴ For example, under the proposed changes, if a voter makes a request for a VBM ballot on August 1, 2021, then he or she would receive VBM ballots for all elections held through December 31, 2022, which is the end of the calendar year of the next regularly scheduled general election.

Starting Date for Vote-by-Mail Canvassing Period (Section 4)

Present Situation

Florida law allows county canvassing boards²⁵ to begin canvassing VBM ballots starting at 7 a.m. on the 22nd day before an election.²⁶ In 2019, the Legislature extended this starting period from 15 days before an election to 22 days before an election.²⁷

In 2020, at the request of the supervisors and in response to the COVID-19 pandemic, Governor Ron DeSantis issued an executive order suspending the 22-day timeframe and allowing each county canvassing board to begin canvassing VBM ballots as soon as the Logic and Accuracy (L&A) testing of the machines/equipment was completed.²⁸ The L&A tests are designed to ensure the integrity and accuracy of the tabulators and voting machines.²⁹ Because the timing of these L&A tests is tied to the beginning of early voting in each county,³⁰ which varies from 10 to 15 days before an election,³¹ in 2020 counties were generally able to start their VBM canvass 35 to 40 days before the primary election and general election, which is 13 to 18 days earlier than the 22 days that the current statute provides.

The media has credited the canvassing of VBM ballots prior to Election Day as one of the reasons Florida's 2020 general election went so smoothly and why results were available so much more quickly than for states, such as Pennsylvania, that had to wait until Election Day to start counting.³²

Effect of Proposed Changes

Section 4 allows a county canvassing board to begin canvassing VBM ballots as soon as the county finishes L&A testing. In practice, this means that:

- A county that begins early voting as soon as permitted under law (15 days before an election) may begin VBM canvassing as early as the 40th day before an election instead of the 22nd day before an election, providing an additional 18 days to count; and
- A county that waits until 10 days before an election to begin early voting will be permitted to begin VBM canvassing as early as the 35th day before an election instead of the 22nd day before an election, providing an additional 13 days to count.

This change will facilitate a more orderly election administration process and quicker reporting of results.

²⁵ A county canvassing board is composed of the supervisor of elections; a county court judge, who acts as chair; and the chair of the board of county commissioners (s. 102.141(1), F.S.).

²⁶ Section 101.68(2)(a), F.S.

²⁷ Chapter 2019-162, s. 19, L.O.F.

²⁸ Office of the Governor, Executive Order No. 20-149 (June 17, 2020), available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-149.pdf, last accessed February 4, 2021.

²⁹ Section 101.5612(2), F.S.

³⁰ Each supervisor must complete an L&A test on any day up to 25 days before the start of early voting (*id.*).

³¹ *Id.*; see also, s. 101.657(1)(d), F.S. (counties *may* start early voting 15 days before an election, but *must* start no later than 10 days before).

³² See, e.g., Tampa Bay News 10 (WTSP), *Florida Counted Votes Quickly in the 2020 Election – What Happened in the Other States?* (Nov. 18, 2020), available at <https://www.wtsp.com/article/news/politics/florida-2020-election-counting/67-33b47308-7571-4c70-8afc-cfa8b872bcca>, last accessed February 4, 2021.

Canvassing of Vote-by-Mail Ballots/Signatures (Section 4)

Present Situation

The mailing envelope in which an absent elector sends back a marked VBM ballot must bear on the back side a voter's certificate via which the elector must affirm with a signature that he or she is a qualified and registered voter of the relevant county and that he or she has not and will not vote more than one ballot in the election.³³

If an elector returns a VBM ballot that does not include a signature or contains a signature that does not match the one in the registration books or precinct register, the supervisor must notify the elector of the signature deficiency and direct the elector to the cure affidavit³⁴ and instructions on the supervisor's website.³⁵ Along with the cure affidavit, the elector must submit a copy of one of a specified list of acceptable identifications.³⁶

During canvassing of VBM ballots, a canvassing board must, if the supervisor has not already done so, compare the elector's signature on the voter's certificate or the ballot cure affidavit with the elector's signature in the registration books or the precinct register. A VBM ballot may only be counted if:

- The signature on the voter's certificate or the cure affidavit matches the signature in the registration books or precinct register;³⁷ or
- The cure affidavit contains a signature that does not match the signature in the registration books or precinct register, but the elector has submitted a current and valid "Tier 1 identification"³⁸ that confirms the identity of the elector.³⁹

Effect of Proposed Changes

Section 4 requires the signature on a voter's certificate or ballot cure affidavit to match the *most recent* signature in the registration books or precinct register.

Effective Date of the Bill (Section 8)

The bill takes effect July 1, 2021.

³³ Section 101.64(1), F.S.

³⁴ The VBM ballot cure affidavit requires the elector to affirm with a signature that he or she requested and returned the VBM ballot and has not and will not vote more than one ballot in the election (s. 101.68(4)(c), F.S.).

³⁵ Section 101.68(4)(a), F.S. The supervisor may make the notification via email, text message, or telephone.

³⁶ Section 101.68(4)(d)3., F.S.

³⁷ In the case of a cure affidavit, the supporting identification must also confirm the identity of the elector.

³⁸ "Tier 1 identification" means a current and valid identification that includes the elector's name and photograph, including a Florida driver license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; Florida license to carry a concealed weapon or firearm; of employee identification card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality (s. 101.68(4)(d)2., F.S.).

³⁹ Section 101.68(2)(c)1., F.S.

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

Not applicable. Bills that affect state or local elections are exempt from the requirements of Art. VII, s. 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:

If the reduced time period for which one VBM ballot request is sufficient results in a higher total number of requests, supervisors are likely to experience additional workload and incur additional processing costs.

Elimination of drop boxes as a method for returning VBM ballots may reduce supervisors' workload because supervisors will no longer be required to staff off-site drop boxes.

Requiring supervisors of elections to record instances in which a signature on a returned VBM ballot does not match the one on file may slightly increase supervisors of elections' workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 101.62, 101.64, 101.65, 101.68, 101.69, and 104.0616.

IX. Additional Information:

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

CS/CS by Governmental Oversight and Accountability on March 10, 2021:

The committee substitute makes the following changes:

- Reduces the number of elections for which one request for a vote-by-mail ballot is sufficient to all elections through the end of the calendar year of the next regularly scheduled general election;
- Moves up the starting time for canvassing vote-by-mail ballots from 22 days before an election to 35-40 days before an election;
- Limits persons who may lawfully be in possession of a vote-by-mail ballot to the voter and his or her immediate family;
- Prohibits the use of drop boxes for return of a vote-by-mail ballot;
- Prohibits a supervisor of elections from mailing or otherwise providing a vote-by-mail ballot without a request;
- Requires the signature on a voter's certificate or ballot cure affidavit to match the most recent one on file;
- Requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot;
- Prohibits display of partisan information on the outside of vote-by-mail ballots or envelopes; and
- Requires supervisors of elections to record instances in which a signature on a completed vote-by-mail ballot does not match the one on file.

CS by Ethics and Elections on February 16, 2021:

As originally filed, the bill reduced the number of elections for which one VBM ballot request is sufficient to all elections held within a calendar year of the request. The committee substitute instead reduces the number to all elections through the end of the calendar year of the next regularly scheduled general election.

B. Amendments:

None.

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



940740

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 20.10, Florida
Statutes, is amended to read:

20.10 Department of State.—There is created a Department of
State.

(1) The head of the Department of State is the Secretary of
State. The Secretary of State shall be elected at the statewide
general election at which the Governor, Lieutenant Governor, and



940740

Cabinet officers are elected as provided in s. 5, Art. IV of the State Constitution, for a term of 4 years beginning on the first Tuesday after the first Monday in January of the year following such election ~~appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.~~

The Secretary of State shall perform the functions conferred by the State Constitution upon the custodian of state records.

Section 2. Subsection (6) of section 97.052, Florida Statutes, is amended to read:

97.052 Uniform statewide voter registration application.—

(6) If a voter registration applicant fails to provide any of the required information on the voter registration application form, the supervisor shall notify the applicant of the failure by mail within 5 business days after the supervisor has the information available in the voter registration system. ~~The applicant shall have an opportunity to complete the application form to vote in the next election up until the book closing for that next election.~~

Section 3. Subsections (2) and (4), paragraph (b) of subsection (5), and subsection (6) of section 97.053, Florida Statutes, are amended to read:

97.053 Acceptance of voter registration applications.—

(2) A voter registration application is complete and becomes the official voter registration record of that applicant when all information necessary to establish the applicant's eligibility pursuant to s. 97.041 is received by a voter registration official and verified pursuant to subsection (6). ~~If the applicant fails to complete his or her voter registration application prior to the date of book closing for an election,~~



940740

41 ~~then such applicant shall not be eligible to vote in that~~
42 ~~election.~~

43 (4) The registration date for a valid initial voter
44 registration application that has been mailed to a driver
45 license office, a voter registration agency, an armed forces
46 recruitment office, the division, or the office of any
47 supervisor in the state and bears a clear postmark is the date
48 of that postmark. If an initial voter registration application
49 that has been mailed does not bear a postmark or if the postmark
50 is unclear, the registration date is the date the application is
51 received by any supervisor or the division, ~~unless it is~~
52 ~~received within 5 days after the closing of the books for an~~
53 ~~election, excluding Saturdays, Sundays, and legal holidays, in~~
54 ~~which case the registration date is the book-closing date.~~

55 (5)

56 (b) An applicant who fails to designate party affiliation
57 or affirmatively select no party affiliation may not ~~must~~ be
58 registered ~~without party affiliation~~. The supervisor must notify
59 the voter by mail that the voter has not been registered ~~without~~
60 ~~party affiliation~~ and that the voter must complete a new
61 registration application and designate a party affiliation or
62 affirmatively select no party affiliation. The voter
63 registration application must clearly denote this requirement
64 ~~may change party affiliation as provided in s. 97.1031.~~

65 (6) A voter registration application may be accepted as
66 valid only after the department has verified the authenticity or
67 nonexistence of the driver license number, the Florida
68 identification card number, or the last four digits of the
69 social security number provided by the applicant. If a completed



940740

voter registration application has been received ~~by the book-~~
~~closing deadline~~ but the driver license number, the Florida
identification card number, or the last four digits of the
social security number provided by the applicant cannot be
verified, the applicant shall be notified that the number cannot
be verified and that the applicant must provide evidence to the
supervisor sufficient to verify the authenticity of the
applicant's driver license number, Florida identification card
number, or last four digits of the social security number. If
the applicant provides the necessary evidence, the supervisor
shall place the applicant's name on the registration rolls as an
active voter. If the applicant has not provided the necessary
evidence or the number has not otherwise been verified prior to
the applicant presenting himself or herself to vote, the
applicant shall be provided a provisional ballot. The
provisional ballot shall be counted only if the number is
verified by the end of the canvassing period or if the applicant
presents evidence to the supervisor of elections sufficient to
verify the authenticity of the applicant's driver license
number, Florida identification card number, or last four digits
of the social security number within a reasonable amount of time
after ~~no later than 5 p.m. of the second day following the~~
election.

Section 4. Sections 97.055 and 97.0555, Florida Statutes,
are repealed.

Section 5. Section 97.0556, Florida Statutes, is created to
read:

97.0556 Same-day voter registration.—A person who meets the
qualifications to register to vote in s. 97.041 and provides the



940740

information required for the uniform statewide voter registration application prescribed in s. 97.052 may register to vote and cast a ballot on election day or at an early voting site.

Section 6. Subsection (1) of section 97.057, Florida Statutes, is amended to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to preregister to vote, register to vote, or ~~to~~ update a voter registration record to each individual who comes to an office of that department to:

(a) Apply for or renew a driver license;

(b) Apply for or renew an identification card pursuant to chapter 322; or

(c) Change an address on an existing driver license or identification card.

Section 7. Paragraph (a) of subsection (3) of section 97.0575, Florida Statutes, is amended to read:

97.0575 Third-party voter registrations.—

(3)(a) A third-party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that any voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, shall be promptly delivered to the division or the supervisor of elections within 48 hours after the applicant completes it or the next business day if the appropriate office is closed for that 48-hour period. If a voter registration application collected by any third-party



940740

voter registration organization is not promptly delivered to the division or supervisor of elections, the third-party voter registration organization is liable for the following fines:

1. A fine in the amount of \$50 for each application received by the division or the supervisor of elections more than 48 hours after the applicant delivered the completed voter registration application to the third-party voter registration organization or any person, entity, or agent acting on its behalf or the next business day, if the office is closed. A fine in the amount of \$250 for each application received if the third-party voter registration organization or person, entity, or agency acting on its behalf acted willfully.

~~2. A fine in the amount of \$100 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, before book closing for any given election for federal or state office and received by the division or the supervisor of elections after the book-closing deadline for such election. A fine in the amount of \$500 for each application received if the third-party registration organization or person, entity, or agency acting on its behalf acted willfully.~~

~~3.~~ A fine in the amount of \$500 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, which is not submitted to the division or supervisor of elections. A fine in the amount of \$1,000 for any application not submitted if the third-party voter registration organization or person, entity, or agency acting on its behalf acted willfully.



940740

The aggregate fine pursuant to this paragraph which may be assessed against a third-party voter registration organization, including affiliate organizations, for violations committed in a calendar year is \$1,000.

Section 8. Paragraph (c) of subsection (4) of section 98.065, Florida Statutes, is amended to read:

98.065 Registration list maintenance programs.—

(4)

(c) The supervisor must designate as inactive all voters who have not voted in at least one of the last two general elections, who have been sent an address confirmation final notice, and who have not returned the postage prepaid, preaddressed return form within 30 days or for which the final notice has been returned as undeliverable. Names on the inactive list may not be used to calculate the number of signatures needed on any petition. A voter on the inactive list may be restored to the active list of voters upon the voter updating his or her registration, requesting a vote-by-mail ballot, or appearing to vote. However, if the voter does not update his or her voter registration information, request a vote-by-mail ballot, or vote by the second general election after being placed on the inactive list, the voter's name shall be removed from the statewide voter registration system and the voter shall be required to reregister to have his or her name restored to the statewide voter registration system.

Section 9. Paragraph (d) of subsection (1) and subsection (3) of section 98.0981, Florida Statutes, are amended to read:

98.0981 Reports; voting history; statewide voter registration system information; precinct-level election



940740

results; preelection ~~book-closing~~ statistics.—

(1) VOTING HISTORY AND STATEWIDE VOTER REGISTRATION SYSTEM
INFORMATION.—

(d) File specifications are as follows:

1. The file shall contain records designated by the
categories below for all qualified voters who, regardless of the
voter's county of residence or active or inactive registration
status on election day ~~at the book-closing~~ for the corresponding
election that the file is being created for:

a. Voted a regular ballot at a precinct location.

b. Voted at a precinct location using a provisional ballot
that was subsequently counted.

c. Voted a regular ballot during the early voting period.

d. Voted during the early voting period using a provisional
ballot that was subsequently counted.

e. Voted by vote-by-mail ballot.

f. Attempted to vote by vote-by-mail ballot, but the ballot
was not counted.

g. Attempted to vote by provisional ballot, but the ballot
was not counted in that election.

2. Each file shall be created or converted into a tab-
delimited format.

3. File names shall adhere to the following convention:

a. Three-character county identifier as established by the
department followed by an underscore.

b. Followed by four-character file type identifier of
"VHO3" followed by an underscore.

c. Followed by FVRS election ID followed by an underscore.

d. Followed by Date Created followed by an underscore.



940740

e. Date format is YYYYMMDD.

f. Followed by Time Created - HHMMSS.

g. Followed by ".txt".

4. Each record shall contain the following columns: Record Identifier, FVRS Voter ID Number, FVRS Election ID Number, Vote Date, Vote History Code, Precinct, Congressional District, House District, Senate District, County Commission District, and School Board District.

(3) PRECINCT-LEVEL PREELECTION ~~BOOK CLOSING~~ STATISTICS.— After the 29th day before the date of an election ~~the date of book closing~~ but before the date of an election as defined in s. 97.021 to fill a national, state, county, or district office, or to vote on a proposed constitutional amendment, the department shall compile the following precinct-level statistical data for each county:

(a) Precinct numbers.

(b) Total number of active registered voters by party for each precinct.

Section 10. Paragraph (a) of subsection (7) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A cashier's check purchased with funds of the campaign account or a properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee



940740

required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor before ~~of elections prior to~~ qualifying for office may file a copy of that disclosure at the time of qualifying.

Section 11. Subsection (7) and paragraph (a) of subsection (11) of section 100.371, Florida Statutes, are amended to read:



940740

100.371 Initiatives; procedure for placement on ballot.—

(7)~~(a)~~ A sponsor that collects petition forms or uses a petition circulator to collect petition forms serves as a fiduciary to the elector signing the petition form, ensuring that any petition form entrusted to the petition circulator shall be promptly delivered to the supervisor ~~of elections~~ within 30 days after the elector signs the form.

(a) If a petition form collected by any petition circulator is not promptly delivered to the supervisor of elections, the sponsor is liable for the following fines:

1. A fine in the amount of \$50 for each petition form received by the supervisor of elections more than 30 days after the elector signed the petition form or the next business day, if the office is closed. A fine in the amount of \$250 for each petition form received if the sponsor or petition circulator acted willfully.

2. A fine in the amount of \$500 for each petition form collected by a petition circulator which is not submitted to the supervisor of elections. A fine in the amount of \$1,000 for any petition form not submitted if the sponsor or petition circulator acted willfully.

(b) A showing by the sponsor that the failure to deliver the petition form within the required timeframe is based upon force majeure or impossibility of performance is an affirmative defense to a violation of this subsection. The fines described in this subsection may be waived upon a showing that the failure to deliver the petition form promptly is based upon force majeure or impossibility of performance.

(c) A sponsor shall deliver petition forms, which must be



940740

grouped in batches by the petition circulator who collected
them, to the supervisor.

(11) (a) An initiative petition form circulated for
signature may not be bundled with or attached to any other
petition. Each signature shall be dated when made and shall be
valid until the next February 1 occurring in an even-numbered
year for the purpose of the amendment appearing on the ballot
for the general election occurring in that same year, provided
all other requirements of law are met. The sponsor shall submit
signed and dated forms to the supervisor of elections for the
county of residence listed by the person signing the form for
verification of the number of valid signatures obtained. If a
signature on a petition is from a registered voter in another
county, the supervisor shall notify the petition sponsor of the
misfiled petition. The supervisor shall promptly verify the
signatures within 60 days after receipt of the petition forms
and payment of a fee for the actual cost of signature
verification incurred by the supervisor. However, for petition
forms submitted less than 60 days before February 1 of an even-
numbered year, the supervisor shall promptly verify the
signatures within 30 days after receipt of the form and payment
of the fee for signature verification. The supervisor shall
promptly record, in the manner prescribed by the Secretary of
State, the date each form is received by the supervisor, and the
date the signature on the form is verified as valid. The
supervisor may verify that the signature on a form is valid only
if:

1. The form contains the original signature of the
purported elector. A digital signature of the purported elector



940740

which complies with the requirements of part I of chapter 668 is considered an original signature for purposes of this requirement.

2. The purported elector has accurately recorded on the form the date on which he or she signed the form.

3. The form sets forth the purported elector's name, address, city, county, and voter registration number or date of birth.

4. The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

5. The signature was obtained legally, including that if a paid petition circulator was used, the circulator was validly registered under subsection (3) when the signature was obtained.

The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the division notifies the supervisors of elections that the committee that circulated the petition is no longer seeking to obtain ballot position.

Section 12. Section 100.51, Florida Statutes, is created to read:

100.51 General Election Day paid holiday.-In order to encourage civic participation, enable more individuals to serve as poll workers, and provide additional time for the resolution of any issues that arise while an elector is casting his or her vote, General Election Day is a paid holiday. An elector is entitled to absent himself or herself from any service or employment in which he or she is engaged or employed during the



940740

time the polls are open on General Election Day. An elector who absents himself or herself under this section may not be penalized in any way and a deduction may not be made from his or her usual salary or wages on account of his or her absence.

Section 13. Section 101.016, Florida Statutes, is created to read:

101.016 Strategic elections equipment reserve.—The Division of Elections shall maintain a strategic elections equipment reserve of voting systems that may be deployed in the event of an emergency as defined in s. 101.732 or upon the occurrence of equipment capacity issues due to unexpected voter turnout. The reserve shall include tabulation equipment and any other necessary equipment, such as printers, that are in use by each supervisor of elections. In lieu of maintaining a physical reserve of such equipment, the division may contract with a vendor of voting equipment that shall provide such equipment on an as-needed basis.

Section 14. Subsections (1) and (2) of section 101.048, Florida Statutes, are amended to read:

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the state and eligible to vote ~~at the precinct~~ in the election but whose eligibility cannot be determined, a person whom an election official asserts is not eligible, and other persons specified in the code shall be entitled to vote a provisional ballot in the county in which the voter claims to be registered. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a



940740

ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections. The department shall prescribe the form of the provisional ballot envelope. A person casting a provisional ballot shall have the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections by not later than 5 p.m. on the second day following the election.

(2)(a) The county canvassing board shall examine each Provisional Ballot Voter's Certificate and Affirmation to determine if the person voting that ballot was entitled to vote in the county in which ~~at the precinct where~~ the person cast a vote in the election and that the person had not already cast a ballot in the election. In determining whether a person casting a provisional ballot is entitled to vote, the county canvassing board shall review the information provided in the Voter's Certificate and Affirmation, written evidence provided by the person pursuant to subsection (1), information provided in any cure affidavit and accompanying supporting documentation pursuant to subsection (6), any other evidence presented by the supervisor, and, in the case of a challenge, any evidence presented by the challenger. A ballot of a person casting a provisional ballot shall be canvassed pursuant to paragraph (b) unless the canvassing board determines by a preponderance of the evidence that the person was not entitled to vote.

(b) If it is determined that the person was registered and entitled to vote in the county in which ~~at the precinct where~~ the person cast a vote in the election, the canvassing board must compare the signature on the Provisional Ballot Voter's Certificate and Affirmation or the provisional ballot cure



940740

affidavit with the signature on the voter's registration or precinct register. A provisional ballot may be counted only if:

1. The signature on the voter's certificate or the cure affidavit matches the elector's signature in the registration books or the precinct register; however, in the case of a cure affidavit, the supporting identification listed in subsection (6) must also confirm the identity of the elector; or

2. The cure affidavit contains a signature that does not match the elector's signature in the registration books or the precinct register, but the elector has submitted a current and valid Tier 1 form of identification confirming his or her identity pursuant to subsection (6).

For purposes of this paragraph, any canvassing board finding that signatures do not match must be by majority vote and beyond a reasonable doubt.

(c) Any provisional ballot not counted must remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

(d) If a provisional ballot is validated following the submission of a cure affidavit, the supervisor must make a copy of the affidavit, affix it to a voter registration application, and immediately process it as a valid request for a signature update pursuant to s. 98.077.

Section 15. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 101.151, Florida Statutes, are amended to read:

101.151 Specifications for ballots.—



940740

(2) (a) The ballot must include the following office titles above the names of the candidates for the respective offices in the following order:

1. The office titles of President and Vice President ~~above the names of the candidates for President and Vice President of the United States nominated by the political party that received the highest vote for Governor in the last general election of the Governor in this state, followed by the names of other candidates for President and Vice President of the United States who have been properly nominated.~~

2. The office titles of United States Senator and Representative in Congress.

3. The office titles of Governor and Lieutenant Governor; Attorney General; Chief Financial Officer; Commissioner of Agriculture; Secretary of State; State Attorney, with the applicable judicial circuit; and Public Defender, with the applicable judicial circuit.

4. The office titles of State Senator and State Representative, with the applicable district for the office printed beneath.

5. The office titles of Clerk of the Circuit Court or, when the Clerk of the Circuit Court also serves as the County Comptroller, Clerk of the Circuit Court and Comptroller, when authorized by law; Clerk of the County Court, when authorized by law; Sheriff; Property Appraiser; Tax Collector; District Superintendent of Schools; and Supervisor of Elections.

6. The office titles of Board of County Commissioners, with the applicable district printed beneath each office, and such other county and district offices as are involved in the



940740

election, in the order fixed by the Department of State, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members.

(3) (a) The names of the candidates of each ~~the party that received the highest number of votes for Governor in the last election in which a Governor was elected~~ shall be ordered randomly placed first for each office on the general election ballot, together with an appropriate abbreviation of the party name; ~~the names of the candidates of the party that received the second highest vote for Governor shall be placed second for each office, together with an appropriate abbreviation of the party name.~~

Section 16. Subsection (6) is added to section 101.5612, Florida Statutes, to read:

101.5612 Testing of tabulating equipment.—

(6) A supervisor of elections shall annually file with the Secretary of State a detailed plan for operations in the event that maximum voter turnout occurs on election day and a recount is required in each race on a ballot.

Section 17. Paragraph (a) of subsection (1), subsection (2), and paragraph (c) of subsection (4) of section 101.62, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

101.62 Request for vote-by-mail ballots.—

(1) (a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request shall be deemed sufficient to receive a vote-by-mail ballot for all elections until the elector or the elector's designee



940740

notifies the supervisor that the elector cancels such request ~~through the end of the calendar year of the second ensuing regularly scheduled general election~~, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(2) A request for a vote-by-mail ballot to be mailed to a voter must be received no later than 5 p.m. on the 11th ~~10th~~ day before the election by the supervisor. The supervisor shall mail vote-by-mail ballots to voters requesting ballots by such deadline no later than 8 days before the election.

(4)

(c) The supervisor shall provide a vote-by-mail ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor or any other address the elector specifies in the request.

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters. The absent uniformed services voter or overseas voter may designate in the vote-by-mail ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the vote-by-mail ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.



940740

4. By delivery to a designee on election day or up to 11 ~~9~~ days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two vote-by-mail ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

5. Except as provided in s. 101.655, the supervisor may not deliver a vote-by-mail ballot to an elector or an elector's immediate family member on the day of the election unless there is an emergency, to the extent that the elector will be unable to go to his or her assigned polling place. If a vote-by-mail ballot is delivered, the elector or his or her designee shall execute an affidavit affirming to the facts which allow for



940740

delivery of the vote-by-mail ballot. The department shall adopt a rule providing for the form of the affidavit.

(7) If a deadline imposed under this section falls on a day when the office of the supervisor is usually closed, the deadline shall be extended until the next business day.

Section 18. Subsections (1) and (2) of section 101.64, Florida Statutes, are amended to read:

101.64 Delivery of vote-by-mail ballots; envelopes; form.—

(1) The supervisor shall enclose with each vote-by-mail ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a postage paid mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before
Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, ..., do solemnly swear or affirm that I am a qualified and registered voter of County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate



940740

will invalidate my ballot.

...(Date)...

...(Voter's Signature or Last Four Digits of Social Security Number)...

...(E-Mail Address)... ...(Home Telephone Number)...

...(Mobile Telephone Number)...

(2) The certificate shall be arranged on the back of the mailing envelope so that the line for the signature or the last four digits of the social security number of the absent elector is across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature or the last four digits of the social security number of the voter must cross the seal of the envelope. The absent elector shall execute the certificate on the envelope.

Section 19. Section 101.65, Florida Statutes, is amended to read:

101.65 Instructions to absent electors.—The supervisor shall enclose with each vote-by-mail ballot separate printed instructions in substantially the following form; however, where the instructions appear in capitalized text, the text of the printed instructions must be in bold font:

READ THESE INSTRUCTIONS CAREFULLY
BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your vote-by-mail ballot will be counted, it ~~should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election. However, if you are an overseas voter casting a ballot in a presidential~~



940740

~~preference primary or general election, your vote by mail ballot must be postmarked or dated no later than the date of the election and received by the supervisor of elections of the county in which you are registered to vote no later than 10 days after the date of the election. Note that the later you return your ballot, the less time you will have to cure any signature deficiencies, which may cause your ballot to not be counted ~~is authorized until 5 p.m. on the 2nd day after the election.~~~~

2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope.

5. Insert the secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

6. Seal the mailing envelope and completely fill out the Voter's Certificate on the back of the mailing envelope.

7. VERY IMPORTANT. In order for your vote-by-mail ballot to be counted, you must sign your name or print the last four digits of your social security number on the line above (Voter's Signature or Last Four Digits of Social Security Number). A vote-by-mail ballot will be considered illegal and not be counted if the signature or the last four digits of the social security number on the voter's certificate does not match the signature or social security number on record. The signature on



940740

file at the time the supervisor of elections in the county in which your precinct is located receives your vote-by-mail ballot is the signature that will be used to verify your signature on the voter's certificate. If you need to update your signature for this election, send your signature update on a voter registration application to your supervisor of elections ~~so that it is received before your vote-by-mail ballot is received.~~

8. VERY IMPORTANT. If you are an overseas voter, you must include the date you signed the Voter's Certificate or printed the last four digits of your social security number on the line above (Date) or your ballot may not be counted.

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed. THE COMPLETED MAILING ENVELOPE CAN BE DELIVERED TO THE OFFICE OF THE SUPERVISOR OF ELECTIONS OF THE COUNTY IN WHICH YOUR PRECINCT IS LOCATED OR DROPPED OFF AT AN AUTHORIZED SECURE DROP BOX, AVAILABLE AT EACH EARLY VOTING LOCATION.

10. FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

Section 20. Subsection (1), paragraphs (a) and (c) of subsection (2), and paragraphs (a) through (d) of subsection (4) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor shall compare the signature or partial social



940740

679 security number of the elector on the voter's certificate with
680 the signature or partial social security number of the elector
681 in the registration books or the precinct register to determine
682 whether the elector is duly registered in the county and may
683 record on the elector's registration certificate that the
684 elector has voted. An elector who dies after casting a vote-by-
685 mail ballot but on or before election day shall remain listed in
686 the registration books until the results have been certified for
687 the election in which the ballot was cast. The supervisor shall
688 safely keep the ballot unopened in his or her office until the
689 county canvassing board canvasses the vote. Except as provided
690 in subsection (4), after a vote-by-mail ballot is received by
691 the supervisor, the ballot is deemed to have been cast, and
692 changes or additions may not be made to the voter's certificate.

693 (2) (a) The county canvassing board may begin the canvassing
694 of vote-by-mail ballots upon the completion of the public
695 testing of automatic tabulating equipment pursuant to s.

696 101.5612(2) at 7 a.m. on the 22nd day before the election, but
697 must begin such canvassing by no not later than noon on the day
698 following the election. ~~In addition, for any county using~~
699 ~~electronic tabulating equipment, the processing of vote-by-mail~~
700 ~~ballots through such tabulating equipment may begin at 7 a.m. on~~
701 ~~the 22nd day before the election.~~ However, notwithstanding any
702 such authorization to begin canvassing or otherwise processing
703 vote-by-mail ballots early, no result shall be released until
704 after the closing of the polls in that county on election day.
705 Any supervisor, deputy supervisor, canvassing board member,
706 election board member, or election employee who releases the
707 results of a canvassing or processing of vote-by-mail ballots



940740

prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. The canvassing board must, if the supervisor has not already done so, compare the signature or partial social security number of the elector on the voter's certificate or on the vote-by-mail ballot cure affidavit as provided in subsection (4) with the signature or partial social security number of the elector in the registration books or the precinct register to see that the elector is duly registered in the county and to determine the legality of that vote-by-mail ballot. A vote-by-mail ballot may only be counted if:

a. The signature or partial social security number on the voter's certificate or the cure affidavit matches the elector's signature or partial social security number in the registration books or precinct register; however, in the case of a cure affidavit, the supporting identification listed in subsection (4) must also confirm the identity of the elector; or

b. The cure affidavit contains a signature or partial social security number that does not match the elector's signature or partial social security number in the registration books or precinct register, but the elector has submitted a current and valid Tier 1 identification pursuant to subsection (4) which confirms the identity of the elector.

For purposes of this subparagraph, any canvassing board finding that an elector's signatures or partial social security numbers do not match must be by majority vote and beyond a reasonable doubt.



940740

2. The ballot of an elector who casts a vote-by-mail ballot shall be counted even if the elector dies on or before election day, as long as, before the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by a common carrier, or already in the possession of the supervisor.

3. A vote-by-mail ballot is not considered illegal if the signature or partial social security number of the elector does not cross the seal of the mailing envelope.

4. If any elector or candidate present believes that a vote-by-mail ballot is illegal due to a defect apparent on the voter's certificate or the cure affidavit, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter's certificate or cure affidavit may not be accepted after the ballot has been removed from the mailing envelope.

5. If the canvassing board determines that a ballot is illegal, a member of the board must, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The cure affidavit, if applicable, the envelope, and the ballot therein shall be preserved in the manner that official ballots are preserved.

(4)(a) As soon as practicable, the supervisor shall, on behalf of the county canvassing board, attempt to notify an elector who has returned a vote-by-mail ballot that does not include the elector's signature or partial social security



940740

number or contains a signature or partial social security number that does not match the elector's signature or partial social security number in the registration books or precinct register by:

1. Notifying the elector of the signature or partial social security number deficiency by e-mail and directing the elector to the cure affidavit and instructions on the supervisor's website;

2. Notifying the elector of the signature or partial social security number deficiency by text message and directing the elector to the cure affidavit and instructions on the supervisor's website; or

3. Notifying the elector of the signature or partial social security number deficiency by telephone and directing the elector to the cure affidavit and instructions on the supervisor's website.

In addition to the notification required under subparagraph 1., subparagraph 2., or subparagraph 3., the supervisor must notify the elector of the signature or partial social security number deficiency by first-class mail and direct the elector to the cure affidavit and instructions on the supervisor's website. Beginning the day before the election, the supervisor is not required to provide notice of the signature deficiency by first-class mail, but shall continue to provide notice as required under subparagraph 1., subparagraph 2., or subparagraph 3.

(b) The supervisor shall allow a reasonable amount of time for such an elector to complete and submit an affidavit in order to cure the vote-by-mail ballot ~~until 5 p.m. on the 2nd day~~



940740

~~after the election.~~

(c) The elector must complete a cure affidavit in substantially the following form:

VOTE-BY-MAIL BALLOT CURE AFFIDAVIT

I, ..., am a qualified voter in this election and registered voter of County, Florida. I do solemnly swear or affirm that I requested and returned the vote-by-mail ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I may be convicted of a felony of the third degree and fined up to \$5,000 and imprisoned for up to 5 years. I understand that my failure to sign this affidavit means that my vote-by-mail ballot will be invalidated.

...(Voter's Signature or Last Four Digits of Social Security Number)...

...(Address)...

(d) Instructions must accompany the cure affidavit in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your vote-by-mail ballot will be



940740

counted, your affidavit should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located in a reasonable amount of time ~~no later than 5 p.m. on the 2nd day after the election.~~

2. You must sign your name or print the last four digits of your social security number on the line above (Voter's Signature or Last Four Digits of Social Security Number).

3. You must make a copy of one of the following forms of identification:

a. Tier 1 identification.—Current and valid identification that includes your name and photograph: Florida driver license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; a Florida license to carry a concealed weapon or firearm; or an employee identification card issued by any branch, department, agency, or entity of the Federal Government, the state, a county, or a municipality; or

b. Tier 2 identification.—ONLY IF YOU DO NOT HAVE A TIER 1 FORM OF IDENTIFICATION, identification that shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter information card).

4. Place the envelope bearing the affidavit into a mailing envelope addressed to the supervisor. Insert a copy of your



940740

identification in the mailing envelope. Mail (if time permits), deliver, or have delivered the completed affidavit along with the copy of your identification to your county supervisor of elections. Be sure there is sufficient postage if mailed and that the supervisor's address is correct. Remember, your information MUST reach your county supervisor of elections in a reasonable amount of time ~~no later than 5 p.m. on the 2nd day~~ after the election, or your ballot will not count.

5. Alternatively, you may fax or e-mail your completed affidavit and a copy of your identification to the supervisor of elections. If e-mailing, please provide these documents as attachments.

Section 21. Section 101.6952, Florida Statutes, is amended to read:

101.6952 Vote-by-mail ballots for absent ~~uniformed services~~ ~~and overseas~~ voters.—

(1) If an absent ~~uniformed services voter's or an overseas~~ voter's request for an official vote-by-mail ballot pursuant to s. 101.62 includes an e-mail address, the supervisor of elections shall:

(a) Record the voter's e-mail address in the vote-by-mail ballot record;

(b) Confirm by e-mail that the vote-by-mail ballot request was received and include in that e-mail the estimated date the vote-by-mail ballot will be sent to the voter; and

(c) Notify the voter by e-mail when the voted vote-by-mail ballot is received by the supervisor of elections.

(2) (a) An absent ~~uniformed services voter or an overseas~~ voter who makes timely application for but does not receive an



940740

official vote-by-mail ballot may use the federal write-in absentee ballot to vote in any federal, state, or local election.

(b)1. In an election for federal office, an elector may designate a candidate by writing the name of a candidate on the ballot. Except for a primary or special primary election, the elector may alternatively designate a candidate by writing the name of a political party on the ballot. A written designation of the political party shall be counted as a vote for the candidate of that party if there is such a party candidate in the race.

2. In a state or local election, an elector may vote in the section of the federal write-in absentee ballot designated for nonfederal races by writing on the ballot the title of each office and by writing on the ballot the name of the candidate for whom the elector is voting. Except for a primary, special primary, or nonpartisan election, the elector may alternatively designate a candidate by writing the name of a political party on the ballot. A written designation of the political party shall be counted as a vote for the candidate of that party if there is such a party candidate in the race. In addition, the elector may vote on any ballot measure presented in such election by identifying the ballot measure on which he or she desires to vote and specifying his or her vote on the measure. For purposes of this section, a vote cast in a judicial merit retention election shall be treated in the same manner as a ballot measure in which the only allowable responses are "Yes" or "No."

(c) In the case of a joint candidacy, such as for the



940740

offices of President/Vice President or Governor/Lieutenant Governor, a valid vote for one or both qualified candidates on the same ticket shall constitute a vote for the joint candidacy.

(d) For purposes of this subsection and except when the context clearly indicates otherwise, such as when a candidate in the election is affiliated with a political party whose name includes the word "Independent," "Independence," or a similar term, a voter designation of "No Party Affiliation" or "Independent," or any minor variation, misspelling, or abbreviation thereof, shall be considered a designation for the candidate, other than a write-in candidate, who qualified to run in the race with no party affiliation. If more than one candidate qualifies to run as a candidate with no party affiliation, the designation may not count for any candidate unless there is a valid, additional designation of the candidate's name.

(e) Any abbreviation, misspelling, or other minor variation in the form of the name of an office, the name of a candidate, the ballot measure, or the name of a political party must be disregarded in determining the validity of the ballot.

(3) (a) An absent ~~uniformed services voter or an overseas~~ voter who submits a federal write-in absentee ballot and later receives an official vote-by-mail ballot may submit the official vote-by-mail ballot. An elector who submits a federal write-in absentee ballot and later receives and submits an official vote-by-mail ballot should make every reasonable effort to inform the appropriate supervisor of elections that the elector has submitted more than one ballot.

(b) ~~A federal write-in absentee ballot may not be canvassed~~



940740

until ~~7 p.m. on the day of the election.~~ A federal write-in absentee ballot from an absent overseas voter in a presidential preference primary or general election may not be canvassed until the conclusion of the 10-day period specified in subsection (5). ~~Each federal write-in absentee ballot received by 7 p.m. on the day of the election shall be canvassed pursuant to ss. 101.5614(4) and 101.68, unless the elector's official vote-by-mail ballot is received by 7 p.m. on election day.~~ Each federal write-in absentee ballot from an absent overseas voter in a presidential preference primary or general election received by 10 days after the date of the election shall be canvassed pursuant to ss. 101.5614(4) and 101.68, unless the absent overseas voter's official vote-by-mail ballot is received by 10 days after the date of the election. If the elector's official vote-by-mail ballot is received ~~by 7 p.m. on election day, or, for an overseas voter in a presidential preference primary or general election,~~ no later than 10 days after the date of the election, the federal write-in absentee ballot is invalid and the official vote-by-mail ballot shall be canvassed. The time shall be regulated by the customary time in standard use in the county seat of the locality.

(4) For vote-by-mail ballots received from absent ~~uniformed services voters or overseas~~ voters, there is a presumption that the envelope was mailed on the date stated on the outside of the return envelope, regardless of the absence of a postmark on the mailed envelope or the existence of a postmark date that is later than the date of the election.

(5) A vote-by-mail ballot from an absent overseas voter in any presidential preference primary or general election which is



940740

postmarked or dated no later than the date of the election and is received by the supervisor of elections of the county in which the ~~overseas~~ voter is registered no later than 10 days after the date of the election shall be counted as long as the vote-by-mail ballot is otherwise proper.

Section 22. Section 101.697, Florida Statutes, is amended to read:

101.697 Electronic transmission of election materials.—

(1) The Department of State shall determine whether secure electronic means can be established for receiving ballots from overseas voters. If such security can be established, the department shall adopt rules to authorize a supervisor of elections to accept from an overseas voter a request for a vote-by-mail ballot or a voted vote-by-mail ballot by secure facsimile machine transmission or other secure electronic means. The rules must provide that in order to accept a voted ballot, the verification of the voter must be established, the security of the transmission must be established, and each ballot received must be recorded.

(2) The Department of State shall determine whether secure electronic means can be established for receiving ballots from voters for good cause, including during or immediately after an emergency as defined in s. 101.732. If such secure electronic means can be established, the department shall adopt rules to authorize a supervisor of elections to accept from a voter a voted ballot by secure facsimile machine transmission or other secure electronic means. The rules must provide that in order to accept a voted ballot, the verification of the voter must be established, the security of the transmission must be



940740

established, and each ballot received must be recorded. Such a ballot may not be accepted by a supervisor of elections except upon a determination of good cause by the department.

Section 23. Subsection (6) is added to section 101.71, Florida Statutes, to read:

101.71 Polling place.—

(6) A polling place may not be located within a gated community unless the legal residence of every elector in the precinct is within such gated community.

Section 24. Paragraph (e) of subsection (4) of section 102.031, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

102.031 Maintenance of good order ~~at polls~~; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.—

(4)

~~(e) The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters outside of the no-solicitation zone during polling hours.~~

(6) Bullhorns or other devices used to amplify sound are prohibited in close proximity to:

(a) A polling place during voting hours.

(b) An office of the supervisor during a recount.

Section 25. Subsection (2) of section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.—

(2) The Elections Canvassing Commission shall meet at 9 a.m. on the 9th day after a primary election to certify the



940740

returns for each federal, state, and multicounty office. The commission shall meet ~~and~~ at 9 a.m. on the 14th day after a general election to certify the returns of the election for each ~~federal, state, and multicounty office.~~ The commission shall meet at 9 a.m. on the 21st day after a general election to certify the returns for each federal and state office. If a member of a county canvassing board that was constituted pursuant to s. 102.141 determines, within 5 days after the certification by the Elections Canvassing Commission, that a typographical error occurred in the official returns of the county, the correction of which could result in a change in the outcome of an election, the county canvassing board must certify corrected returns to the Department of State within 24 hours, and the Elections Canvassing Commission must correct and recertify the election returns as soon as practicable.

Section 26. Subsection (2) of section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State.—

(2) Returns must be filed by 5 p.m. on the 7th day following a primary election, ~~and~~ by noon on the 12th day following the general election for multicounty offices, and by noon on the 19th day following the general election for federal and statewide offices. However, the Department of State may correct typographical errors, including the transposition of numbers, in any returns submitted to the Department of State pursuant to s. 102.111(2).

Section 27. Section 102.181, Florida Statutes, is created to read:



940740

102.181 Action against supervisor of elections.-

(1) Any elector qualified to vote in or any candidate for office in an election may file an action against the supervisor of elections administering such election for noncompliance with any provision of this code.

(2) Any elector or candidate who files such an action is entitled to an immediate hearing.

(3) In any such action, any filing fees or costs shall be waived and attorney fees shall be awarded to the prevailing party or parties.

Section 28. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to elections; amending s. 20.10, F.S.;
requiring the Secretary of State to be elected rather
than appointed; specifying when such election will
occur; amending s. 97.052, F.S.; conforming provisions
to changes made by the act; amending s. 97.053, F.S.;
providing that an applicant must designate a party
affiliation or select no party affiliation to be
registered to vote; requiring a supervisor of
elections to notify an applicant who fails to be
registered; requiring the voter registration
application to include certain information; providing
for the canvassing of provisional ballots if certain



940740

1085 information is provided within a reasonable amount of
1086 time following an election; repealing s. 97.055, F.S.,
1087 relating to the closure of registration books for an
1088 election; repealing s. 97.0555, F.S., relating to late
1089 registration to vote; creating s. 97.0556, F.S.;
1090 providing that a person who meets certain requirements
1091 may register to vote and cast a ballot on election day
1092 or at an early voting site; amending s. 97.057, F.S.;
1093 requiring the Department of Highway Safety and Motor
1094 Vehicles to provide the opportunity to preregister to
1095 vote to certain individuals; amending s. 97.0575,
1096 F.S.; revising penalties for third-party voter
1097 registration organizations collecting voter
1098 registration applications; amending s. 98.065, F.S.;
1099 providing additional requirements before a voter can
1100 be made inactive; amending s. 98.0981, F.S.; revising
1101 certain reports and data to conform with changes made
1102 by the act; amending s. 99.061, F.S.; authorizing a
1103 candidate to pay his or her qualifying fee with a
1104 cashier's check; amending s. 100.371, F.S.; providing
1105 a requirement for the delivery of certain petitions;
1106 specifying that a digital signature that complies with
1107 the Electronic Signature Act of 1996 satisfies the
1108 requirement that a petition form must contain an
1109 original signature; creating s. 100.51, F.S.;
1110 designating General Election Day as a paid holiday;
1111 providing that any elector may absent himself or
1112 herself from service or employment at a specific time
1113 on a General Election Day and may not be penalized or



940740

1114 have pay reduced for such absence; creating s.
1115 101.016, F.S.; requiring the Division of Elections to
1116 maintain a strategic elections equipment reserve of
1117 voting systems and other equipment for specified
1118 purposes; requiring such reserve to include specified
1119 equipment; authorizing the division to contract with
1120 specified entities rather than physically maintain
1121 such reserve; amending s. 101.048, F.S.; providing
1122 that a person may cast a provisional ballot in the
1123 county in which the voter claims to be registered;
1124 amending s. 101.151, F.S.; revising the order in which
1125 office titles and names of candidates are placed on
1126 the ballot; amending s. 101.5612, F.S.; requiring the
1127 supervisor of elections to annually file a plan for
1128 operations under certain conditions; amending s.
1129 101.62, F.S.; providing that a request for a vote-by-
1130 mail ballot is valid until the request is canceled;
1131 revising the deadline by which vote-by-mail ballots
1132 must be received by a supervisor of elections;
1133 revising the period during which a supervisor of
1134 elections may deliver certain ballots; providing for
1135 extension of deadlines under certain conditions;
1136 amending s. 101.64, F.S.; requiring the supervisor of
1137 elections to enclose a postage paid mailing envelope
1138 with each vote-by-mail ballot; providing that vote-by-
1139 mail ballot voter certificates may require a voter's
1140 signature or the last four digits of the voter's
1141 social security number; amending s. 101.65, F.S.;
1142 revising instructions that must be provided with a



940740

1143 vote-by-mail ballot; amending s. 101.68, F.S.;

1144 requiring the supervisor of elections to compare the

1145 signature or partial social security number with the

1146 signature or partial social security number in the

1147 registration books or precinct register when

1148 canvassing a vote-by-mail ballot; authorizing the

1149 canvassing of vote-by-mail ballots upon the completion

1150 of the public preelection testing of automatic

1151 tabulating equipment; revising the timeframe during

1152 which an elector may cure a vote-by-mail ballot;

1153 amending s. 101.6952, F.S.; authorizing an absent

1154 voter to submit a federal write-in absentee ballot or

1155 vote-by-mail ballot; revising requirements for the

1156 canvassing of specified ballots; providing that a

1157 certain presumption applies to vote-by-mail ballots

1158 received from absent voters; requiring a vote-by-mail

1159 ballot from an absent voter which is postmarked by a

1160 certain date to be counted; amending s. 101.697, F.S.;

1161 requiring the Department of State to adopt rules to

1162 authorize a supervisor of elections to accept a voted

1163 ballot by secure electronic means under certain

1164 circumstances; amending s. 101.71, F.S.; prohibiting a

1165 polling place from being located within a gated

1166 community unless certain conditions are met; amending

1167 s. 102.031, F.S.; removing a provision prohibiting the

1168 restriction of solicitation by certain parties;

1169 prohibiting the use of devices that amplify sound in

1170 certain locations; amending s. 102.111, F.S.; revising

1171 the dates by which the Elections Canvassing Commission



940740

1172 must certify certain election returns; amending s.
1173 102.112, F.S.; revising the deadlines for submission
1174 of county returns to the Department of State; creating
1175 s. 102.181, F.S.; authorizing certain persons to file
1176 actions against a supervisor of elections who fail to
1177 comply with the Florida Election Code; providing that
1178 such person is entitled to an immediate hearing;
1179 providing for the waiver of fees and costs and the
1180 award of attorney fees; providing an effective date.



262784

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

97.052 Uniform statewide voter registration application.—

(2) The uniform statewide voter registration application
must be designed to elicit the following information from the
applicant:

(t) ~~1.~~ Whether the applicant has ~~never~~ been convicted of a



262784

felony and, if convicted, has had his or her voting rights
restored by including the statement "I affirm that I am not a
convicted felon or, if I am, my right to vote has been restored
~~I have never been convicted of a felony.~~" and providing a box
for the applicant to check to affirm the statement.

~~2. Whether the applicant has been convicted of a felony,~~
~~and if convicted, has had his or her civil rights restored~~
~~through executive clemency, by including the statement "If I~~
~~have been convicted of a felony, I affirm my voting rights have~~
~~been restored by the Board of Executive Clemency."~~ and providing
~~a box for the applicant to check to affirm the statement.~~

~~3. Whether the applicant has been convicted of a felony~~
~~and, if convicted, has had his or her voting rights restored~~
~~pursuant s. 4, Art. VI of the State Constitution, by including~~
~~the statement "If I have been convicted of a felony, I affirm my~~
~~voting rights have been restored pursuant to s. 4, Art. VI of~~
~~the State Constitution upon the completion of all terms of my~~
~~sentence, including parole or probation."~~ and providing a box
~~for the applicant to check to affirm the statement.~~

Section 2. Effective July 1, 2022, subsections (1) and (2),
paragraph (a) of subsection (3), and subsection (4) of section
97.0525, Florida Statutes, are amended to read:

97.0525 Online voter registration.—

(1) ~~Beginning October 1, 2017,~~ An applicant may submit an
online voter registration application using the procedures set
forth in this section.

(2) The division shall establish and maintain a secure
~~Internet~~ website that safeguards an applicant's information to
ensure data integrity and permits an applicant to:



262784

(a) Submit a voter registration application, including first-time voter registration applications and updates to current voter registration records.

(b) Submit information necessary to establish an applicant's eligibility to vote, pursuant to s. 97.041, which includes the information required for the uniform statewide voter registration application pursuant to s. 97.052(2).

(c) Swear to the oath required pursuant to s. 97.051.

(3)(a) The online voter registration system must ~~shall~~ comply with the information technology security provisions of s. 282.318 and must ~~shall~~ use a unique identifier for each applicant to prevent unauthorized persons from altering a voter's registration information. For an applicant to update his or her voter registration record, he or she must provide his or her date of birth and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of the his or her social security number if the applicant has not been issued a Florida driver license or identification card.

(4)(a) In order to submit a voter registration application through the online voter registration system, an applicant must provide his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051; or if an applicant has not been issued a Florida driver license or Florida identification card, he or she must provide the last four digits of the applicant's social security number.

(b)1. If the applicant has submitted his or her Florida



262784

70 driver license number or the identification number from a
71 Florida identification card with a voter registration
72 application, the online voter registration system shall compare
73 the Florida driver license number or Florida identification
74 number ~~submitted pursuant to s. 97.052(2)(n)~~ with information
75 maintained by the Department of Highway Safety and Motor
76 Vehicles to confirm that the name and date of birth on the
77 application are consistent with the records of the Department of
78 Highway Safety and Motor Vehicles.

79 2. ~~(b)~~ If the applicant's name and date of birth are
80 consistent with the records of the Department of Highway Safety
81 and Motor Vehicles, the online voter registration system shall
82 transmit, using the statewide voter registration system
83 maintained pursuant to s. 98.035, the applicant's registration
84 application, along with the digital signature of the applicant
85 on file with the Department of Highway Safety and Motor
86 Vehicles, to the supervisor of elections. The applicant's
87 digital signature satisfies the signature requirement of s.
88 97.052(2)(q).

89 (c)1. If the applicant has submitted the last four digits
90 of his or her social security number, the online voter
91 registration system must verify the last four digits of the
92 social security number in accordance with s. 97.053(6).

93 2. If the last four digits of the applicant's social
94 security number are verified pursuant to s. 97.053(6), the
95 online voter registration system shall transmit, using the
96 statewide voter registration system maintained pursuant to s.
97 98.035, the applicant's registration application to the
98 supervisor of elections.



262784

(d) If the applicant's name and date of birth cannot be verified by the records of the Department of Highway Safety and Motor Vehicles, or if the last four digits of the applicant's social security number cannot be verified ~~applicant indicated that he or she has not been issued a Florida driver license or Florida identification card~~, the online voter registration system shall populate the applicant's information into a printable voter registration application pursuant to s. 97.052(2) and direct the applicant to print, sign, and date the application and deliver the application to the supervisor of elections for disposition pursuant to s. 97.073.

Section 3. Paragraph (a) of subsection (5) and subsection (6) of section 97.053, Florida Statutes, are amended to read:

97.053 Acceptance of voter registration applications.—

(5) (a) A voter registration application is complete if it contains the following information necessary to establish the applicant's eligibility pursuant to s. 97.041, including:

1. The applicant's name.

2. The applicant's address of legal residence, including a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier, if appropriate. Failure to include a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter's eligibility to register to vote or cast a ballot, and such an omission may not serve as the basis for a challenge to a voter's eligibility or reason to not count a ballot.

3. The applicant's date of birth.

4. A mark in the checkbox affirming that the applicant is a



262784

citizen of the United States.

5.a. The applicant's current and valid Florida driver license number or the identification number from a Florida identification card issued under s. 322.051, or

b. If the applicant has not been issued a current and valid Florida driver license or a Florida identification card, the last four digits of the applicant's social security number.

In case an applicant has not been issued a current and valid Florida driver license, Florida identification card, or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application.

6. A mark in the ~~applicable~~ checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, ~~has had his or her civil rights restored through executive clemency, or~~ has had his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution.

7. A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.

8. The original signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.



262784

(6) A voter registration application, including an application with a change in name, address, or party affiliation, may be accepted as valid only after the department has verified the authenticity or nonexistence of the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant. If a completed voter registration application has been received by the book-closing deadline but the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant cannot be verified, the applicant shall be notified that the number cannot be verified and that the applicant must provide evidence to the supervisor sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number. If the applicant provides the necessary evidence, the supervisor shall place the applicant's name on the registration rolls as an active voter. If the applicant has not provided the necessary evidence or the number has not otherwise been verified prior to the applicant presenting himself or herself to vote, the applicant shall be provided a provisional ballot. The provisional ballot shall be counted only if the number is verified by the end of the canvassing period or if the applicant presents evidence to the supervisor of elections sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number no later than 5 p.m. of the second day following the election.

Section 4. Subsection (13) is added to section 97.057,



262784

Florida Statutes, to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(13) The Department of Highway Safety and Motor Vehicles must assist the Department of State in regularly identifying changes in residence address on the driver license or identification card of a voter. The Department of State must report each such change to the appropriate supervisor of elections, who must change the voter's registration records in accordance with s. 98.065(4).

Section 5. Paragraphs (c) and (d) of subsection (1), paragraph (a) of subsection (3), and subsection (5) of section 97.0575, Florida Statutes, are amended to read:

97.0575 Third-party voter registrations.—

(1) Before engaging in any voter registration activities, a third-party voter registration organization must register and provide to the division, in an electronic format, the following information:

(c) The names, permanent addresses, and temporary addresses, if any, of each registration agent registering persons to vote in this state on behalf of the organization. This paragraph does not apply to persons who only solicit applications and do not collect or handle voter registration applications.

~~(d) A sworn statement from each registration agent employed by or volunteering for the organization stating that the agent will obey all state laws and rules regarding the registration of voters. Such statement must be on a form containing notice of applicable penalties for false registration.~~



262784

(3)(a) A third-party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that any voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, must ~~shall~~ be promptly delivered to the division or the supervisor of elections in the county in which the applicant resides within 14 days after the applicant completes it, but not after registration closes for the next ensuing election. A third-party voter registration organization must notify the applicant at the time the application is collected that the organization might not deliver the application to the division or the supervisor of elections in less than 14 days or before registration closes for the next ensuing election and must advise the applicant that he or she may deliver the application in person or by mail. The third-party voter registration organization must also inform the applicant how to register online with the division and how to determine whether the application has been delivered ~~48 hours after the applicant completes it or the next business day if the appropriate office is closed for that 48-hour period.~~ If a voter registration application collected by any third-party voter registration organization is not promptly delivered to the division or supervisor of elections, the third-party voter registration organization is liable for the following fines:

1. A fine in the amount of \$50 for each application received by the division or the supervisor of elections in the county in which the applicant resides more than 14 days ~~48 hours~~ after the applicant delivered the completed voter registration application to the third-party voter registration organization



262784

or any person, entity, or agent acting on its behalf ~~or the next~~
~~business day, if the office is closed.~~ A fine in the amount of
\$250 for each application received if the third-party voter
registration organization or person, entity, or agency acting on
its behalf acted willfully.

2. A fine in the amount of \$100 for each application
collected by a third-party voter registration organization or
any person, entity, or agent acting on its behalf, before book
closing for any given election for federal or state office and
received by the division or the supervisor of elections in the
county in which the applicant resides after the book-closing
deadline for such election. A fine in the amount of \$500 for
each application received if the third-party registration
organization or person, entity, or agency acting on its behalf
acted willfully.

3. A fine in the amount of \$500 for each application
collected by a third-party voter registration organization or
any person, entity, or agent acting on its behalf, which is not
submitted to the division or supervisor of elections in the
county in which the applicant resides. A fine in the amount of
\$1,000 for any application not submitted if the third-party
voter registration organization or person, entity, or agency
acting on its behalf acted willfully.

The aggregate fine pursuant to this paragraph which may be
assessed against a third-party voter registration organization,
including affiliate organizations, for violations committed in a
calendar year is \$1,000.

(5) The division shall adopt by rule a form to elicit



262784

specific information concerning the facts and circumstances from a person who claims to have been registered to vote by a third-party voter registration organization but who does not appear as an active voter on the voter registration rolls. The division shall also adopt rules to ensure the integrity of the registration process, including controls to ensure that all completed forms are promptly delivered to the division or an appropriate supervisor ~~rules requiring third-party voter registration organizations to account for all state and federal registration forms used by their registration agents. Such rules may require an organization to provide organization and form specific identification information on each form as determined by the department as needed to assist in the accounting of state and federal registration forms.~~

Section 6. Paragraphs (d), (e), and (f) of subsection (1) of section 97.0585, Florida Statutes, are amended to read:

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.—

(1) The following information held by an agency, as defined in s. 119.011, and obtained for the purpose of voter registration is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

~~(d) Information related to a voter registration applicant's or voter's prior felony conviction and whether such person has had his or her voting rights restored by the Board of Executive Clemency or pursuant to s. 4, Art. VI of the State Constitution.~~

~~(e)~~ All information concerning preregistered voter registration applicants who are 16 or 17 years of age.



262784

~~(e)-(f)~~ Paragraph (d) is Paragraphs (d) and (e) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 7. Paragraph (b) of subsection (1) and subsection (2) of section 97.1031, Florida Statutes, are amended to read:
97.1031 Notice of change of residence, change of name, or change of party affiliation.—

(1)

(b) If the address change is within the state and notice is provided to the supervisor of elections of the county where the elector has moved, the elector may do so by:

1. Contacting the supervisor of elections via telephone or electronic means, in which case the elector must provide his or her date of birth and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of the his or her social security number if the elector has not been issued a Florida driver license or identification card; or

2. Submitting the change on a voter registration application or other signed written notice.

(2) When an elector seeks to change party affiliation, the elector shall notify his or her supervisor of elections or other voter registration official by submitting a voter registration application or other ~~using a~~ signed written notice that contains the elector's date of birth or voter registration number and either his or her Florida driver license number or the



262784

identification number from a Florida identification card issued
under s. 322.051 or the last four digits of his or her social
security number if the elector has not been issued a Florida
driver license or identification card. When an elector changes
his or her name by marriage or other legal process, the elector
shall notify his or her supervisor of elections or other voter
registration official by submitting a voter registration
application or other ~~using a~~ signed written notice that contains
the elector's date of birth or voter's registration number and
either his or her Florida driver license number or the
identification number from a Florida identification card issued
under s. 322.051 or the last four digits of his or her social
security number if the elector has not been issued a Florida
driver license or identification card.

Section 8. Present subsections (4) and (5) of section
98.0981, Florida Statutes, are redesignated as subsections (5)
and (6), respectively, a new subsection (4) is added to that
section, and paragraph (a) of subsection (2) of that section is
amended, to read:

98.0981 Reports; voting history; statewide voter
registration system information; precinct-level election
results; book closing statistics; live turnout data.—

(2) PRECINCT-LEVEL ELECTION RESULTS.—

(a) Within 30 days after certification by the Elections
Canvassing Commission of a presidential preference primary
election, special election, primary election, or general
election, the supervisors of elections shall collect and submit
to the department precinct-level election results for the
election in a uniform electronic format specified by paragraph



262784

(c). The precinct-level election results shall be compiled separately for the primary or special primary election that preceded the general or special general election, respectively. The results shall specifically include for each precinct the total of all ballots cast for each candidate or nominee to fill a national, state, county, or district office or proposed constitutional amendment, with subtotals for each candidate and ballot type. However, ballot type or precinct subtotals in a race or question having fewer than 30 voters voting on the ballot type or in the precinct may not be reported in precinct results, unless fewer than 30 voters voted a ballot type. "All ballots cast" means ballots cast by voters who cast a ballot whether at a precinct location, by vote-by-mail ballot including overseas vote-by-mail ballots, during the early voting period, or by provisional ballot.

(4) LIVE TURNOUT DATA.—

(a) Supervisors of elections shall make live voter turnout data on election day available on their respective websites. At a minimum, a supervisor must post updated turnout data on their website at 8 a.m., 2 p.m., and 6 p.m. on election day. The supervisors shall transmit the turnout data to the division, which must create and maintain a real-time statewide turnout dashboard that is available for viewing by the public on its website as the data becomes available.

(b) For each election, supervisors of elections shall make available on their respective websites the number of vote-by-mail ballots requested, the number of completed vote-by-mail ballots received, and the number of vote-by-mail ballots not yet tabulated. Such information must be updated daily.



262784

Section 9. Section 101.046, Florida Statutes, is created to read:

101.046 Signature verification procedure.—When a signature is verified with the voter's signature in the registration records, the verifier shall only use a signature in the registration books or the precinct register from the preceding 4 years. If a wet signature is not available from the preceding 4 years, the verifier may use the most recent wet signature on record. For purposes of this section, "wet signature" means a signature that a voter physically signed on paper with a pen or other writing utensil.

Section 10. Subsections (2) and (5) of section 101.051, Florida Statutes, are amended to read:

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.—

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1). A person at a polling place, a drop box location, or an early voting site, or within 150 ~~100~~ feet of a drop box location or the entrance of a polling place or an early voting site, may not solicit any elector in an effort to provide assistance to vote pursuant to subsection (1). Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If an elector needing assistance requests that a person other than an election official provide him or her with assistance in voting, the clerk or one of the inspectors shall require the person providing assistance to take the following oath:



262784

DECLARATION TO PROVIDE ASSISTANCE

State of Florida

County of

Date

Precinct

I, ...(Print name)..., have been requested by ...(print name of elector needing assistance)... to provide him or her with assistance to vote. I swear or affirm that I am not the employer, an agent of the employer, or an officer or agent of the union of the voter and that I have not solicited this voter at the polling place, drop box location, or early voting site or within 150 ~~100~~ feet of such locations in an effort to provide assistance.

...(Signature of assistor)...

Sworn and subscribed to before me this day of,
...(year)....

...(Signature of Official Administering Oath)...

Section 11. Section 101.545, Florida Statutes, is amended to read:

101.545 Retention and destruction of certain election materials.—All ballots, forms, and other election materials shall be retained in the custody of the supervisor of elections for a minimum of 22 months after an election and in accordance



262784

with the schedule approved by the Division of Library and Information Services of the Department of State. All unused ballots, forms, and other election materials may, with the approval of the Department of State, be destroyed by the supervisor after the election for which such ballots, forms, or other election materials were to be used.

Section 12. Paragraph (d) of subsection (2) of section 101.5605, Florida Statutes, is amended to read:

101.5605 Examination and approval of equipment.—

(2)

(d) The Department of State shall approve or disapprove any voting system submitted to it within 120 ~~90~~ days after the date of its initial submission.

Section 13. Paragraph (a) of subsection (4) of section 101.5614, Florida Statutes, is amended to read:

101.5614 Canvass of returns.—

(4)(a) If any vote-by-mail ballot is physically damaged so that it cannot properly be counted by the voting system's automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in an open and accessible room in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a vote-by-mail ballot containing an overvoted race or a marked vote-by-mail ballot in which every race is undervoted which shall include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4). A duplicate may not include a vote if the voter's intent in such race or on such measure is not clear. Upon request, a physically present candidate, a political party official, a political committee



262784

official, or an authorized designee thereof, must be allowed to observe the duplication of ballots. The observer must be allowed to stand in close enough proximity to observe the duplication of ballots in such a way that the observer is able to see the markings on each ballot and the duplication taking place. All duplicate ballots must ~~shall~~ be clearly labeled "duplicate," bear a serial number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the other ballots for that precinct. Upon reasonable objection by an observer to a duplicate of a ballot, the ballot must be presented to the canvassing board for a determination of the validity of the duplicate. The canvassing board must document the serial number of the ballot in the canvassing board's minutes. The canvassing board must decide whether the duplication is valid. If the duplicate ballot is determined to be valid, the duplicate ballot must be counted. If the duplicate ballot is determined to be invalid, the duplicate ballot must be rejected and a proper duplicate ballot must be made and counted in lieu of the original.

Section 14. Subsection (5) of section 101.591, Florida Statutes, is amended to read:

101.591 Voting system audit.—

(5) By December 15 of each general election year ~~Within 15 days after completion of the audit,~~ the county canvassing board or the board responsible for certifying the election shall provide a report with the results of the audit to the Department



262784

of State in a standard format as prescribed by the department.
The report must be consolidated into one report with the
overvote and undervote report required under s. 101.595(1). The
report shall contain, but is not limited to, the following
items:

(a) The overall accuracy of audit.

(b) A description of any problems or discrepancies
encountered.

(c) The likely cause of such problems or discrepancies.

(d) Recommended corrective action with respect to avoiding
or mitigating such circumstances in future elections.

Section 15. Subsections (1) and (3) of section 101.595,
Florida Statutes, are amended to read:

101.595 Analysis and reports of voting problems.—

(1) No later than December 15 of each general election
year, the supervisor of elections in each county shall report to
the Department of State the total number of overvotes and
undervotes in the "President and Vice President" or "Governor
and Lieutenant Governor" race that appears first on the ballot
or, if neither appears, the first race appearing on the ballot
pursuant to s. 101.151(2), along with the likely reasons for
such overvotes and undervotes and other information as may be
useful in evaluating the performance of the voting system and
identifying problems with ballot design and instructions which
may have contributed to voter confusion. This report must be
consolidated into one report with the audit report required
under s. 101.591(5).

(3) The Department of State shall submit the report to the
Governor, the President of the Senate, and the Speaker of the



262784

House of Representatives by February 15 ~~January 31~~ of each year following a general election.

Section 16. Paragraphs (a) and (b) of subsection (1), subsection (3), and paragraph (c) of subsection (4) of section 101.62, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

101.62 Request for vote-by-mail ballots.—

(1)(a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request ~~is shall be~~ deemed sufficient to receive a vote-by-mail ballot for all elections through the end of the calendar year of the next second ensuing regularly scheduled general election, provided that a request received after November 6, 2018, and before July 1, 2021, is deemed sufficient through the end of the calendar year of the second ensuing regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for a vote-by-mail ballot to be mailed to an elector's address on file in the Florida Voter Registration System from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For written or telephonic requests, the elector must provide either his or her Florida driver license number or Florida identification card number or the last four digits of his or her social security number. If the ballot is requested



262784

to be mailed to an address other than the elector's address on file in the Florida Voter Registration System, the request must be made in writing, ~~and~~ signed by the elector, and include either his or her Florida driver license number or Florida identification card number or the last four digits of his or her social security number. However, an absent uniformed service voter or an overseas voter seeking a vote-by-mail ballot is not required to submit a signed, written request for a vote-by-mail ballot that is being mailed to an address other than the elector's address on file in the Florida Voter Registration System. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector's address.
3. The elector's date of birth.
4. The elector's Florida driver license number or Florida identification card number or the last four digits of the elector's social security number.
5. The requester's name.
- ~~6.5.~~ The requester's address.
- ~~7.6.~~ The requester's driver license number or identification card number or the last four digits of the requester's social security number, if available.

~~8.7.~~ The requester's relationship to the elector.
~~9.8.~~ The requester's signature (written requests only).
(3) For each request for a vote-by-mail ballot received, the supervisor shall record the date the request was made; ~~if~~ the



262784

date the vote-by-mail ballot was delivered to the voter or the voter's designee or the date the vote-by-mail ballot was delivered to the post office or other carrier; the identity of the voter's designee or the address to which the ballot was mailed;~~;~~ the date the ballot was received by the supervisor;~~;~~ the absence of the voter's signature on the voter's certificate, if applicable; whether the voter's certificate contains a signature that does not match the elector's signature in the registration books or precinct register;~~;~~ and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by division rule ~~adopted by the division~~. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division. This information shall be confidential and exempt from s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.

(4)

(c) The supervisor shall provide a vote-by-mail ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor or any other address the elector specifies in the request.



262784

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters. The absent uniformed services voter or overseas voter may designate in the vote-by-mail ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the vote-by-mail ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.

4. By delivery to a designee on election day or up to 9 days before ~~prior to~~ the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two vote-by-mail ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, grandchild, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of



262784

the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

5. Except as provided in s. 101.655, the supervisor may not deliver a vote-by-mail ballot to an elector or an elector's immediate family member on the day of the election unless there is an emergency, to the extent that the elector will be unable to go to his or her assigned polling place. If a vote-by-mail ballot is delivered, the elector or his or her designee shall execute an affidavit affirming to the facts which allow for delivery of the vote-by-mail ballot. The department shall adopt a rule providing for the form of the affidavit.

(7) Except as expressly authorized for voters having a disability under s. 101.662, for overseas voters under s. 101.697, or for local referenda under ss. 101.6102 and 101.6103, a county, municipality, or state agency may not send a vote-by-mail ballot to a voter unless the voter has requested a vote-by-mail ballot in the manner authorized under this section.

Section 17. Subsection (6) is added to section 101.64, Florida Statutes, to read:

101.64 Delivery of vote-by-mail ballots; envelopes; form.—

(6) The outside of the ballot and the secrecy and mailing envelopes may not display the party affiliation of the absent elector who has been issued such ballot or display any other partisan information.

Section 18. Subsection (1) and paragraph (a) of subsection (2) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the



262784

supervisor shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books or the precinct register to determine whether the elector is duly registered in the county and must ~~may~~ record on the elector's registration record ~~certificate~~ that the elector has voted. During the signature comparison process, the supervisor may not use any knowledge of the political affiliation of the voter whose signature is subject to verification. An elector who dies after casting a vote-by-mail ballot but on or before election day shall remain listed in the registration books until the results have been certified for the election in which the ballot was cast. The supervisor shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. Except as provided in subsection (4), after a vote-by-mail ballot is received by the supervisor, the ballot is deemed to have been cast, and changes or additions may not be made to the voter's certificate.

(2)(a) The county canvassing board may begin the canvassing of vote-by-mail ballots upon the completion of the public testing of automatic tabulating equipment pursuant to s. 101.5612(2) ~~at 7 a.m. on the 22nd day before the election~~, but must begin such canvassing by no ~~not~~ later than noon on the day following the election. ~~In addition, for any county using electronic tabulating equipment, the processing of vote-by-mail ballots through such tabulating equipment may begin at 7 a.m. on the 22nd day before the election.~~ However, notwithstanding any such authorization to begin canvassing or otherwise processing vote-by-mail ballots early, no result shall be released until after the closing of the polls in that county on election day.



262784

Any supervisor, deputy supervisor, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of vote-by-mail ballots prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 19. Subsection (2) of section 101.69, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

101.69 Voting in person; return of vote-by-mail ballot.—

(2)(a) The supervisor shall allow an elector who has received a vote-by-mail ballot to physically return a voted vote-by-mail ballot to the supervisor by placing the envelope containing his or her marked ballot in a secure drop box. Secure drop boxes shall be placed at the main office of the supervisor, at each branch office of the supervisor, and at each early voting site. Secure drop boxes may also be placed at any other site that would otherwise qualify as an early voting site under s. 101.657(1). A secure drop box may only be used; provided, ~~however, that any such site must be staffed~~ during the county's early voting hours of operation and must be monitored in person by an employee of the supervisor's office ~~or a sworn law enforcement officer~~.

(b) A supervisor shall designate each drop box site at least 30 days before an election. After a drop box location has been designated, it may not be moved or changed.

(c) On each day of early voting, all drop boxes must be emptied at the end of early voting hours and all ballots retrieved from the drop boxes must be returned to the



262784

supervisor's office. Employees of the supervisor must comply with procedures for the chain of custody of ballots as required by s. 101.015(4).

(3) If any drop box at an early voting site is left accessible for the return of ballots outside of early voting hours, the supervisor is subject to a civil penalty of \$25,000. The division is authorized to enforce this provision.

Section 20. Paragraphs (a), (b), and (e) of subsection (4) of section 102.031, Florida Statutes, are amended to read:

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.—

(4) (a) No person, political committee, or other group or organization may solicit voters inside the polling place or within 150 feet of a drop box or the entrance to any polling place, a polling room where the polling place is also a polling room, an early voting site, or an office of the supervisor where vote-by-mail ballots are requested and printed on demand for the convenience of electors who appear in person to request them. Before the opening of a drop box location, a ~~the~~ polling place, or an early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.

(b) For the purpose of this subsection, the terms "solicit" or "solicitation" shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; ~~and~~ selling or attempting to sell any



262784

item; and giving or attempting to give any item to a voter. The terms "solicit" or "solicitation" may not be construed to prohibit an employee of, or a volunteer with, the supervisor from providing nonpartisan assistance to voters within the no-solicitation zone such as, but not limited to, giving items to voters, or to prohibit exit polling.

(e) The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters by a candidate or a candidate's designee outside of the no-solicitation zone during polling hours.

Section 21. Subsection (1) and paragraphs (a) and (b) of subsection (2) of section 102.141, Florida Statutes, are amended to read:

102.141 County canvassing board; duties.—

(1) The county canvassing board shall be composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners. The names of the canvassing board members must be published on the supervisor's website before any vote-by-mail ballot is tabulated. Alternate canvassing board members must be appointed pursuant to paragraph (e). In the event any member of the county canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member shall be replaced as follows:

(a) If no county court judge is able to serve or if all are disqualified, the chief judge of the judicial circuit in which



262784

the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. In such event, the members of the county canvassing board shall meet and elect a chair.

(b) If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners shall appoint as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. The supervisor, however, shall act in an advisory capacity to the canvassing board.

(c) If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners shall appoint as a substitute member one of its members who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(d) If a substitute member or alternate member cannot be appointed as provided elsewhere in this subsection, or in the event of a vacancy in such office, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member or alternate member a qualified elector of the county who is not a candidate with opposition in the



262784

election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(e)1. The chief judge of the judicial circuit in which the county is located shall appoint a county court judge as an alternate member of the county canvassing board or, if each county court judge is unable to serve or is disqualified, shall appoint an alternate member who is qualified to serve as a substitute member under paragraph (a).

2. The chair of the board of county commissioners shall appoint a member of the board of county commissioners as an alternate member of the county canvassing board or, if each member of the board of county commissioners is unable to serve or is disqualified, shall appoint an alternate member who is qualified to serve as a substitute member under paragraph (d).

3. If a member of the county canvassing board is unable to participate in a meeting of the board, the chair of the county canvassing board or his or her designee shall designate which alternate member will serve as a member of the board in the place of the member who is unable to participate at that meeting.

4. If not serving as one of the three members of the county canvassing board, an alternate member may be present, observe, and communicate with the three members constituting the county canvassing board, but may not vote in the board's decisions or determinations.

(2)(a) The county canvassing board shall meet in a building accessible to the public in the county where the election occurred at a time and place to be designated by the supervisor



262784

to publicly canvass the absent electors' ballots as provided for in s. 101.68 and provisional ballots as provided by ss. 101.048, 101.049, and 101.6925. During each meeting of the county canvassing board, each political party and each candidate may have one watcher within a distance that allows him or her to directly observe ballots being examined for signature matching and other processes. Provisional ballots cast pursuant to s. 101.049 shall be canvassed in a manner that votes for candidates and issues on those ballots can be segregated from other votes. As soon as the absent electors' ballots and the provisional ballots are canvassed, the board shall proceed to publicly canvass the vote given each candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, as shown by the returns then on file in the office of the supervisor.

(b) Public notice of the canvassing board members, alternates, time, and place at which the county canvassing board shall meet to canvass the absent electors' ballots and provisional ballots must be given at least 48 hours prior thereto by publication on the supervisor's website and published in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. The time given in the notice as to the convening of the meeting of the county canvassing board must be specific and may not be a time period during which the board may meet.

Section 22. Section 104.0616, Florida Statutes, is amended to read:



262784

104.0616 Vote-by-mail ballots and voting; violations.—

(1) For purposes of this section, the term “immediate family” means a person’s spouse or the parent, child, grandparent, grandchild, or sibling of the person or the person’s spouse.

(2) Any person who distributes, orders, requests, collects, delivers ~~provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possesses~~ possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105-101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or ~~s. 775.083, or s. 775.084.~~

Section 23. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to election administration; amending s. 97.052, F.S.; revising requirements for the uniform statewide voter registration application; amending s. 97.0525, F.S.; authorizing an applicant to submit an online voter registration application using the last four digits of the applicant’s social security number;



262784

prescribing procedures for applicants who submit an application using the last four digits of their social security numbers; amending s. 97.053, F.S.; revising requirements governing the acceptance of voter registration applications; amending s. 97.057, F.S.; requiring the Department of Highway Safety and Motor Vehicles to assist the Department of State in identifying certain residence address changes; requiring the Department of State to report such changes to supervisors of elections; amending s. 97.0575, F.S.; revising requirements for third-party voter registration organizations; providing applicability; revising circumstances under which a third-party voter registration organization is subject to fines for violations regarding the delivery of voter registration applications; revising requirements for Division of Elections rules governing third-party voter registration organizations; amending s. 97.0585, F.S.; deleting an exemption from public records requirements for information related to a voter registration applicant's or voter's prior felony conviction and his or her restoration of voting rights to conform to changes made by the act; amending s. 97.1031, F.S.; revising requirements for notifying the supervisor of address changes; modifying procedures for submitting changes of name or party affiliation to conform to changes made by the act; amending s. 98.0981, F.S.; providing that certain ballot types or precinct subtotals may not be reported in precinct-



262784

level election results; requiring supervisors to post live turnout data for election day voting and vote-by-mail ballot statistics on their websites; requiring supervisors to transmit live turnout data to the Division of Elections; directing the division to create and maintain a statewide voter turnout dashboard on its website using such data; creating s. 101.046, F.S.; prescribing procedures and limitations governing signature verification; defining the term "wet signature"; amending s. 101.051, F.S.; prohibiting certain solicitation of voters at drop box locations; increasing the no-solicitation zone surrounding a drop box location or the entrance of a polling place or an early voting site wherein certain activities are prohibited; amending s. 101.545, F.S.; requiring ballots, forms, and election materials to be retained for a specified minimum timeframe following an election; amending s. 101.5605, F.S.; revising the timeframe within which the department must approve or disapprove a voting system submitted for certification; amending s. 101.5614, F.S.; revising requirements for making true duplicate copies of vote-by-mail ballots under certain circumstances; requiring that an observer of the duplication of ballots be provided certain allowances; requiring the canvassing board to take certain action in response to an objection to a ballot duplicate; amending s. 101.591, F.S.; revising the timeframe and requirements for the voting systems audit report submitted to the



262784

department; amending s. 101.595, F.S.; requiring a specified report regarding overvotes and undervotes to be submitted with the voting systems audit report; revising the date by which the department must submit the report to the Governor and Legislature; amending s. 101.62, F.S.; limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; specifying applicability; requiring certain vote-by-mail ballot requests to include additional identifying information regarding the requesting elector; requiring supervisors of elections to record whether a voter's certificate on a vote-by-mail ballot has a mismatched signature; revising the definition of the term "immediate family" to conform to changes made by the act; prohibiting counties, municipalities, and state agencies from sending vote-by-mail ballots to voters absent a request; providing exceptions; amending s. 101.64, F.S.; prohibiting the display of an absent elector's party affiliation or other partisan information on the outside of vote-by-mail ballots and return and secrecy envelopes; amending s. 101.68, F.S.; specifying that the supervisor may not use any knowledge of a voter's party affiliation during the signature comparison process; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment; amending s. 101.69, F.S.; revising requirements governing the



262784

998 placement and supervision of secure drop boxes for the
999 return of vote-by-mail ballots; requiring the
1000 supervisor to designate drop box locations in advance
1001 of an election; prohibiting changes in drop box
1002 locations for an election after their initial
1003 designation; specifying requirements regarding the
1004 retrieval of vote-by-mail ballots returned in a drop
1005 box; providing that the supervisor is subject to a
1006 civil penalty for certain violations regarding drop
1007 boxes; amending s. 102.031, F.S.; prohibiting certain
1008 solicitation activities within a specified area
1009 surrounding a drop box; revising the definition of
1010 "solicit" and "solicitation" to include the giving, or
1011 attempting to give, any item to a voter by certain
1012 persons; providing for construction; restricting
1013 certain persons from prohibiting the solicitation of
1014 voters by a candidate or a candidate's designee
1015 outside of the no-solicitation zone; amending s.
1016 102.141, F.S.; requiring the names of canvassing board
1017 members be published on the supervisor's website
1018 before the tabulation of any vote-by-mail ballots in
1019 an election; authorizing each political party and
1020 candidate to have one watcher at canvassing board
1021 meetings within a distance that allows him or her to
1022 directly observe proceedings; requiring additional
1023 information be included in public notices of
1024 canvassing board meetings; amending s. 104.0616, F.S.;
1025 revising the definition of "immediate family";
1026 prohibiting any person from distributing, ordering,



262784

1027 requesting, collecting, delivering, or otherwise
1028 physically possessing more than two vote-by-mail
1029 ballots of other electors per election, not including
1030 immediate family members; providing exceptions;
1031 providing a penalty; providing effective dates.



937796

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
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	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Delete lines 58 - 344
and insert:
digits of his or her social security number.

(4) (a) In order to submit a voter registration application through the online voter registration system, an applicant must provide his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051; or the last four digits of the applicant's



937796

12 social security number.

13 (b)1. If the applicant has submitted his or her Florida
14 driver license number or the identification number from a
15 Florida identification card with a voter registration
16 application, the online voter registration system shall compare
17 the Florida driver license number or Florida identification
18 number ~~submitted pursuant to s. 97.052(2)(n)~~ with information
19 maintained by the Department of Highway Safety and Motor
20 Vehicles to confirm that the name and date of birth on the
21 application are consistent with the records of the Department of
22 Highway Safety and Motor Vehicles.

23 2.~~(b)~~ If the applicant's name and date of birth are
24 consistent with the records of the Department of Highway Safety
25 and Motor Vehicles, the online voter registration system shall
26 transmit, using the statewide voter registration system
27 maintained pursuant to s. 98.035, the applicant's registration
28 application, along with the digital signature of the applicant
29 on file with the Department of Highway Safety and Motor
30 Vehicles, to the supervisor of elections. The applicant's
31 digital signature satisfies the signature requirement of s.
32 97.052(2)(q).

33 (c)1. If the applicant has submitted the last four digits
34 of his or her social security number, the online voter
35 registration system must verify the last four digits of the
36 social security number in accordance with s. 97.053(6).

37 2. If the last four digits of the applicant's social
38 security number are verified pursuant to s. 97.053(6), the
39 online voter registration system shall transmit, using the
40 statewide voter registration system maintained pursuant to s.



937796

98.035, the applicant's registration application to the supervisor of elections.

(d) If the applicant's name and date of birth cannot be verified by the records of the Department of Highway Safety and Motor Vehicles, or if the last four digits of the applicant's social security number cannot be verified ~~applicant indicated that he or she has not been issued a Florida driver license or Florida identification card,~~ the online voter registration system shall populate the applicant's information into a printable voter registration application pursuant to s. 97.052(2) and direct the applicant to print, sign, and date the application and deliver the application to the supervisor of elections for disposition pursuant to s. 97.073.

Section 3. Paragraph (a) of subsection (5) and subsection (6) of section 97.053, Florida Statutes, are amended to read:

97.053 Acceptance of voter registration applications.—

(5)(a) A voter registration application is complete if it contains the following information necessary to establish the applicant's eligibility pursuant to s. 97.041, including:

1. The applicant's name.

2. The applicant's address of legal residence, including a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier, if appropriate. Failure to include a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter's eligibility to register to vote or cast a ballot, and such an omission may not serve as the basis for a challenge to a voter's eligibility or reason to not count a ballot.



937796

3. The applicant's date of birth.

4. A mark in the checkbox affirming that the applicant is a citizen of the United States.

5.a. The applicant's current and valid Florida driver license number or the identification number from a Florida identification card issued under s. 322.051, or

b. If the applicant has not been issued a current and valid Florida driver license or a Florida identification card, the last four digits of the applicant's social security number.

In case an applicant has not been issued a current and valid Florida driver license, Florida identification card, or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application.

6. A mark in the ~~applicable~~ checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, ~~has had his or her civil rights restored through executive clemency, or~~ has had his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution.

7. A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.

8. The original signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true



937796

and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(6) A voter registration application, including an application with a change in name, address, or party affiliation, may be accepted as valid only after the department has verified the authenticity or nonexistence of the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant. If a completed voter registration application has been received by the book-closing deadline but the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant cannot be verified, the applicant shall be notified that the number cannot be verified and that the applicant must provide evidence to the supervisor sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number. If the applicant provides the necessary evidence, the supervisor shall place the applicant's name on the registration rolls as an active voter. If the applicant has not provided the necessary evidence or the number has not otherwise been verified prior to the applicant presenting himself or herself to vote, the applicant shall be provided a provisional ballot. The provisional ballot shall be counted only if the number is verified by the end of the canvassing period or if the applicant presents evidence to the supervisor of elections sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number no later than 5 p.m. of the



937796

second day following the election.

Section 4. Paragraphs (c) and (d) of subsection (1), paragraph (a) of subsection (3), and subsection (5) of section 97.0575, Florida Statutes, are amended to read:

97.0575 Third-party voter registrations.—

(1) Before engaging in any voter registration activities, a third-party voter registration organization must register and provide to the division, in an electronic format, the following information:

(c) The names, permanent addresses, and temporary addresses, if any, of each registration agent registering persons to vote in this state on behalf of the organization. This paragraph does not apply to persons who only solicit applications and do not collect or handle voter registration applications.

~~(d) A sworn statement from each registration agent employed by or volunteering for the organization stating that the agent will obey all state laws and rules regarding the registration of voters. Such statement must be on a form containing notice of applicable penalties for false registration.~~

(3) (a) A third-party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that any voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, must ~~shall~~ be promptly delivered to the division or the supervisor of elections in the county in which the applicant resides within 14 days after the applicant completes it, but not after registration closes for the next ensuing election. A third-party voter registration



937796

organization must notify the applicant at the time the application is collected that the organization might not deliver the application to the division or the supervisor of elections in less than 14 days or before registration closes for the next ensuing election and must advise the applicant that he or she may deliver the application in person or by mail. The third-party voter registration organization must also inform the applicant how to register online with the division and how to determine whether the application has been delivered ~~48 hours after the applicant completes it or the next business day if the appropriate office is closed for that 48-hour period.~~ If a voter registration application collected by any third-party voter registration organization is not promptly delivered to the division or supervisor of elections, the third-party voter registration organization is liable for the following fines:

1. A fine in the amount of \$50 for each application received by the division or the supervisor of elections in the county in which the applicant resides more than 14 days ~~48 hours~~ after the applicant delivered the completed voter registration application to the third-party voter registration organization or any person, entity, or agent acting on its behalf ~~or the next business day, if the office is closed.~~ A fine in the amount of \$250 for each application received if the third-party voter registration organization or person, entity, or agency acting on its behalf acted willfully.

2. A fine in the amount of \$100 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, before book closing for any given election for federal or state office and



937796

received by the division or the supervisor of elections in the
county in which the applicant resides after the book-closing
deadline for such election. A fine in the amount of \$500 for
each application received if the third-party registration
organization or person, entity, or agency acting on its behalf
acted willfully.

3. A fine in the amount of \$500 for each application
collected by a third-party voter registration organization or
any person, entity, or agent acting on its behalf, which is not
submitted to the division or supervisor of elections in the
county in which the applicant resides. A fine in the amount of
\$1,000 for any application not submitted if the third-party
voter registration organization or person, entity, or agency
acting on its behalf acted willfully.

The aggregate fine pursuant to this paragraph which may be
assessed against a third-party voter registration organization,
including affiliate organizations, for violations committed in a
calendar year is \$1,000.

(5) The division shall adopt by rule a form to elicit
specific information concerning the facts and circumstances from
a person who claims to have been registered to vote by a third-
party voter registration organization but who does not appear as
an active voter on the voter registration rolls. The division
shall also adopt rules to ensure the integrity of the
registration process, including controls to ensure that all
completed forms are promptly delivered to the division or an
appropriate supervisor ~~rules requiring third-party voter~~
~~registration organizations to account for all state and federal~~



937796

~~registration forms used by their registration agents. Such rules may require an organization to provide organization and form specific identification information on each form as determined by the department as needed to assist in the accounting of state and federal registration forms.~~

Section 5. Paragraphs (d), (e), and (f) of subsection (1) of section 97.0585, Florida Statutes, are amended to read:

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.—

(1) The following information held by an agency, as defined in s. 119.011, and obtained for the purpose of voter registration is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

~~(d) Information related to a voter registration applicant's or voter's prior felony conviction and whether such person has had his or her voting rights restored by the Board of Executive Clemency or pursuant to s. 4, Art. VI of the State Constitution.~~

~~(e)~~ All information concerning preregistered voter registration applicants who are 16 or 17 years of age.

(e)-(f) Paragraph (d) is Paragraphs (d) and (e) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. Paragraph (b) of subsection (1) and subsection (2) of section 97.1031, Florida Statutes, are amended to read:

97.1031 Notice of change of residence, change of name, or change of party affiliation.—



937796

(1)

(b) If the address change is within the state and notice is provided to the supervisor of elections of the county where the elector has moved, the elector may do so by:

1. Contacting the supervisor of elections via telephone or electronic means, in which case the elector must provide his or her date of birth and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of the his or her social security number; or

2. Submitting the change on a voter registration application or other signed written notice.

(2) When an elector seeks to change party affiliation, the elector shall notify his or her supervisor of elections or other voter registration official by submitting a voter registration application or other ~~using a~~ signed written notice that contains the elector's date of birth or voter registration number and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of his or her social security number. When an elector changes his or her name by marriage or other legal process, the elector shall notify his or her supervisor of elections or other voter registration official by submitting a voter registration application or other ~~using a~~ signed written notice that contains the elector's date of birth or voter's registration number and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of his or her social security number.



937796

273

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

275 And the title is amended as follows:

276 Delete lines 915 - 920

277 and insert:

278 registration applications; amending s.



524636

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/14/2021	.	
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	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (262784) (with directory and title amendments)

Between lines 60 and 61
insert:

(b) The division shall conduct a comprehensive risk assessment of the online voter registration system ~~before making the system publicly available and every 2 years thereafter.~~ The comprehensive risk assessment must comply with the risk assessment methodology developed by the Department of Management Services for identifying security risks, determining the



524636

magnitude of such risks, and identifying areas that require safeguards. In addition, the comprehensive risk assessment must incorporate all of the following:

1. Load testing and stress testing to ensure that the online voter registration system has sufficient capacity to accommodate foreseeable use, including during periods of high volume of website users in the week immediately preceding the book-closing deadline for an election.

2. Screening of computers and networks used to support the online voter registration system for malware and other vulnerabilities.

3. Evaluation of database infrastructure, including software and operating systems, in order to fortify defenses against cyberattacks.

4. Identification of any anticipated threats to the security and integrity of data collected, maintained, received, or transmitted by the online voter registration system.

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 31 - 32

and insert:

Section 2. Effective July 1, 2022, subsections (1) through (4) of section

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

And the title is amended as follows:

Delete line 913

and insert:



524636

41 security numbers; specifying additional requirements
42 for comprehensive risk assessments of the online voter
43 registration system; amending s. 97.053, F.S.;
44 revising



105356

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/14/2021	.	
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The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Delete lines 185 - 195

and insert:

Section 4. Section 97.057, Florida Statutes, is amended to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) Each of the following serves as an application ~~The Department of Highway Safety and Motor Vehicles shall provide~~



105356

12 ~~the opportunity~~ to register to vote or to update a voter
13 registration record when submitted to the Department of Highway
14 Safety and Motor Vehicles ~~to each individual who comes to an~~
15 ~~office of that department to:~~

16 (a) An application ~~Apply~~ for a driver license or a renewal
17 of ~~renew~~ a driver license;

18 (b) An application ~~Apply~~ for an identification card
19 pursuant to chapter 322 or a renewal of ~~renew~~ an identification
20 card ~~pursuant to chapter 322~~; or

21 (c) An application for a change of ~~an~~ address on an
22 existing driver license or identification card.

23
24 Unless the applicant declines to register to vote or to update
25 his or her voter registration record, he or she is deemed to
26 have consented to the use of the signature from his or her
27 driver license or identification card application for voter
28 registration purposes.

29 (2) An application for a driver license or an
30 identification card must include a voter registration component.
31 The voter registration component must be approved by the
32 Department of State. The voter registration component of a
33 driver license or identification card application must contain:

34 (a) The minimum amount of information necessary to prevent
35 duplicate voter registrations and preserve the ability of the
36 department and supervisors of elections to assess the
37 eligibility of the applicant and administer voter registration
38 and other provisions of this code.

39 (b) A statement setting forth voting eligibility
40 requirements.



105356

41 (c) An explanation that the applicant is consenting, for
42 voter registration purposes, to the use of his or her signature
43 from the applicant's driver license or identification card
44 application. By consenting to the use of his or her signature,
45 the applicant is deemed to have subscribed to the oath required
46 by s. 3, Art. VI of the State Constitution and s. 97.051 and to
47 have sworn and affirmed that the voter registration information
48 contained in the application is true under penalty for false
49 swearing pursuant to s. 104.011.

50 (d) An option that allows the applicant to choose or update
51 a party affiliation; otherwise, an applicant who is initially
52 registering to vote and does not exercise such option shall be
53 registered without party affiliation in accordance with s.
54 97.053(5) (b) .

55 (e) An option that allows the applicant to decline to
56 register to vote or to decline to update his or her voter
57 registration record. The Department of Highway Safety and Motor
58 Vehicles shall note any such declination in its records and
59 forward the declination to the Department of State. Any
60 declination may be used only for voter registration purposes and
61 is confidential and exempt from public records requirements as
62 provided in s. 97.0585.

63 (3) The Department of Highway Safety and Motor Vehicles
64 shall:

65 (a) Develop a voter registration component for applications
66 which meets the requirements set forth in subsection (2). ~~Notify~~
67 ~~each individual, orally or in writing, that:~~

68 ~~1. Information gathered for the completion of a driver~~
69 ~~license or identification card application, renewal, or change~~



105356

~~of address can be automatically transferred to a voter
registration application;~~

~~2. If additional information and a signature are provided,
the voter registration application will be completed and sent to
the proper election authority;~~

~~3. Information provided can also be used to update a voter
registration record;~~

~~4. All declinations will remain confidential and may be
used only for voter registration purposes; and~~

~~5. The particular driver license office in which the person
applies to register to vote or updates a voter registration
record will remain confidential and may be used only for voter
registration purposes.~~

~~(b) Require a driver license examiner to inquire orally or,
if the applicant is hearing impaired, inquire in writing whether
the applicant wishes to register to vote or update a voter
registration record during the completion of a driver license or
identification card application, renewal, or change of address.~~

~~1. If the applicant chooses to register to vote or to
update a voter registration record:~~

~~a. All applicable information received by the Department of
Highway Safety and Motor Vehicles in the course of filling out
the forms necessary under subsection (1) must be transferred to
a voter registration application.~~

~~b. The additional necessary information must be obtained by
the driver license examiner and must not duplicate any
information already obtained while completing the forms required
under subsection (1).~~

~~c. A voter registration application with all of the~~



105356

~~applicant's voter registration information required to establish the applicant's eligibility pursuant to s. 97.041 must be presented to the applicant to review and verify the voter registration information received and provide an electronic signature affirming the accuracy of the information provided.~~

~~2. If the applicant declines to register to vote, update the applicant's voter registration record, or change the applicant's address by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system.~~

~~(3) For the purpose of this section, the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, shall prescribe:~~

~~(a) A voter registration application that is the same in content, format, and size as the uniform statewide voter registration application prescribed under s. 97.052; and~~

~~(b) A form that will inform applicants under subsection (1) of the information contained in paragraph (2)(a).~~

~~(4) The Department of Highway Safety and Motor Vehicles must Electronically transmit the voter registration component of an applicant's driver license or identification card application to the Department of State ~~completed voter registration applications~~ within 24 hours after receipt ~~to the statewide voter registration system~~. Upon receipt of the voter registration component, the Department of State shall provide the information to the supervisor of the county in which the applicant is registering ~~Completed paper voter registration~~~~



105356

~~applications received by the Department of Highway Safety and Motor Vehicles shall be forwarded within 5 days after receipt to the supervisor of the county where the office that processed or received that application is located.~~

~~(5) The Department of Highway Safety and Motor Vehicles must send, with each driver license renewal extension application authorized pursuant to s. 322.18(8), a uniform statewide voter registration application, the voter registration application prescribed under paragraph (3)(a), or a voter registration application developed especially for the purposes of this subsection by the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, which must meet the requirements of s. 97.052.~~

~~(4)(6)~~ A person providing voter registration services for a driver license office may not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Disclose any applicant's voter registration information except as needed for the administration of voter registration.

~~(5)(7)~~ The Department of Highway Safety and Motor Vehicles shall collect data determined necessary by the Department of State for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

~~(6)(8)~~ The Department of Highway Safety and Motor Vehicles shall ~~must~~ ensure that all voter registration services provided



105356

by driver license offices are in compliance with the Voting Rights Act of 1965.

~~(7)-(9)~~ The Department of Highway Safety and Motor Vehicles shall retain complete records of voter registration information received, processed, and submitted to the Department of State ~~statewide voter registration system~~ by the Department of Highway Safety and Motor Vehicles. The maintenance of such ~~These~~ records is shall be for the explicit purpose of supporting audit and accounting controls established to ensure accurate and complete electronic transmission of records between the Department of State ~~statewide voter registration system~~ and the Department of Highway Safety and Motor Vehicles.

~~(8)-(10)~~ The Department of State shall provide the Department of Highway Safety and Motor Vehicles with an electronic database of street addresses valid for use as the address of legal residence as required in s. 97.053(5). The Department of Highway Safety and Motor Vehicles shall compare the address provided by the applicant against the database of valid street addresses. If the address provided by the applicant does not match a valid street address in the database, the applicant will be asked to verify the address provided. The Department of Highway Safety and Motor Vehicles may ~~shall~~ not reject any application for voter registration for which a valid match cannot be made.

~~(9)-(11)~~ The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Department of State to match information in the statewide voter registration system with information in the database of the Department of Highway Safety and Motor Vehicles to the extent required to verify the



105356

accuracy of the driver license number, Florida identification number, or last four digits of the social security number provided on applications for voter registration as required in s. 97.053.

(10)~~(12)~~ The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Commissioner of Social Security as required by the Help America Vote Act of 2002 to verify the last four digits of the social security number provided in applications for voter registration as required in s. 97.053.

(11) The Department of Highway Safety and Motor Vehicles must assist the Department of State in regularly identifying changes in residence address on the driver license or identification card of a voter. The Department of State must report each such change to the appropriate supervisor of elections, who must change the voter's registration records in accordance with s. 98.065(4).

Section 5. Paragraph (b) of subsection (4) of section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.—

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL STREET ADDRESSES.—

(b) The department shall make the statewide database of valid street addresses available to the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(8) ~~s. 97.057(10)~~. The Department of Highway Safety and Motor Vehicles shall use the database for purposes of validating the legal residential addresses provided in voter registration applications received by the Department of Highway Safety and



105356

Motor Vehicles.

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

And the title is amended as follows:

Delete lines 916 - 920

and insert:

revising procedures governing voter registration by the Department of Highway Safety and Motor Vehicles; providing that driver license or identification card applications, driver license or identification card renewal applications, and applications for changes of address for existing driver licenses or identification cards submitted to the department serve as voter registration applications; specifying that an applicant is deemed to have consented to the use of his or her signature for voter registration purposes, unless a declination is made; requiring specified applications to include a voter registration component, subject to approval by the Department of State; specifying requirements for the voter registration component; providing for the transmittal of voter registration information to the Department of State and supervisors of elections; requiring the Department of Highway Safety and Motor Vehicles to assist the Department of State in identifying certain residence address changes; requiring the Department of State to report such changes to supervisors of elections; amending s. 98.045, F.S.; conforming a cross-reference; amending s.



139050

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Delete lines 185 - 195

and insert:

Section 4. Effective July 1, 2022, present subsections (4) through (12) of section 97.057, Florida Statutes, are redesignated as subsections (5) through (13), respectively, a new subsection (4) and subsection (14) are added to that section, and subsections (1) and (2) of that section are amended, to read:



139050

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to register to vote ~~or to update a voter registration record~~ to each individual who is not registered to vote in this state who comes to an office of that department to:

(a) Apply for or renew a driver license;

(b) Apply for or renew an identification card pursuant to chapter 322; or

(c) Change an address on an existing driver license or identification card.

(2) The Department of Highway Safety and Motor Vehicles shall:

(a) Notify each individual subject to subsection (1), orally or in writing, that:

1. Information gathered for the completion of a driver license or identification card application, renewal, or change of address can be automatically transferred to a voter registration application;

2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;

~~3. Information provided can also be used to update a voter registration record;~~

~~4.~~ All declinations will remain confidential and may be used only for voter registration purposes; and

~~4.5.~~ The particular driver license office in which the person applies to register to vote ~~or updates a voter~~



139050

~~registration record~~ will remain confidential and may be used only for voter registration purposes.

(b) Require a driver license examiner to inquire orally or, if the applicant is hearing impaired, inquire in writing whether the applicant wishes to register to vote ~~or update a voter registration record~~ during the completion of a driver license or identification card application, renewal, or change of address.

1. If the applicant chooses to register to vote ~~or to update a voter registration record~~:

a. All applicable information received by the Department of Highway Safety and Motor Vehicles in the course of filling out the forms necessary under subsection (1) must be transferred to a voter registration application.

b. The additional necessary information must be obtained by the driver license examiner and must not duplicate any information already obtained while completing the forms required under subsection (1).

c. A voter registration application with all of the applicant's voter registration information required to establish the applicant's eligibility pursuant to s. 97.041 must be presented to the applicant to review and verify the voter registration information received and provide an electronic signature affirming the accuracy of the information provided.

2. If the applicant declines to register to vote, ~~update the applicant's voter registration record, or change the applicant's address~~ by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide



139050

voter registration system.

(4) If a registered or preregistered voter submits a change of address to the Department of Highway Safety and Motor Vehicles, or supplies an address of legal residence as part of a driver license or identification card application or renewal which differs from the address in the person's voter registration record, the Department of Highway Safety and Motor Vehicles must electronically transmit within 24 hours after receipt the information necessary to update the person's voter registration record to the statewide voter registration system. The person's voter registration shall be updated in accordance with s. 98.065(4)(a).

(14) The Department of Highway Safety and Motor Vehicles and the Department of State shall prescribe a method by which a driver license office, upon obtaining a person's full name, date of birth, driver license or state identification number, address of legal residence, and mailing address if different from the address of legal residence, may immediately use the information in the statewide voter registration system to determine whether the person is registered or preregistered to vote in this state and, if so, whether the person is registered or preregistered at the address of legal residence the person provided to the Department of Highway Safety and Motor Vehicles.

Section 5. Effective July 1, 2022, paragraph (b) of subsection (4) of section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.—

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL STREET ADDRESSES.—



139050

(b) The department shall make the statewide database of valid street addresses available to the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(11) ~~s. 97.057(10)~~. The Department of Highway Safety and Motor Vehicles shall use the database for purposes of validating the legal residential addresses provided in voter registration applications received by the Department of Highway Safety and Motor Vehicles.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 916 - 920
and insert:
revising procedures governing voter registration by the Department of Highway Safety and Motor Vehicles; modifying procedures for updates to voter registration records; providing for the electronic transmittal of change of address information in accordance with specified requirements; requiring the Department of Highway Safety and Motor Vehicles and the Department of State to prescribe a method to verify the registration or preregistration status of certain individuals; amending s. 98.045, F.S.; conforming a cross-reference; amending s.



396232

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/14/2021	.	
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The Committee on Rules (Farmer and Mayfield) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Between lines 388 and 389
insert:

Section 9. Present paragraph (c) of subsection (1) of section 99.021, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

99.021 Form of candidate oath.—



396232

(1)

(c) In addition, any person seeking to qualify for office as a candidate with no party affiliation shall, at the time of subscribing to the oath or affirmation, state in writing that he or she is registered without any party affiliation and that he or she has not been a registered member of any political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.

Section 10. Paragraph (a) of subsection (7) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(7) (a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must



396232

contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1) (a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1) (b); or if the candidate is running without party affiliation for a partisan office, the written statement required by s. 99.021(1) (c).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

Section 11. Paragraph (b) of subsection (2) of section 99.063, Florida Statutes, is amended to read:

99.063 Candidates for Governor and Lieutenant Governor.—

(2) No later than 5 p.m. of the 9th day following the primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(b) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1) (b); or if the office sought is without party affiliation, the written statement required by s. 99.021(1) (c).



396232

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

And the title is amended as follows:

Delete line 946

and insert:

dashboard on its website using such data; amending s.
99.021, F.S.; requiring a person seeking to qualify
for office as a candidate with no party affiliation to
subscribe to an oath or affirmation that he or she is
registered without party affiliation and has not been
a registered member of a political party for a
specified timeframe; amending ss. 99.061 and 99.063,
F.S.; conforming provisions to changes made by the
act; creating s.



112822

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/14/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Between lines 388 and 389
insert:

Section 9. Paragraphs (b) and (c) of subsection (1) of
section 101.043, Florida Statutes, are amended to read:

101.043 Identification required at polls.—

(1)

(b) If the picture identification does not contain the
signature of the elector, an additional identification that



112822

provides the elector's signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to ~~confirm an elector's legal residence or otherwise~~ challenge an elector's legal residence. The elector shall sign his or her name in the space provided on the precinct register or on an electronic device provided for recording the elector's signature. The clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided on the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

~~(c) When an elector presents his or her picture identification to the clerk or inspector and the elector's address on the picture identification matches the elector's address in the supervisor's records, the elector may not be asked to provide additional information or to recite his or her home address.~~

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

And the title is amended as follows:

Delete line 946

and insert:

dashboard on its website using such data; amending s. 101.043, F.S.; deleting a provision that prohibits the use of an address appearing on identification presented by an elector at the polls as a basis to confirm an elector's legal residence; deleting a provision that prohibits a clerk or an inspector from



112822

41 asking an elector to provide additional identification
42 information under specified circumstances; creating s.



525218

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Delete lines 463 - 497
and insert:

(4) (a) If any vote-by-mail ballot is physically damaged so that it cannot properly be counted by the voting system's automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. ~~Likewise,~~ A duplicate ballot must also ~~shall be made of a vote-by-mail ballot containing an~~



525218

~~overvoted race or~~ a marked vote-by-mail ballot in which every
race is undervoted, including ~~which shall include~~ all valid
votes as determined by the canvassing board based on rules
adopted by the division pursuant to s. 102.166(4). Upon request,
a physically present candidate, a political party official, a
political committee official, or an authorized designee thereof,
must be allowed to observe the duplication of ballots. All
duplicate ballots shall be clearly labeled "duplicate," bear a
serial number that ~~which~~ shall be recorded on the defective
ballot, and be counted in lieu of the defective ballot. After a
ballot has been duplicated, the defective ballot shall be placed
in an envelope provided for that purpose, and the duplicate
ballot shall be tallied with the other ballots for that
precinct.

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

And the title is amended as follows:

Delete lines 962 - 966

and insert:

by-mail ballots under certain circumstances; amending

s. 101.591,



284554

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (262784) (with directory and title amendments)

Delete lines 661 - 666.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 538 - 539

and insert:

101.62, Florida Statutes, are amended to read:



284554

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

13 And the title is amended as follows:

14 Delete lines 984 - 987

15 and insert:

16 to changes made by the act; amending s. 101.64, F.S.;

17 prohibiting the



742050

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (262784) (with directory and title amendments)

Delete lines 759 - 771.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 744

and insert:

Section 20. Paragraphs (a) and (e) of subsection (4)



742050

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

13 And the title is amended as follows:

14 Delete lines 1009 - 1012

15 and insert:

16 surrounding a drop box; restricting



153722

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (262784) (with directory and title amendments)

Delete lines 772 - 776.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 744

and insert:

Section 20. Paragraphs (a) and (b) of subsection (4)



153722

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

13 And the title is amended as follows:

14 Delete lines 1012 - 1015

15 and insert:

16 persons; providing for construction; amending s.



522990

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment to Amendment (262784) (with title amendment)

Between lines 896 and 897
insert:

Section 23. Subsection (11) is added to section 106.08,
Florida Statutes, to read:

106.08 Contributions; limitations on.—

(11) (a) A county, a municipality, or any other local
governmental entity is expressly preempted from enacting or
adopting:



522990

1. Contribution limits that differ from the limitations
established in subsection (1);

2. Any limitation or restriction involving contributions to
a political committee or an electioneering communications
organization; or

3. Any limitation or restriction on expenditures for an
electioneering communication or an independent expenditure.

(b) Any existing or future limitation or restriction
enacted or adopted by a county, a municipality, or any other
local governmental entity which is in conflict with this
subsection is void.

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

And the title is amended as follows:

Delete line 1031

and insert:

providing a penalty; amending s. 106.08, F.S.;
preempting counties, municipalities, and other local
governmental entities from enacting or adopting any
limitation or restriction involving certain
contributions and expenditures, or establishing
contribution limits different than those established
in the Florida Election Code; providing applicability;
providing effective dates.



869832

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

97.052 Uniform statewide voter registration application.—

(2) The uniform statewide voter registration application
must be designed to elicit the following information from the
applicant:

(t) ~~1.~~ Whether the applicant has ~~never~~ been convicted of a



869832

felony and, if convicted, has had his or her voting rights restored by including the statement "I affirm I have never been convicted of a felony or, if I have been, my rights relating to voting have been restored." and providing a box for the applicant to check to affirm the statement.

~~2. Whether the applicant has been convicted of a felony, and if convicted, has had his or her civil rights restored through executive clemency, by including the statement "If I have been convicted of a felony, I affirm my voting rights have been restored by the Board of Executive Clemency." and providing a box for the applicant to check to affirm the statement.~~

~~3. Whether the applicant has been convicted of a felony and, if convicted, has had his or her voting rights restored pursuant s. 4, Art. VI of the State Constitution, by including the statement "If I have been convicted of a felony, I affirm my voting rights have been restored pursuant to s. 4, Art. VI of the State Constitution upon the completion of all terms of my sentence, including parole or probation." and providing a box for the applicant to check to affirm the statement.~~

Section 2. Effective July 1, 2022, section 97.0525, Florida Statutes, is amended to read:

97.0525 Online voter registration.—

(1) ~~Beginning October 1, 2017,~~ An applicant may submit an online voter registration application using the procedures set forth in this section.

(2) The division shall establish and maintain a secure ~~Internet~~ website that safeguards an applicant's information to ensure data integrity and permits an applicant to:

(a) Submit a voter registration application, including



869832

first-time voter registration applications and updates to current voter registration records.

(b) Submit information necessary to establish an applicant's eligibility to vote, pursuant to s. 97.041, which includes the information required for the uniform statewide voter registration application pursuant to s. 97.052(2).

(c) Swear to the oath required pursuant to s. 97.051.

(3)(a) The online voter registration system must ~~shall~~ comply with the information technology security provisions of s. 282.318 and must ~~shall~~ use a unique identifier for each applicant to prevent unauthorized persons from altering a voter's registration information. For an applicant to update his or her voter registration record, he or she must provide his or her date of birth and either his or her Florida driver license number or the identification number from a Florida identification card issued under s. 322.051 or the last four digits of the his or her social security number if the applicant has not been issued a Florida driver license or identification card.

(b) The division shall conduct a comprehensive risk assessment of the online voter registration system ~~before making the system publicly available and every 2 years thereafter.~~ The comprehensive risk assessment must comply with the risk assessment methodology developed by the Department of Management Services for identifying security risks, determining the magnitude of such risks, and identifying areas that require safeguards. In addition, the comprehensive risk assessment must incorporate all of the following:

1. Load testing and stress testing to ensure that the



869832

online voter registration system has sufficient capacity to
accommodate foreseeable use, including during periods of high
volume of website users in the week immediately preceding the
book-closing deadline for an election.

2. Screening of computers and networks used to support the
online voter registration system for malware and other
vulnerabilities.

3. Evaluation of database infrastructure, including
software and operating systems, in order to fortify defenses
against cyberattacks.

4. Identification of any anticipated threats to the
security and integrity of data collected, maintained, received,
or transmitted by the online voter registration system.

(4) (a) In order to submit a voter registration application
through the online voter registration system, an applicant must
provide his or her Florida driver license number or the
identification number from a Florida identification card issued
under s. 322.051; or if an applicant has not been issued a
Florida driver license or Florida identification card, he or she
must provide the last four digits of the applicant's social
security number.

(b) 1. If the applicant has submitted his or her Florida
driver license number or the identification number from a
Florida identification card with a voter registration
application, the online voter registration system shall compare
the Florida driver license number or Florida identification
number ~~submitted pursuant to s. 97.052(2)(n)~~ with information
maintained by the Department of Highway Safety and Motor
Vehicles to confirm that the name and date of birth on the



869832

99 application are consistent with the records of the Department of
100 Highway Safety and Motor Vehicles.

101 2. ~~(b)~~ If the applicant's name and date of birth are
102 consistent with the records of the Department of Highway Safety
103 and Motor Vehicles, the online voter registration system shall
104 transmit, using the statewide voter registration system
105 maintained pursuant to s. 98.035, the applicant's registration
106 application, along with the digital signature of the applicant
107 on file with the Department of Highway Safety and Motor
108 Vehicles, to the supervisor of elections. The applicant's
109 digital signature satisfies the signature requirement of s.
110 97.052(2)(q).

111 (c)1. If the applicant has submitted the last four digits
112 of his or her social security number, the online voter
113 registration system must verify the last four digits of the
114 social security number in accordance with s. 97.053(6). The
115 applicant must also provide an electronic image of his or her
116 signature. The division shall adopt rules to authorize a secure
117 method for an applicant to upload or otherwise provide a high-
118 quality electronic image of his or her signature through the
119 online voter registration system.

120 2. If the last four digits of the applicant's social
121 security number are verified pursuant to s. 97.053(6), the
122 online voter registration system shall transmit, using the
123 statewide voter registration system maintained pursuant to s.
124 98.035, the applicant's registration application, along with the
125 electronic image of the applicant's signature provided pursuant
126 to subparagraph 1., to the supervisor of elections. The
127 electronic image of the applicant's signature satisfies the



869832

signature requirement of s. 97.052(2)(q).

(d) If the applicant's name and date of birth cannot be verified by the records of the Department of Highway Safety and Motor Vehicles, or if the last four digits of the applicant's social security number cannot be verified ~~applicant indicated that he or she has not been issued a Florida driver license or Florida identification card~~, the online voter registration system shall populate the applicant's information into a printable voter registration application pursuant to s. 97.052(2) and direct the applicant to print, sign, and date the application and deliver the application to the supervisor of elections for disposition pursuant to s. 97.073.

(5) Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor of elections has received the application and provide instructions regarding the ability of a registrant to check the status of the application thereafter.

(6) Except as otherwise provided in this section, the supervisor of elections shall process the application pursuant to s. 97.053.

(7) The division shall develop an application programming interface that allows approved and registered third-party voter registration organizations to securely collect and submit voter registration applications electronically through the organization's application or website.

(8) The online voter registration system must conform to nationally accepted standards for accessibility for individuals with disabilities, including s. 508 of the Rehabilitation Act of



869832

1973, s. 255 of the Telecommunications Act of 1996, and the Web Content Accessibility Guidelines of the World Wide Web Consortium, to ensure equal access for voters with disabilities.

(9)~~(8)~~ A legal distinction may not be made between online voter registration under this section and voter registration in person, by mail, or by other methods provided by general law.

Section 3. Paragraph (a) of subsection (5) of section 97.053, Florida Statutes, is amended to read:

97.053 Acceptance of voter registration applications.—

(5)(a) A voter registration application is complete if it contains the following information necessary to establish the applicant's eligibility pursuant to s. 97.041, including:

1. The applicant's name.

2. The applicant's address of legal residence, including a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier, if appropriate. Failure to include a distinguishing apartment, suite, lot, room, or dormitory room or other identifier on a voter registration application does not impact a voter's eligibility to register to vote or cast a ballot, and such an omission may not serve as the basis for a challenge to a voter's eligibility or reason to not count a ballot.

3. The applicant's date of birth.

4. A mark in the checkbox affirming that the applicant is a citizen of the United States.

5.a. The applicant's current and valid Florida driver license number or the identification number from a Florida identification card issued under s. 322.051, or

b. If the applicant has not been issued a current and valid



869832

Florida driver license or a Florida identification card, the last four digits of the applicant's social security number.

In case an applicant has not been issued a current and valid Florida driver license, Florida identification card, or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application.

6. A mark in the ~~applicable~~ checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, ~~has had his or her civil rights restored through executive clemency, or~~ has had his or her voting rights restored pursuant to s. 4, Art. VI of the State Constitution.

7. A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.

8. The original signature, an electronic image of a signature transmitted pursuant to s. 97.0525(4)(c), or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

Section 4. Effective July 1, 2022, present subsections (4) through (12) of section 97.057, Florida Statutes, are redesignated as subsections (5) through (13), respectively, a new subsection (4) and subsection (14) are added to that



869832

section, and subsections (1) and (2) of that section are amended, to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to register to vote ~~or to update a voter registration record~~ to each individual who is not registered to vote in this state who comes to an office of that department to:

(a) Apply for or renew a driver license;

(b) Apply for or renew an identification card pursuant to chapter 322; or

(c) Change an address on an existing driver license or identification card.

(2) The Department of Highway Safety and Motor Vehicles shall:

(a) Notify each individual subject to subsection (1), orally or in writing, that:

1. Information gathered for the completion of a driver license or identification card application, renewal, or change of address can be automatically transferred to a voter registration application;

2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;

~~3. Information provided can also be used to update a voter registration record;~~

~~4.~~ All declinations will remain confidential and may be used only for voter registration purposes; and



869832

244 ~~4.5.~~ The particular driver license office in which the
245 person applies to register to vote ~~or updates a voter~~
246 ~~registration record~~ will remain confidential and may be used
247 only for voter registration purposes.

248 (b) Require a driver license examiner to inquire orally or,
249 if the applicant is hearing impaired, inquire in writing whether
250 the applicant wishes to register to vote ~~or update a voter~~
251 ~~registration record~~ during the completion of a driver license or
252 identification card application, renewal, or change of address.

253 1. If the applicant chooses to register to vote ~~or to~~
254 ~~update a voter registration record~~:

255 a. All applicable information received by the Department of
256 Highway Safety and Motor Vehicles in the course of filling out
257 the forms necessary under subsection (1) must be transferred to
258 a voter registration application.

259 b. The additional necessary information must be obtained by
260 the driver license examiner and must not duplicate any
261 information already obtained while completing the forms required
262 under subsection (1).

263 c. A voter registration application with all of the
264 applicant's voter registration information required to establish
265 the applicant's eligibility pursuant to s. 97.041 must be
266 presented to the applicant to review and verify the voter
267 registration information received and provide an electronic
268 signature affirming the accuracy of the information provided.

269 2. If the applicant declines to register to vote, ~~update~~
270 ~~the applicant's voter registration record, or change the~~
271 ~~applicant's address~~ by either orally declining or by failing to
272 sign the voter registration application, the Department of



869832

Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system.

(4) If a registered or preregistered voter submits a change of address to the Department of Highway Safety and Motor Vehicles, or supplies an address of legal residence as part of a driver license or identification card application or renewal which differs from the address in the person's voter registration record, the Department of Highway Safety and Motor Vehicles must electronically transmit within 24 hours after receipt the information necessary to update the person's voter registration record to the statewide voter registration system. The person's voter registration shall be updated in accordance with s. 98.065(4) (a) .

(14) The Department of Highway Safety and Motor Vehicles and the Department of State shall prescribe a method by which a driver license office, upon obtaining a person's full name, date of birth, driver license or state identification number, address of legal residence, and mailing address if different from the address of legal residence, may immediately use the information in the statewide voter registration system to determine whether the person is registered or preregistered to vote in this state and, if so, whether the person is registered or preregistered at the address of legal residence the person provided to the Department of Highway Safety and Motor Vehicles.

Section 5. Effective July 1, 2022, present subsections (3) through (7) of section 97.0575, Florida Statutes, are redesignated as subsections (4) through (8), respectively, a new subsection (3) is added to that section, and paragraph (b) of



869832

present subsection (3) of that section is amended, to read:

97.0575 Third-party voter registrations.—

(3) Upon application by a registered third-party voter registration organization and approval by the Secretary of State, a third-party voter registration organization may use the application programming interface established pursuant to s. 97.0525(7) to securely collect and submit voter registration applications electronically through the organization's application or website. The division shall adopt rules governing testing requirements and security standards for application programming interfaces. A third-party voter registration organization's application or website may not be denied so long as it satisfies all testing requirements and security standards prescribed by rule.

(4) ~~(3)~~

(b) A showing by the third-party voter registration organization that the failure to deliver the voter registration application within the required timeframe is based upon force majeure, a network outage, or impossibility of performance shall be an affirmative defense to a violation of this subsection. The secretary may waive the fines described in this subsection upon a showing that the failure to deliver the voter registration application promptly is based upon force majeure, a network outage, or impossibility of performance.

Section 6. Paragraphs (d), (e), and (f) of subsection (1) of section 97.0585, Florida Statutes, are amended to read:

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.—

(1) The following information held by an agency, as defined



869832

in s. 119.011, and obtained for the purpose of voter registration is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

~~(d) Information related to a voter registration applicant's or voter's prior felony conviction and whether such person has had his or her voting rights restored by the Board of Executive Clemency or pursuant to s. 4, Art. VI of the State Constitution.~~

~~(e)~~ All information concerning preregistered voter registration applicants who are 16 or 17 years of age.

~~(e)(f)~~ Paragraph (d) is Paragraphs (d) and (e) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 7. Effective July 1, 2022, paragraph (a) of subsection (1) of section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence, change of name, or change of party affiliation.—

(1)(a) Not including changes of address processed by the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(4) ~~when an elector changes his or her residence address,~~ the elector must notify the supervisor of elections when changing his or her residence address. Except as provided in paragraph (b) and s. 97.057(4), an address change must be submitted using a voter registration application.

Section 8. Effective July 1, 2022, paragraph (b) of subsection (4) of section 98.045, Florida Statutes, is amended



869832

to read:

98.045 Administration of voter registration.—

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL
STREET ADDRESSES.—

(b) The department shall make the statewide database of
valid street addresses available to the Department of Highway
Safety and Motor Vehicles as provided in s. 97.057(11) ~~s.~~
~~97.057(10)~~. The Department of Highway Safety and Motor Vehicles
shall use the database for purposes of validating the legal
residential addresses provided in voter registration
applications received by the Department of Highway Safety and
Motor Vehicles.

Section 9. Effective July 1, 2022, paragraph (a) of
subsection (4) and subsection (5) of section 98.065, Florida
Statutes, are amended to read:

98.065 Registration list maintenance programs.—

(4)(a) If the supervisor receives change-of-address
information pursuant to the activities conducted in subsection
(2), from jury notices signed by the voter and returned to the
courts, from the Department of Highway Safety and Motor Vehicles
pursuant to s. 97.057(4), or from other sources which indicates
that a registered voter's legal residence might have changed to
another location within the state, the supervisor must change
the registration records to reflect the new address and must
send the voter an address change notice as provided in s.
98.0655(2).

(5) Not including address changes processed in accordance
with s. 97.057(4), a notice may not be issued pursuant to this
section and a voter's name may not be removed from the statewide



869832

voter registration system later than 90 days before ~~prior to~~ the date of a federal election. However, this section does not preclude the removal of the name of a voter from the statewide voter registration system at any time upon the voter's written request, by reason of the voter's death, or upon a determination of the voter's ineligibility as provided in s. 98.075(7).

Section 10. Effective July 1, 2022, subsection (2) of section 98.0655, Florida Statutes, is amended to read:

98.0655 Registration list maintenance forms.—The department shall prescribe registration list maintenance forms to be used by the supervisors which must include:

(2) An address change notice that must be sent to the newly recorded address of legal residence by forwardable mail, including a postage prepaid, preaddressed return form with which the voter may verify or correct the voter's new address information. If the voter returns the address change notice and indicates that the newly recorded address of legal residence is incorrect, the supervisor must correct the voter's address information in his or her voter registration record to reflect the correct address of legal residence.

Section 11. Present subsections (4) and (5) of section 98.0981, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and paragraph (d) is added to subsection (2) and a new subsection (4) is added to that section, to read:

98.0981 Reports; voting history; statewide voter registration system information; precinct-level election results; book closing statistics; live turnout data.—

(2) PRECINCT-LEVEL ELECTION RESULTS.—

(d) Supervisors of elections shall publish the precinct-



869832

level election results compiled pursuant to this subsection on
their respective websites as the data becomes available.
Supervisors must post the unofficial precinct-level results
until the certified results are available. The webpage including
the data must include a clear and conspicuous disclaimer in bold
type stating at what time the precinct-level data was aggregated
and that the data is subject to change.

(4) LIVE TURNOUT DATA.—Supervisors of elections shall make
live voter turnout data on election day, updated in real time,
available on their respective websites. The supervisors shall
transmit the live turnout data to the division, which must
create and maintain a real-time statewide turnout dashboard that
is available for viewing by the public on its website as the
data becomes available.

Section 12. Paragraphs (b) and (c) of subsection (1) of
section 101.043, Florida Statutes, are amended to read:

101.043 Identification required at polls.—

(1)

(b) If the picture identification does not contain the
signature of the elector, an additional identification that
provides the elector's signature shall be required. The address
appearing on the identification presented by the elector may not
be used as the basis to ~~confirm an elector's legal residence or~~
~~otherwise~~ challenge an elector's legal residence. The elector
shall sign his or her name in the space provided on the precinct
register or on an electronic device provided for recording the
elector's signature. The clerk or inspector shall compare the
signature with that on the identification provided by the
elector and enter his or her initials in the space provided on



869832

the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

~~(c) When an elector presents his or her picture identification to the clerk or inspector and the elector's address on the picture identification matches the elector's address in the supervisor's records, the elector may not be asked to provide additional information or to recite his or her home address.~~

Section 13. Subsections (2) and (5) of section 101.051, Florida Statutes, are amended to read:

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.—

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1). A person at a polling place or an early voting site, or within 150 ~~100~~ feet of the entrance of a polling place or an early voting site, may not solicit any elector in an effort to provide assistance to vote pursuant to subsection (1). Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If an elector needing assistance requests that a person other than an election official provide him or her with assistance in voting, the clerk or one of the inspectors shall require the person providing assistance to take the following oath:

DECLARATION TO PROVIDE ASSISTANCE



869832

State of Florida

County of

Date

Precinct

I, ...(Print name)..., have been requested by ...(print name of elector needing assistance)... to provide him or her with assistance to vote. I swear or affirm that I am not the employer, an agent of the employer, or an officer or agent of the union of the voter and that I have not solicited this voter at the polling place or early voting site or within 150 ~~100~~ feet of such locations in an effort to provide assistance.

...(Signature of assistor)...

Sworn and subscribed to before me this day of,
...(year)....

...(Signature of Official Administering Oath)...

Section 14. Subsections (1), (2), and (5) of section 101.131, Florida Statutes, are amended to read:

101.131 Watchers at polls.—

(1) Each political party and each candidate may have one watcher in each polling room or early voting area at any one time during the election. A political committee formed for the specific purpose of expressly advocating the passage or defeat of an issue on the ballot may have one watcher for each polling room or early voting area at any one time during the election. A



869832

~~No~~ watcher may not ~~shall be permitted to~~ come closer to the officials' table or the voting booths than is reasonably necessary to properly perform his or her functions, but is ~~each~~ ~~shall be~~ allowed within the polling room or early voting area to watch and observe the conduct of electors and officials. The poll watchers shall furnish their own materials and necessities and may ~~shall~~ not obstruct the orderly conduct of any election. The poll watchers shall pose any questions regarding polling place procedures directly to the clerk for resolution. They may not interact with voters in the polling place, polling room, early voting area, or no-solicitation zone prescribed in s. 102.031. Each poll watcher must either ~~shall~~ be a qualified and registered elector of the county in which he or she serves or a member in good standing of The Florida Bar and a qualified and registered elector of this state.

(2) Each party, each political committee, and each candidate requesting to have poll watchers shall designate, in writing to the supervisors of elections, on a form prescribed by the division, before noon of the second Tuesday preceding the election poll watchers for each polling room on election day. Designations of poll watchers for early voting areas must ~~shall~~ be submitted in writing to the supervisor ~~of elections~~, on a form prescribed by the division, before noon at least 14 days before early voting begins. If the deadline for submitting the designation form falls on a Saturday, Sunday, or holiday, the form must be submitted before noon on the next business day. The poll watchers for polling rooms must ~~shall~~ be approved by the supervisor ~~of elections~~ on or before the Tuesday before the election. Poll watchers for early voting areas must ~~shall~~ be



869832

approved by the supervisor ~~of elections~~ no later than 7 days before early voting begins. The supervisor shall furnish to each election board a list of the poll watchers designated and approved for such polling rooms or early voting areas. Designation of poll watchers shall be made by the chair of the county executive committee of a political party, the chair of a political committee, or the candidate requesting to have poll watchers.

(5) The supervisor ~~of elections~~ shall provide to each designated poll watcher an, ~~no later than 7 days before early voting begins, a poll watcher~~ identification badge that identifies the poll watcher by name. Each poll watcher must wear his or her identification badge while in the polling room or early voting area.

Section 15. Paragraph (a) of subsection (4) of section 101.5614, Florida Statutes, is amended to read:

101.5614 Canvass of returns.—

(4)(a) If any vote-by-mail ballot is physically damaged so that it cannot properly be counted by the voting system's automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. ~~Likewise,~~ A duplicate ballot must also ~~shall~~ be made of ~~a vote-by-mail ballot containing an overvoted race or~~ a marked vote-by-mail ballot in which every race is undervoted, including ~~which shall include~~ all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4). Upon request, a physically present candidate, a political party official, a political committee official, or an authorized designee thereof,



869832

must be allowed to observe the duplication of ballots. All duplicate ballots shall be clearly labeled "duplicate," bear a serial number that ~~which~~ shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the other ballots for that precinct.

Section 16. Section 101.5617, Florida Statutes, is created to read:

101.5617 Electronic poll book approval.—

(1) Beginning with the 2022 primary election and each election thereafter, an electronic poll book may not be used as a precinct register unless it is approved for such use by the department.

(2) The department shall adopt rules for the approval of an electronic poll book which provide that the electronic poll book, at a minimum, must:

(a) Be secure from unauthorized intrusion.

(b) Contain all information required to be included in a precinct register under s. 98.461(2).

(c) Be compatible with the statewide voter registration system and securely transmit changes to a voter's voting history to the voter registration system.

(d) Be compatible with a form or device provided by the supervisor to capture an elector's signature in accordance with s. 101.5608(1).

Section 17. Subsection (1) of section 101.6103, Florida Statutes, is amended to read:



869832

101.6103 Mail ballot election procedure.—

(1) Except as otherwise provided in subsection (7), the supervisor of elections shall mail all official ballots with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each elector entitled to vote in the election between ~~not sooner than~~ the 40th and 33rd days ~~20th day~~ before the election but no and not later than the 10th day before the date of the election. All such ballots shall be mailed by first-class mail. Ballots shall be addressed to each elector at the address appearing in the registration records and placed in an envelope that ~~which~~ is prominently marked "Do Not Forward."

Section 18. Paragraph (e) of subsection (4) of section 102.031, Florida Statutes, is amended to read:

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.—

(4)

(e) The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters by any candidate or a candidate's designee outside of the no-solicitation zone during polling hours.

Section 19. Subsection (4) of section 103.091, Florida Statutes, is amended to read:

103.091 Political parties.—

(4) Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the



869832

primary election in each year a presidential election is held. The terms begin ~~shall commence~~ on the first day of the month following each presidential general election, ~~+~~ but the names of candidates for political party offices may ~~shall~~ not be placed on the ballot at any other election. The results of such election shall be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office shall do so with the Department of State or supervisor of elections no ~~not~~ earlier than noon of the 71st day, or later than noon of the 67th day, preceding the primary election. Notwithstanding the qualifying period prescribed in this subsection, a qualifying office may accept and hold qualifying papers submitted no earlier than 14 days before the beginning of the qualifying period, to be processed and filed during the qualifying period. The outgoing chair of each county executive committee shall, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers. The chair of each state executive committee shall, within 60 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Section 20. Paragraph (a) of subsection (1) of section 106.08, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

106.08 Contributions; limitations on; preemption.—

(1)(a) Except for political parties or affiliated party committees, no person or political committee may, in any election, make contributions in excess of the following amounts:

1. To a candidate for statewide office or for retention as



869832

a justice of the Supreme Court, \$3,000. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

2. To a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for countywide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge, \$1,000.

Effective January 1, 2025, and every 5 years thereafter, the division shall adjust the contribution limits established in subparagraphs 1. and 2. in an amount equal to the total of the annual increases for the preceding 5-year period in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items. The division shall round each adjusted amount to the nearest hundredth. Following each adjustment, the division shall publish the revised contribution limits on its website.

(11) (a) A county, a municipality, or any other local governmental entity is expressly preempted from enacting or adopting:

1. Contribution limits that differ from the limitations established in subsection (1);

2. Any limitation or restriction involving contributions to a political committee or an electioneering communications organization; or

3. Any limitation or restriction on expenditures for an electioneering communication or an independent expenditure.

(b) Any existing or future limitation or restriction



869832

enacted or adopted by a county, a municipality, or any other
local governmental entity which is in conflict with this
subsection is void.

Section 21. Except as otherwise expressly provided in this
act, this act shall take effect October 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to elections; amending s. 97.052,
F.S.; revising requirements for the uniform statewide
voter registration application; amending s. 97.0525,
F.S.; authorizing an applicant to submit an online
voter registration application using the last four
digits of the applicant's social security number;
specifying additional requirements for comprehensive
risk assessments of the online voter registration
system; prescribing procedures for applicants who
submit an application using the last four digits of
their social security numbers; requiring the Division
of Elections to adopt certain rules governing
electronic images of applicants' signatures; requiring
the online voter registration system to populate a
printable application with an applicant's information
if the last four digits of his or her social security
number cannot be verified; requiring the division to
develop an application programming interface for use



869832

by third-party voter registration organizations;
amending s. 97.053, F.S.; revising requirements
governing the acceptance of voter registration
applications; amending s. 97.057, F.S.; revising
procedures governing voter registration by the
Department of Highway Safety and Motor Vehicles;
modifying procedures for updates to voter registration
records; providing for the electronic transmittal of
change of address information in accordance with
specified requirements; requiring the Department of
Highway Safety and Motor Vehicles and the Department
of State to prescribe a method to verify the
registration or preregistration status of certain
individuals; amending s. 97.0575, F.S.; authorizing
third-party voter registration organizations to submit
voter registration applications electronically;
requiring the division to adopt rules governing
testing and security requirements for application
programming interfaces used by such organizations;
prohibiting the denial of an organization's
application or website if testing and security
requirements are met; entitling an organization to an
affirmative defense for failure to timely deliver
voter registration applications if a network outage
occurs; amending s. 97.0585, F.S.; deleting an
exemption from public records requirements for
information related to a voter registration
applicant's or voter's prior felony conviction and his
or her restoration of voting rights to conform to



869832

changes made by the act; amending ss. 97.1031, 98.045, and 98.065, F.S.; conforming provisions and a cross-reference to changes made by the act; amending s. 98.0655, F.S.; requiring the supervisor to update a voter's voter registration record if a voter returns an address change notice due to an incorrect newly recorded address of legal residence; amending s. 98.0981, F.S.; requiring supervisors to post precinct-level election results on their websites with a specified disclaimer; requiring supervisors to post live turnout data for election day voting on their websites; requiring supervisors to transmit live turnout data to the Division of Elections; directing the division to create and maintain a statewide voter turnout dashboard on its website using such data; amending s. 101.043, F.S.; deleting a provision that prohibits the use of an address appearing on identification presented by an elector at the polls as a basis to confirm an elector's legal residence; deleting a provision that prohibits a clerk or an inspector from asking an elector to provide additional identification information under specified circumstances; amending s. 101.051, F.S.; increasing the no-solicitation zone surrounding the entrance of a polling place or an early voting site wherein certain activities are prohibited; conforming a provision; amending s. 101.131, F.S.; modifying restrictions governing poll watcher interaction with voters; revising requirements for eligibility to serve as a



869832

poll watcher; revising certain deadlines for the submission of poll watcher designation forms; removing the requirement that the supervisor of elections provide poll watcher identification badges in advance of the election; amending s. 101.5614, F.S.; removing the requirement that duplicate ballots be made of vote-by-mail ballots containing overvoted races; creating s. 101.5617, F.S.; prohibiting the use of electronic poll books that are not approved by the Department of State, beginning with the 2022 primary election; requiring the department to adopt rules that meet certain minimum criteria; amending s. 101.6103, F.S.; revising the timeframe in which the supervisor of elections must mail ballots in elections conducted under the Mail Ballot Election Act; amending s. 102.031, F.S.; prohibiting owners, operators, or lessees of property on which polling places or early voting sites are located from prohibiting the solicitation of voters by a candidate or a candidate's designee outside the no-solicitation zone during polling hours; amending s. 103.091, F.S.; authorizing a qualifying office to accept and hold qualifying papers for candidates for political party executive committees before the beginning of the qualifying period; amending s. 106.08, F.S.; requiring the Division of Elections to periodically adjust campaign contribution limits for inflation; requiring the division to publish the adjusted limits on its website; preempting counties, municipalities, and



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795 other local governmental entities from enacting or
796 adopting any limitation or restriction involving
797 certain contributions and expenditures, or
798 establishing contribution limits different than those
799 established in the Florida Election Code; providing
800 applicability; providing effective dates.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Before line 42

insert:

Section 1. Section 97.057, Florida Statutes, is amended to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) Each of the following serves as an application ~~The Department of Highway Safety and Motor Vehicles shall provide the opportunity~~ to register to vote or to update a voter



539276

registration record when submitted to the Department of Highway
Safety and Motor Vehicles ~~to each individual who comes to an
office of that department to:~~

(a) An application ~~Apply~~ for a driver license or a renewal
of renew a driver license;

(b) An application ~~Apply~~ for an identification card
pursuant to chapter 322 or a renewal of renew an identification
card ~~pursuant to chapter 322~~; or

(c) An application for a change of an address on an
existing driver license or identification card.

Unless the applicant declines to register to vote or to update
his or her voter registration record, he or she is deemed to
have consented to the use of the signature from his or her
driver license or identification card application for voter
registration purposes.

(2) An application for a driver license or an
identification card must include a voter registration component.
The voter registration component must be approved by the
Department of State. The voter registration component of a
driver license or identification card application must contain:

(a) The minimum amount of information necessary to prevent
duplicate voter registrations and preserve the ability of the
department and supervisors of elections to assess the
eligibility of the applicant and administer voter registration
and other provisions of this code.

(b) A statement setting forth voting eligibility
requirements.

(c) An explanation that the applicant is consenting, for



539276

voter registration purposes, to the use of his or her signature from the applicant's driver license or identification card application. By consenting to the use of his or her signature, the applicant is deemed to have subscribed to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051 and to have sworn and affirmed that the voter registration information contained in the application is true under penalty for false swearing pursuant to s. 104.011.

(d) An option that allows the applicant to choose or update a party affiliation; otherwise, an applicant who is initially registering to vote and does not exercise such option shall be registered without party affiliation in accordance with s. 97.053(5) (b) .

(e) An option that allows the applicant to decline to register to vote or to decline to update his or her voter registration record. The Department of Highway Safety and Motor Vehicles shall note any such declination in its records and forward the declination to the Department of State. Any declination may be used only for voter registration purposes and is confidential and exempt from public records requirements as provided in s. 97.0585.

(3) The Department of Highway Safety and Motor Vehicles shall:

(a) Develop a voter registration component for applications which meets the requirements set forth in subsection (2). ~~Notify each individual, orally or in writing, that:~~

~~1. Information gathered for the completion of a driver license or identification card application, renewal, or change of address can be automatically transferred to a voter~~



539276

~~registration application;~~

~~2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;~~

~~3. Information provided can also be used to update a voter registration record;~~

~~4. All declinations will remain confidential and may be used only for voter registration purposes; and~~

~~5. The particular driver license office in which the person applies to register to vote or updates a voter registration record will remain confidential and may be used only for voter registration purposes.~~

~~(b) Require a driver license examiner to inquire orally or, if the applicant is hearing impaired, inquire in writing whether the applicant wishes to register to vote or update a voter registration record during the completion of a driver license or identification card application, renewal, or change of address.~~

~~1. If the applicant chooses to register to vote or to update a voter registration record:~~

~~a. All applicable information received by the Department of Highway Safety and Motor Vehicles in the course of filling out the forms necessary under subsection (1) must be transferred to a voter registration application.~~

~~b. The additional necessary information must be obtained by the driver license examiner and must not duplicate any information already obtained while completing the forms required under subsection (1).~~

~~e. A voter registration application with all of the applicant's voter registration information required to establish~~



539276

~~the applicant's eligibility pursuant to s. 97.041 must be presented to the applicant to review and verify the voter registration information received and provide an electronic signature affirming the accuracy of the information provided.~~

~~2. If the applicant declines to register to vote, update the applicant's voter registration record, or change the applicant's address by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system.~~

~~(3) For the purpose of this section, the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, shall prescribe:~~

~~(a) A voter registration application that is the same in content, format, and size as the uniform statewide voter registration application prescribed under s. 97.052; and~~

~~(b) A form that will inform applicants under subsection (1) of the information contained in paragraph (2) (a).~~

~~(4) The Department of Highway Safety and Motor Vehicles must Electronically transmit the voter registration component of an applicant's driver license or identification card application to the Department of State completed voter registration applications within 24 hours after receipt to the statewide voter registration system. Upon receipt of the voter registration component, the Department of State shall provide the information to the supervisor of the county in which the applicant is registering Completed paper voter registration applications received by the Department of Highway Safety and~~



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~~Motor Vehicles shall be forwarded within 5 days after receipt to the supervisor of the county where the office that processed or received that application is located.~~

~~(5) The Department of Highway Safety and Motor Vehicles must send, with each driver license renewal extension application authorized pursuant to s. 322.18(8), a uniform statewide voter registration application, the voter registration application prescribed under paragraph (3)(a), or a voter registration application developed especially for the purposes of this subsection by the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, which must meet the requirements of s. 97.052.~~

~~(4)(6)~~ A person providing voter registration services for a driver license office may not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Disclose any applicant's voter registration information except as needed for the administration of voter registration.

~~(5)(7)~~ The Department of Highway Safety and Motor Vehicles shall collect data determined necessary by the Department of State for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

~~(6)(8)~~ The Department of Highway Safety and Motor Vehicles shall ~~must~~ ensure that all voter registration services provided by driver license offices are in compliance with the Voting



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Rights Act of 1965.

~~(7)(9)~~ The Department of Highway Safety and Motor Vehicles shall retain complete records of voter registration information received, processed, and submitted to the Department of State ~~statewide voter registration system~~ by the Department of Highway Safety and Motor Vehicles. The maintenance of such ~~These~~ records is shall be for the explicit purpose of supporting audit and accounting controls established to ensure accurate and complete electronic transmission of records between the Department of State ~~statewide voter registration system~~ and the Department of Highway Safety and Motor Vehicles.

~~(8)(10)~~ The Department of State shall provide the Department of Highway Safety and Motor Vehicles with an electronic database of street addresses valid for use as the address of legal residence as required in s. 97.053(5). The Department of Highway Safety and Motor Vehicles shall compare the address provided by the applicant against the database of valid street addresses. If the address provided by the applicant does not match a valid street address in the database, the applicant will be asked to verify the address provided. The Department of Highway Safety and Motor Vehicles may ~~shall~~ not reject any application for voter registration for which a valid match cannot be made.

~~(9)(11)~~ The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Department of State to match information in the statewide voter registration system with information in the database of the Department of Highway Safety and Motor Vehicles to the extent required to verify the accuracy of the driver license number, Florida identification



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number, or last four digits of the social security number provided on applications for voter registration as required in s. 97.053.

(10)~~(12)~~ The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Commissioner of Social Security as required by the Help America Vote Act of 2002 to verify the last four digits of the social security number provided in applications for voter registration as required in s. 97.053.

Section 2. Paragraph (b) of subsection (4) of section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.—

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL STREET ADDRESSES.—

(b) The department shall make the statewide database of valid street addresses available to the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(8) ~~s. 97.057(10)~~. The Department of Highway Safety and Motor Vehicles shall use the database for purposes of validating the legal residential addresses provided in voter registration applications received by the Department of Highway Safety and Motor Vehicles.

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

And the title is amended as follows:

Between lines 2 and 3
insert:

s. 97.057, F.S.; revising procedures governing voter registration by the Department of Highway Safety and



539276

215 Motor Vehicles; providing that driver license or
216 identification card applications, driver license or
217 identification card renewal applications, and
218 applications for changes of address for existing
219 driver licenses or identification cards submitted to
220 the department serve as voter registration
221 applications; specifying that an applicant is deemed
222 to have consented to the use of his or her signature
223 for voter registration purposes, unless a declination
224 is made; requiring specified applications to include a
225 voter registration component, subject to approval by
226 the Department of State; specifying requirements for
227 the voter registration component; providing for the
228 transmittal of voter registration information to the
229 Department of State and supervisors of elections;
230 amending s. 98.045, F.S.; conforming a cross-
231 reference; amending



143600

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 57 - 84.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 42

and insert:

Section 1. Paragraph (a) of subsection (1),

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



143600

12 And the title is amended as follows:
13 Delete lines 6 - 8
14 and insert:
15 general election; prohibiting the



237818

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 85 - 88.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 44 - 45

and insert:

101.62, Florida Statutes, are amended to read:

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



237818

12 And the title is amended as follows:
13 Delete lines 8 - 12
14 and insert:
15 regarding the requesting elector; requiring
16 supervisors of elections to



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 175 - 321
and insert:

Section 3. Paragraphs (a) and (c) of subsection (2) of
section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(2) (a) The county canvassing board may begin the canvassing
of vote-by-mail ballots upon the completion of the public
testing of automatic tabulating equipment pursuant to s.
101.5612(2) ~~at 7 a.m. on the 22nd day before the election,~~ but



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12 must begin such canvassing by no ~~not~~ later than noon on the day
13 following the election. ~~In addition, for any county using~~
14 ~~electronic tabulating equipment, the processing of vote-by-mail~~
15 ~~ballots through such tabulating equipment may begin at 7 a.m. on~~
16 ~~the 22nd day before the election.~~ However, notwithstanding any
17 such authorization to begin canvassing or otherwise processing
18 vote-by-mail ballots early, no result shall be released until
19 after the closing of the polls in that county on election day.
20 Any supervisor, deputy supervisor, canvassing board member,
21 election board member, or election employee who releases the
22 results of a canvassing or processing of vote-by-mail ballots
23 prior to the closing of the polls in that county on election day
24 commits a felony of the third degree, punishable as provided in
25 s. 775.082, s. 775.083, or s. 775.084.

26 (c)1. The canvassing board must, if the supervisor has not
27 already done so, compare the signature of the elector on the
28 voter's certificate or on the vote-by-mail ballot cure affidavit
29 as provided in subsection (4) with the most recent signature of
30 the elector in the registration books or the precinct register
31 to see that the elector is duly registered in the county and to
32 determine the legality of that vote-by-mail ballot. A vote-by-
33 mail ballot may only be counted if:

34 a. The signature on the voter's certificate or the cure
35 affidavit matches the elector's signature in the registration
36 books or precinct register; however, in the case of a cure
37 affidavit, the supporting identification listed in subsection
38 (4) must also confirm the identity of the elector; or

39 b. The cure affidavit contains a signature that does not
40 match the elector's signature in the registration books or



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precinct register, but the elector has submitted a current and valid Tier 1 identification pursuant to subsection (4) which confirms the identity of the elector.

For purposes of this subparagraph, any canvassing board finding that an elector's signatures do not match must be by majority vote and beyond a reasonable doubt.

2. The ballot of an elector who casts a vote-by-mail ballot shall be counted even if the elector dies on or before election day, as long as, before the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by a common carrier, or already in the possession of the supervisor.

3. A vote-by-mail ballot is not considered illegal if the signature of the elector does not cross the seal of the mailing envelope.

4. If any elector or candidate present believes that a vote-by-mail ballot is illegal due to a defect apparent on the voter's certificate or the cure affidavit, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter's certificate or cure affidavit may not be accepted after the ballot has been removed from the mailing envelope.

5. If the canvassing board determines that a ballot is illegal, a member of the board must, without opening the envelope, mark across the face of the envelope: "rejected as



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illegal." The cure affidavit, if applicable, the envelope, and the ballot therein shall be preserved in the manner that official ballots are preserved.

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

And the title is amended as follows:

Delete lines 20 - 30

and insert:

return and secrecy envelopes; amending s. 101.68,
F.S.; authorizing the canvassing of vote-by-mail
ballots upon the completion of the public preelection
testing of automatic tabulating equipment; requiring
the canvassing board to use the most recent signature
of an elector when verifying a signature on a vote-by-
mail ballot or a cure affidavit; amending s.



270846

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 322 - 335.

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

And the title is amended as follows:

Delete lines 30 - 36

and insert:

the return of vote-by-mail ballots; providing



581454

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 336 - 343.

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

And the title is amended as follows:

Delete line 37

and insert:

an

By the Committees on Governmental Oversight and Accountability;
and Ethics and Elections; and Senator Baxley

585-02681-21

202190c2

1 A bill to be entitled
2 An act relating to election administration; amending
3 s. 101.62, F.S.; limiting the duration of requests for
4 vote-by-mail ballots to all elections through the end
5 of the calendar year of the next regularly scheduled
6 general election; requiring vote-by-mail ballot
7 requests to include additional identifying information
8 regarding the requesting elector; prohibiting the
9 supervisor from mailing, delivering, or otherwise
10 providing vote-by-mail ballots to an elector, or a
11 designee thereof, unless a request has been made for
12 such ballot; requiring supervisors of elections to
13 record whether a voter's certificate on a vote-by-mail
14 ballot has a mismatched signature; restricting who an
15 elector may designate to pick up a vote-by-mail ballot
16 to conform to changes made by the act; amending s.
17 101.64, F.S.; prohibiting the display of an absent
18 elector's party affiliation or other partisan
19 information on the outside of vote-by-mail ballots and
20 return and secrecy envelopes; amending s. 101.65,
21 F.S.; revising instructions to absent electors to
22 conform to changes made by the act; amending s.
23 101.68, F.S.; authorizing the canvassing of vote-by-
24 mail ballots upon the completion of the public
25 preelection testing of automatic tabulating equipment;
26 requiring the canvassing board to use the most recent
27 signature of an elector when verifying a signature on
28 a vote-by-mail ballot or a cure affidavit; amending s.
29 101.69, F.S.; prohibiting the use of drop boxes for

Page 1 of 12

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

585-02681-21

202190c2

30 the return of vote-by-mail ballots; amending s.
31 104.0616, F.S.; prohibiting any person from
32 distributing, ordering, requesting, collecting,
33 delivering, or otherwise physically possessing a vote-
34 by-mail ballot of another person, not including a
35 ballot belonging to an immediate family member;
36 providing an exception; providing a penalty; providing
37 for construction and applicability; providing an
38 effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Paragraphs (a) and (b) of subsection (1),
43 subsection (3), and paragraph (c) of subsection (4) of section
44 101.62, Florida Statutes, are amended, and paragraph (d) is
45 added to subsection (1) of that section, to read:

46 101.62 Request for vote-by-mail ballots.—

47 (1) (a) The supervisor shall accept a request for a vote-by-
48 mail ballot from an elector in person or in writing. One request
49 is ~~shall be~~ deemed sufficient to receive a vote-by-mail ballot
50 for all elections through the end of the calendar year of the
51 next second ensuing ~~next~~ regularly scheduled general election, unless
52 the elector or the elector's designee indicates at the time the
53 request is made the elections for which the elector desires to
54 receive a vote-by-mail ballot. Such request may be considered
55 canceled when any first-class mail sent by the supervisor to the
56 elector is returned as undeliverable.

57 (b) The supervisor may accept a written or telephonic
58 request for a vote-by-mail ballot to be mailed to an elector's

Page 2 of 12

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

585-02681-21

202190c2

address on file in the Florida Voter Registration System from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. If the ballot is requested to be mailed to an address other than the elector's address on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector. However, an absent uniformed service voter or an overseas voter seeking a vote-by-mail ballot is not required to submit a signed, written request for a vote-by-mail ballot that is being mailed to an address other than the elector's address on file in the Florida Voter Registration System. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector's address.
3. The elector's date of birth.
4. The elector's Florida driver license number or Florida identification card number or the last four digits of the elector's social security number.
5. The requester's name.
- ~~6.5-~~ The requester's address.
- ~~7.6-~~ The requester's driver license number, if available.
- ~~8.7-~~ The requester's relationship to the elector.
- ~~9.8-~~ The requester's signature (written requests only).
- (d) A supervisor may not mail or otherwise deliver or provide a vote-by-mail ballot to an elector or an elector's designee unless a request for such ballot has been made that

585-02681-21

202190c2

meets the requirements of this section.

(3)(a) For each request for a vote-by-mail ballot received, the supervisor shall record the date the request was made; ~~the~~ the date the vote-by-mail ballot was delivered to the voter or the voter's designee or the date the vote-by-mail ballot was delivered to the post office or other carrier; ~~the~~ the date the ballot was received by the supervisor; ~~the~~ the absence of the voter's signature on the voter's certificate, if applicable; ~~and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division.~~ This information shall be confidential and exempt from s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.

(b) For each returned vote-by-mail ballot, the supervisor shall record whether the voter's certificate contains a signature that does not match the elector's signature in the registration books or precinct register.

(c) The information specified in paragraphs (a) and (b) shall be provided in electronic format as prescribed by division rule. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60

585-02681-21

202190c2

117 days before the primary election until 15 days after the general
 118 election and shall be contemporaneously provided to the
 119 division.

120 (4)

121 (c) The supervisor shall provide a vote-by-mail ballot to
 122 each elector by whom a request for that ballot has been made by
 123 one of the following means:

124 1. By nonforwardable, return-if-undeliverable mail to the
 125 elector's current mailing address on file with the supervisor or
 126 any other address the elector specifies in the request.

127 2. By forwardable mail, e-mail, or facsimile machine
 128 transmission to absent uniformed services voters and overseas
 129 voters. The absent uniformed services voter or overseas voter
 130 may designate in the vote-by-mail ballot request the preferred
 131 method of transmission. If the voter does not designate the
 132 method of transmission, the vote-by-mail ballot shall be mailed.

133 3. By personal delivery before 7 p.m. on election day to
 134 the elector, upon presentation of the identification required in
 135 s. 101.043.

136 4. By delivery to a designee on election day or up to 9
 137 days ~~before~~ prior to the day of an election. Any elector may
 138 designate in writing an immediate family member ~~a person~~ to pick
 139 up the ballot for the elector; ~~however, the person designated~~
 140 ~~may not pick up more than two vote-by-mail ballots per election,~~
 141 ~~other than the designee's own ballot, except that additional~~
 142 ~~ballots may be picked up for members of the designee's immediate~~
 143 ~~family.~~ For purposes of this section, "immediate family" means
 144 the elector's designee's spouse or the parent, child,
 145 grandparent, or sibling of the elector ~~designee~~ or of the

585-02681-21

202190c2

146 designee's spouse. The designee shall provide to the supervisor
 147 the written authorization by the elector and a picture
 148 identification of the designee and must complete an affidavit.
 149 The designee shall state in the affidavit that the designee is
 150 authorized by the elector to pick up that ballot and ~~that shall~~
 151 ~~indicate if~~ the elector is a member of the designee's immediate
 152 family and indicate, if so, the relationship. The department
 153 shall prescribe the form of the affidavit. If the supervisor is
 154 satisfied that the designee is authorized to pick up the ballot
 155 and that the signature of the elector on the written
 156 authorization matches the signature of the elector on file, the
 157 supervisor shall give the ballot to that designee for delivery
 158 to the elector.

159 5. Except as provided in s. 101.655, the supervisor may not
 160 deliver a vote-by-mail ballot to an elector or an elector's
 161 immediate family member on the day of the election unless there
 162 is an emergency, to the extent that the elector will be unable
 163 to go to his or her assigned polling place. If a vote-by-mail
 164 ballot is delivered, the elector or his or her designee shall
 165 execute an affidavit affirming to the facts which allow for
 166 delivery of the vote-by-mail ballot. The department shall adopt
 167 a rule providing for the form of the affidavit.

168 Section 2. Subsection (6) is added to section 101.64,
 169 Florida Statutes, to read:

170 101.64 Delivery of vote-by-mail ballots; envelopes; form.—

171 (6) The outside of the ballot and the secrecy and mailing
 172 envelopes may not display the party affiliation of the absent
 173 elector who has been issued such ballot or display any other
 174 partisan information.

585-02681-21

202190c2

175 Section 3. Section 101.65, Florida Statutes, is amended to
 176 read:
 177 101.65 Instructions to absent electors.—The supervisor
 178 shall enclose with each vote-by-mail ballot separate printed
 179 instructions in substantially the following form; however, where
 180 the instructions appear in capitalized text, the text of the
 181 printed instructions must be in bold font:

182
 183 READ THESE INSTRUCTIONS CAREFULLY
 184 BEFORE MARKING BALLOT.
 185

186 1. VERY IMPORTANT. In order to ensure that your vote-by-
 187 mail ballot will be counted, it should be completed and returned
 188 as soon as possible so that it can reach the supervisor of
 189 elections of the county in which your precinct is located no
 190 later than 7 p.m. on the day of the election. However, if you
 191 are an overseas voter casting a ballot in a presidential
 192 preference primary or general election, your vote-by-mail ballot
 193 must be postmarked or dated no later than the date of the
 194 election and received by the supervisor of elections of the
 195 county in which you are registered to vote no later than 10 days
 196 after the date of the election. Note that the later you return
 197 your ballot, the less time you will have to cure any signature
 198 deficiencies, which is authorized until 5 p.m. on the 2nd day
 199 after the election.

200 2. Mark your ballot in secret as instructed on the ballot.
 201 You must mark your own ballot unless you are unable to do so
 202 because of blindness, disability, or inability to read or write.

203 3. Mark only the number of candidates or issue choices for

Page 7 of 12

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204 a race as indicated on the ballot. If you are allowed to "Vote
 205 for One" candidate and you vote for more than one candidate,
 206 your vote in that race will not be counted.

207 4. Place your marked ballot in the enclosed secrecy
 208 envelope.

209 5. Insert the secrecy envelope into the enclosed mailing
 210 envelope which is addressed to the supervisor.

211 6. Seal the mailing envelope and completely fill out the
 212 Voter's Certificate on the back of the mailing envelope.

213 7. VERY IMPORTANT. In order for your vote-by-mail ballot to
 214 be counted, you must sign your name on the line above (Voter's
 215 Signature). A vote-by-mail ballot will be considered illegal and
 216 not be counted if the signature on the voter's certificate does
 217 not match the signature on record. The signature on file at the
 218 time the supervisor of elections in the county in which your
 219 precinct is located receives your vote-by-mail ballot is the
 220 signature that will be used to verify your signature on the
 221 voter's certificate. If you need to update your signature for
 222 this election, send your signature update on a voter
 223 registration application to your supervisor of elections so that
 224 it is received before your vote-by-mail ballot is received.

225 8. VERY IMPORTANT. If you are an overseas voter, you must
 226 include the date you signed the Voter's Certificate on the line
 227 above (Date) or your ballot may not be counted.

228 9. Mail, deliver, or have delivered the completed mailing
 229 envelope. Be sure there is sufficient postage if mailed. THE
 230 COMPLETED MAILING ENVELOPE CAN BE DELIVERED TO THE OFFICE OF THE
 231 SUPERVISOR OF ELECTIONS OF THE COUNTY IN WHICH YOUR PRECINCT IS
 232 LOCATED OR ~~DROPPED OFF AT AN AUTHORIZED SECURE DROP BOX.~~

Page 8 of 12

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585-02681-21

202190c2

233 ~~AVAILABLE AT EACH EARLY VOTING LOCATION.~~

234 10. FELONY NOTICE. It is a felony under Florida law to
235 accept any gift, payment, or gratuity in exchange for your vote
236 for a candidate. It is also a felony under Florida law to vote
237 in an election using a false identity or false address, or under
238 any other circumstances making your ballot false or fraudulent.

239 Section 4. Paragraphs (a) and (c) of subsection (2) of
240 section 101.68, Florida Statutes, are amended to read:

241 101.68 Canvassing of vote-by-mail ballot.—

242 (2)(a) The county canvassing board may begin the canvassing
243 of vote-by-mail ballots upon the completion of the public
244 testing of automatic tabulating equipment pursuant to s.
245 101.5612(2) at 7 a.m. on the 22nd day before the election, but
246 must begin such canvassing by no not later than noon on the day
247 following the election. In addition, for any county using
248 electronic tabulating equipment, the processing of vote-by-mail
249 ballots through such tabulating equipment may begin at 7 a.m. on
250 the 22nd day before the election. However, notwithstanding any
251 such authorization to begin canvassing or otherwise processing
252 vote-by-mail ballots early, no result shall be released until
253 after the closing of the polls in that county on election day.
254 Any supervisor, deputy supervisor, canvassing board member,
255 election board member, or election employee who releases the
256 results of a canvassing or processing of vote-by-mail ballots
257 prior to the closing of the polls in that county on election day
258 commits a felony of the third degree, punishable as provided in
259 s. 775.082, s. 775.083, or s. 775.084.

260 (c)1. The canvassing board must, if the supervisor has not
261 already done so, compare the signature of the elector on the

585-02681-21

202190c2

262 voter's certificate or on the vote-by-mail ballot cure affidavit
263 as provided in subsection (4) with the most recent signature of
264 the elector in the registration books or the precinct register
265 to see that the elector is duly registered in the county and to
266 determine the legality of that vote-by-mail ballot. A vote-by-
267 mail ballot may only be counted if:

268 a. The signature on the voter's certificate or the cure
269 affidavit matches the elector's signature in the registration
270 books or precinct register; however, in the case of a cure
271 affidavit, the supporting identification listed in subsection
272 (4) must also confirm the identity of the elector; or

273 b. The cure affidavit contains a signature that does not
274 match the elector's signature in the registration books or
275 precinct register, but the elector has submitted a current and
276 valid Tier 1 identification pursuant to subsection (4) which
277 confirms the identity of the elector.

278
279 For purposes of this subparagraph, any canvassing board finding
280 that an elector's signatures do not match must be by majority
281 vote and beyond a reasonable doubt.

282 2. The ballot of an elector who casts a vote-by-mail ballot
283 shall be counted even if the elector dies on or before election
284 day, as long as, before the death of the voter, the ballot was
285 postmarked by the United States Postal Service, date-stamped
286 with a verifiable tracking number by a common carrier, or
287 already in the possession of the supervisor.

288 3. A vote-by-mail ballot is not considered illegal if the
289 signature of the elector does not cross the seal of the mailing
290 envelope.

585-02681-21

202190c2

291 4. If any elector or candidate present believes that a
 292 vote-by-mail ballot is illegal due to a defect apparent on the
 293 voter's certificate or the cure affidavit, he or she may, at any
 294 time before the ballot is removed from the envelope, file with
 295 the canvassing board a protest against the canvass of that
 296 ballot, specifying the precinct, the ballot, and the reason he
 297 or she believes the ballot to be illegal. A challenge based upon
 298 a defect in the voter's certificate or cure affidavit may not be
 299 accepted after the ballot has been removed from the mailing
 300 envelope.

301 5. If the canvassing board determines that a ballot is
 302 illegal, a member of the board must, without opening the
 303 envelope, mark across the face of the envelope: "rejected as
 304 illegal." The cure affidavit, if applicable, the envelope, and
 305 the ballot therein shall be preserved in the manner that
 306 official ballots are preserved.

307 Section 5. Subsection (2) of section 101.69, Florida
 308 Statutes, is amended to read:

309 101.69 Voting in person; return of vote-by-mail ballot.—

310 (2) The supervisor may not ~~shall~~ allow an elector who has
 311 received a vote-by-mail ballot to physically return a voted
 312 vote-by-mail ballot to the supervisor by placing the envelope
 313 containing his or her marked ballot in a ~~secure~~ drop box. ~~Secure~~
 314 ~~drop boxes shall be placed at the main office of the supervisor,~~
 315 ~~at each branch office of the supervisor, and at each early~~
 316 ~~voting site. Secure drop boxes may also be placed at any other~~
 317 ~~site that would otherwise qualify as an early voting site under~~
 318 ~~s. 101.657(1); provided, however, that any such site must be~~
 319 ~~staffed during the county's early voting hours of operation by~~

585-02681-21

202190c2

320 ~~an employee of the supervisor's office or a sworn law~~
 321 ~~enforcement officer.~~

322 Section 6. Subsection (2) of section 104.0616, Florida
 323 Statutes, is amended to read:

324 104.0616 Vote-by-mail ballots and voting; violations.—

325 (2) Any person who distributes, orders, requests, collects,
 326 delivers ~~provides or offers to provide, and any person who~~
 327 ~~accepts, a pecuniary or other benefit in exchange for~~
 328 ~~distributing, ordering, requesting, collecting, delivering, or~~
 329 ~~otherwise physically possesses a vote-by-mail ballot of another~~
 330 person, not including possessing more than two vote-by-mail
 331 ballots per election in addition to his or her own ballot or a
 332 ballot belonging to an immediate family member, except as
 333 provided in ss. 101.6105-101.694, commits a misdemeanor of the
 334 first degree, punishable as provided in s. 775.082, s. 775.083,
 335 or s. 775.084.

336 Section 7. Notwithstanding that an elector has submitted a
 337 vote-by-mail ballot request before the effective date of this
 338 act initially applicable through the end of the calendar year of
 339 the second ensuing regularly scheduled general election, any
 340 such elector must affirmatively resubmit a vote-by-mail ballot
 341 request following the effective date of this act in order to
 342 receive vote-by-mail ballots for the 2022 primary and general
 343 elections.

344 Section 8. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee,
Alternating Chair

SENATOR DENNIS BAXLEY
12th District

March 10, 2021

The Honorable Chair Kathleen Passidomo
400 Senate Office Building
Tallahassee, FL 32399

Dear Chair Passidomo,

I would like to request that CS/CS/SB 90 Election Administration be heard in the next Rules Committee meeting.

CS/CS/SB 90 includes provisions expanding the timeframe for canvassing vote-by-mail ballots and providing that one vote-by-mail ballot request is good for all elections through the next regularly scheduled general election.

The bill also improves the security and integrity of election administration by prohibiting ballot harvesting, use of drop boxes, providing a vote-by-mail ballot without a request, and display of partisan information on the outside of vote-by-mail ballots and envelopes.

CS/CS/SB 90 requires a voter's signature on a voter's certificate or ballot cure affidavit to match the most recent one on file. The bill also requires an additional identifier number when a written or telephonic request is made for a vote-by-mail ballot, and it requires supervisors of elections to record instances in which a signature received on a completed ballot does not match the one on file.

Thank you for your favorable consideration.

Onward & Upward,

A handwritten signature in black ink, appearing to read "Dennis Baxley".

Senator Dennis Baxley
Senate District 12

DKB/dd

REPLY TO:

- ☐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

COMMITTEE: Rules
ITEM: CS/CS/SB 90
FINAL ACTION:
MEETING DATE: Wednesday, April 14, 2021
TIME: 9:00 a.m.—2:00 p.m.
PLACE: 412 Knott Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

COMMITTEE: Rules
ITEM: CS/CS/SB 90
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COMMITTEE:	Rules
ITEM:	CS/CS/SB 90
FINAL ACTION:	
MEETING DATE:	Wednesday, April 14, 2021
TIME:	9:00 a.m.—2:00 p.m.
PLACE:	412 Knott Building

SENATORS	4/14/2021 8 Amendment 153722 to Amendment 262784 Farmer		4/14/2021 9 Late Filed Amendment 139050 to Amendment 262784 Brandes		4/14/2021 10 Late Filed Amendment 522990 to Amendment 262784 Brandes		4/14/2021 11 Late Filed Amendment 525218 to Amendment 262784 Brandes	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Albritton								
Baxley								
Bean								
Book								
Bracy								
Brandes								
Diaz								
Farmer								
Gibson								
Gruters								
Hutson								
Mayfield								
Powell								
Stargel								
Thurston								
Garcia, VICE CHAIR								
Passidomo, CHAIR								
	</							

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The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE:	Rules
ITEM:	CS/CS/SB 90
FINAL ACTION:	
MEETING DATE:	Wednesday, April 14, 2021
TIME:	9:00 a.m.—2:00 p.m.
PLACE:	412 Knott Building

	4/14/2021 Late Filed Amendment 112822 to Amendment 262784 Brandes	12	4/14/2021 Late Filed Amendment 524636 to Amendment 262784 Brandes	13	4/14/2021 Late Filed Amendment 869832 Brandes	14	4/14/2021 Temporarily Postponed Meeting Time Expired	15
SENATORS	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Albritton								
Baxley								
Bean								
Book								
Bracy								
Brandes								
Diaz								
Farmer								
Gibson								
Gruters								
Hutson								
Mayfield								
Powell								
Stargel								
Thurston								
Garcia, VICE CHAIR								
Passidomo, CHAIR								
TOTALS	FAV	-	FAV	-	-	WD		
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay

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THE FLORIDA SENATE
APPEARANCE RECORD

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

14 APRIL 2021

Meeting Date

5B90

Bill Number (if applicable)

525218

Amendment Barcode (if applicable)

Topic Elections / Ballot Duplication
OVERSIGHT

Name MARK EARLEY

Job Title SUPERVISOR OF ELECTIONS

Address 2990 APALACHEE PKWY

Street

TALLAHASSEE

City

FL

State

32301

Zip

Phone 850 606 8683

Email MARK.EARLEY@
LEONVOTES.GOV

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FSE

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)

14 APR 2021

Meeting Date

SB 90

Bill Number (if applicable)

262784

Amendment Barcode (if applicable)

Topic Elections

Name MARK EARLEY

Job Title SUPERVISOR OF ELECTIONS

Address 2990 APALACHEE PKWY

Street

TALLAH

City

FL

State

32301

Zip

Phone 606 8683

Email MARK.EARLEY@LEONVOICES.GOV

Speaking: ☒ For ☒ Against ☒ Information

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

Representing FSE ASSOCIATION

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.

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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)

4-14-2021
Meeting Date

SB 90
Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Patty Farley

Job Title President

Address 173 Coral Way E.
Street

Phone 331-794-1955

Endersburg FL 33483
City State Zip

Email pfarley-101@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Democratic Women's Club of 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.

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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)

4/14/21
Meeting Date

90
Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address 126 N. Mills Ave
Street

Phone _____

Orlando FL 32801
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising + Florida Immigrant Coalition

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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021
Meeting Date

SB90
Bill Number (if applicable)

Topic SB 90

Amendment Barcode (if applicable)

Name Kira Romero-Craft

Job Title Managing Attorney

Address 523 W Colonial Dr.
Street

Phone 407 443 0006

Orlando FL 32804
City State Zip

Email Kromera@latinojustice.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing LatinoJustice PR LDEF

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-14-21

Meeting Date

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

SB 90

Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Maris R. McCoy, Jr. -

Job Title Partner, State Director Equal Grand Action Fund

Address 596 W. Chual St
Street

Phone 385 547-1379

Orlando
City

FL
State

32805
Zip

Email maris@equalgrandaction.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Equal Grand 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)

4/24/21
Meeting Date

90
Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address 200 E College St
Street

Phone 850-228-8940

Tallahassee FL 32301
City State Zip

Email tking@fbetc.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL Building & Construction Trades

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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

90

Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Aliko Moncrief (a-LEE-key)

Job Title Executive Director

Address 1700 N. Monroe St. #11-286

Phone 8504437609

Street

Tallahassee

FL

32303

Email contact@fcvoters.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Conservation Voters

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 (10/14/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-14-21

~~4-14-2021~~

Meeting Date

90

Bill Number (if applicable)

Topic Voter Suppression

Amendment Barcode (if applicable)

Name Jessica Lewis

Job Title Lobbyist

Address _____

Phone 910-617-2311

Street

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Siema 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.

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)

4/14/21

Meeting Date

90

Bill Number (if applicable)

Topic Voting

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Counsel

Address P.O. Box 10788

Phone 850 570 9560

Street

Tallahassee

FL

32303

City

State

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 SPLC 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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

04/14/2021

Meeting Date

CS for CS SB 90

Bill Number (if applicable)

Topic election administration

Amendment Barcode (if applicable)

Name Helena Sims

Job Title _____

Address 2152 Amanda Mae Court

Phone (202)468-5536

Street

Tallahassee

Florida

32312

Email hgs5536@gmail.com

City

State

Zip

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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE
APPEARANCE RECORD

4/14/21
Meeting Date

SB 90
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ben Serber

Job Title Graduate Assistant

Address 1925 Nena Hills Dr.

Phone 201-588-5421

Tallahassee FL 32304
City State Zip

Email mentalengineer@gmail.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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021
Meeting Date

90
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee, FL 32301
Street City State Zip

Email fcfep@yolo.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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic SB 90

Amendment Barcode (if applicable)

Name Jordan Lechitz

Job Title graduate student worker

Address 8380 Fred Ave Rt #210

Phone 573 802 7463

Street Tallahassee

City FL

Zip 32303

Email jersfa06@gmail.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.

S-001 (10/14/14)

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

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

90

Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

City

State

Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ACLU FL and NAACP Florida State Conference

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)

Rules

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/14/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic ELECTION ADMIN

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA

Phone 850 322 3317

Street

JALLY FL 32303

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing LEAGUE WOMEN VOTERS

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)

4/14/21
Meeting Date

90
Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title _____

Address 625 E Bernard St

Phone _____

Tallahassee FL 32308
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL NOWard FL Alliance for Retired Americans

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.

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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)

4/14
Meeting Date

SB 90
Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe Phone 850-224-8926

Street

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14

Meeting Date

90

Bill Number (if applicable)

Topic

90

Amendment Barcode (if applicable)

Name

Aislinn Roxanne Brookshire

Job Title

Graduate Research Assistant

Address

2353 Mission Rd A2

Phone

850-443-6029

Street

Tallahassee FL

State

32304

Zip

Email

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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

04/14/21

Meeting Date

90

Bill Number (if applicable)

Topic ~~00000000~~ 90

Amendment Barcode (if applicable)

Name Jordan Scott

Job Title Graduate assistant worker

Address 1414 Dawsey St

Phone 773-793-8332

Street

Tallahassee

FL

32303

City

State

Zip

Email

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.

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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)

4-14-21

Meeting Date

SB 90

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Vincent Barrios

Job Title GA

Address 803 Tamberlain Dr

Phone 407 716 9049

Street

Tallahassee FL 32307

City

State

Zip

Email barrios21@gmail.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.

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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)

9/14/2021

Meeting Date

90

Bill Number (if applicable)

Topic Elections Administration

Amendment Barcode (if applicable)

Name JONATHAN WEBER

Job Title Deputy Director

Address 1700 N. Monroe St. # 11286

Phone 954-593-4449

Street

Tallahassee

City

FL

State

32303

Zip

Email JWEBER@FCVOTERS.ORG

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

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.

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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)

4/14/21
Meeting Date

90
Bill Number (if applicable)

Topic Voting by Mail

Amendment Barcode (if applicable)

Name Karen Marian

Job Title _____

Address 2043 Dunford Ter Phone _____

Street

Jax
City

FL
State

32207
Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

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.

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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)

4/14/2021
Meeting Date

90
Bill Number (if applicable)

Topic ELECTION INTEGRITY

Amendment Barcode (if applicable)

Name STEVEN KIRN

Job Title RETIRED - UF FACULTY

Address 5125 NW 62nd TERRACE

Phone 847-528-8282

GAINESVILLE FL 32653
City State Zip

Email skirn@mac.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.

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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)

4/14
Meeting Date

990
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Matthew Latta

Job Title Professor

Address 3556 Gardenview

Phone 850 322 1361

Street

Tallahassee

FL

32309

City

State

Zip

Email mlatta@gmail.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.

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)

4/14/21

Meeting Date

~~SB 90~~ SB 90

Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Brad Ashwell

Job Title State Director for 'All Voting is Local'

Address 1536 Chulivine
Street

Phone 850-294-1008

Tallahassee FL 32301
City State Zip

Email brad@allvotingislocal.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

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)

4/14/21

Meeting Date

SB 90

Bill Number (if applicable)

Topic Election Administration

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title President + CEO, The Dream Foundation

Address 4005 Brandon Hill Dr

Phone (850) 241-5896

Street

Tallahassee

City

FL

State

32309

Zip

Email Michael@live.thedreamfoundation.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing The Dream Foundation

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)

4/14/21

Meeting Date

90

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Krystal Williams

Job Title GA - FAMU

Address 1575 Paul Russell Rd

Phone 850.345.9866

Street

Th

FL

32301

Email

City

State

Zip

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.

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 Rules

BILL: CS/SB 220

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Brandes and
Rodrigues

SUBJECT: Public Records and Public Meetings

DATE: April 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	<u>Westmark</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 220 makes confidential and exempt from public disclosure requirements any personal identifying information of an applicant for the position of president of a state university or Florida College System (FCS) institution held by a state university or a FSC institution.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president is no longer confidential and exempt from public records requirements beginning at the earlier of the date the final group of applicants to be considered for president is established or at least 21 days before either an interview of an applicant or final action on the offer of employment.

The bill also exempts from public meeting requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such applicants. The bill provides that a complete recording must be made of any portion of a closed meeting, and any closed portion of such meeting may not be held off the record. The recording is also exempt from public disclosure requirements.

The bill specifies that the meeting exemption does not apply to any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation

framework to be offered to an applicant. Additionally, any meeting held after a final group of applicants has been established must be open to the public.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to become a law.

The bill provides that the exemption is subject to the Open Government Sunshine Review Act, and is repealed on October 2, 2026, unless saved from repeal by the Legislature.

The bill has no significant fiscal impact on state universities and FCS institutions.

The bill takes effect July 1, 2021.

II. Present Situation:

Access to Public Records – Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

¹ Art. I, s. 24(a), Fla. Const.

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives* (2020-2022).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

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

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

⁶ Section 119.011(12), F.S., defines “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ Art. I, s. 24(c), Fla. Const.

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

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

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

Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.¹⁶ 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.¹⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁸

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”¹⁹ or the “Sunshine Law,”²⁰ 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.²¹ The board or commission must provide the public reasonable notice of such meetings.²² 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.²³ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁶

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.²⁷ The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁹

¹⁶ Art. I, s. 24(b), Fla. Const.

¹⁷ *Id.*

¹⁸ *Id.* 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.”

¹⁹ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

²⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²¹ Section 286.011(1)-(2), F.S.

²² *Id.*

²³ Section 286.011(6), F.S.

²⁴ Section 286.011(2), F.S.

²⁵ Section 286.011(1), F.S.

²⁶ Section 286.011(3), F.S.

²⁷ Art. I, s. 24(c), Fla. Const.

²⁸ *Id.*

²⁹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

The Open Government Sunset Review Act (Act) prescribes a legislative review process for newly created or substantially amended public records exemptions,³⁰ with specified exceptions.³¹ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³² The Act provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.³³

Open Government Sunset Review Act

The Open Government Sunset Review Act³⁴ (Act) prescribes a legislative review process for newly created or substantially amended³⁵ public records or open meetings exemptions, with specified exceptions.³⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.³⁷

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁸ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;³⁹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁴⁰ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.⁴¹

³⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

³¹ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³² Section 119.15(3), F.S.

³³ Section 119.15(6)(b), F.S.

³⁴ Section 119.15, F.S.

³⁵ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³⁶ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³⁷ Section 119.15(3), F.S.

³⁸ Section 119.15(6)(b), F.S.

³⁹ Section 119.15(6)(b)1., F.S.

⁴⁰ Section 119.15(6)(b)2., F.S.

⁴¹ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.⁴² In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.⁴⁴

State University System and Florida College System Governance

The State University System is composed of all public state universities.⁴⁵ The Board of Governors (BOG) is required to operate, regulate, control, and be fully responsible for the management of the whole university system.⁴⁶ Each state university is governed by a local board of trustees, which is subject to public record and open meetings laws.⁴⁷ The BOG establishes the powers and duties of the boards of trustees and may delegate its constitutional or statutory powers and duties to the boards of trustees as its designee.⁴⁸ The BOG establishes the personnel system for all state university employees and confirms the selection and reappointment of presidents by state university boards of trustees.⁴⁹

The Florida College System (FCS) is composed of public community and state colleges.⁵⁰ FCS institutions are supervised by the State Board of Education (SBE),⁵¹ which establishes standards and guidelines for the FCS institutions.⁵² A local board of trustees governs each FCS institution.⁵³

⁴² Section 119.15(6)(a), F.S. The specified questions are:

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

⁴³ See generally s. 119.15, F.S.

⁴⁴ Section 119.15(7), F.S.

⁴⁵ Art. IX, s. 7(b), Fla. Const. The State University System is made up of 12 state universities, specified in s. 1000.21(6), F.S.

⁴⁶ Art. IX, s. 7(d), Fla. Const. See also ss. 20.155(4)(a), 1001.70(3), 1001.705(2), and 1001.706(2)(a), F.S.

⁴⁷ Art. IX, s. 7(b)-(c), Fla. Const. See also s. 1001.71(1), F.S.

⁴⁸ Art. IX, s. 7(c), Fla. Const. See also s. 1001.706(2)(b), F.S.

⁴⁹ Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.

⁵⁰ Art. IX, s. 8(b), Fla. Const. The Florida College System is made up of 28 community and state colleges specified in s. 1000.21(3), F.S. Such institutions constitute political subdivisions of the state operated by boards of trustees. See s. 1004.67 and ss. 1001.61-1001.64, F.S.

⁵¹ Art. IX, s. 8(d), Fla. Const.

⁵² Section 20.15(1), (2), and (5); see also s. 1001.02(1) and (6), F.S.

⁵³ Art. IX, s. 8(b), Fla. Const. See also ss. 1001.60(3) and 1001.64(2), F.S.

State University System and Florida College System Presidential Searches

Each state university board of trustees selects its university president, subject to confirmation of the candidate by the BOG and in accordance with BOG regulations. To locate qualified applicants, a presidential search committee is appointed to make recommendations to the full university board of trustees.⁵⁴

BOG regulation specifies criteria to ensure that the search process is transparent, robust, and designed to attract highly qualified individuals.⁵⁵ Criteria include requirements that a search firm or consultant a search committee retains must be familiar, or demonstrate its ability to become familiar, with Florida's Sunshine laws,⁵⁶ and that the search committee maintain for purposes of transparency a webpage that includes search committee notices, agendas, and meetings; applicant lists; and means to provide input.⁵⁷

Each FCS institution board of trustees is authorized to appoint the president of the FCS institution.⁵⁸ The board of trustees is authorized to appoint a search committee to assist in the process.⁵⁹ Each board of trustees is required to notify the SBE of the appointment of a president immediately upon such action.⁶⁰

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process are open to the public.⁶¹

The consultants assist by identifying and recruiting highly-talented individuals, as well as responding to all nominations, applications, and inquiries for the position. The consultants develop selection criteria and conduct preliminary screening interviews with each candidate who meets the stated criteria. The consultants provide the search committee with information gathered during the interviews, along with background investigations concluded by the search firm. The search committee will identify semi-finalists, and finalists for the position.

III. Effect of Proposed Changes:

Section 1 creates s. 1004.098, F.S., to establish an exemption from public records and public meetings requirements for applicants for president of a state university of FCS institution.

⁵⁴ Board of Governors (BOG) Regulation 1.001(5)(c).

⁵⁵ BOG Regulation 1.002(1).

⁵⁶ BOG Regulation 1.002(1)(b)ii.

⁵⁷ BOG Regulation 1.002(1)(c)i.

⁵⁸ Section 1001.61 F.S.

⁵⁹ Section 1001.64(19), F.S.

⁶⁰ Rule 6A-14.026, F.A.C.

⁶¹ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d 851 at 855, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

The bill specifies that any personal identifying information of an applicant for president of a state university or FCS institution held by a state university or a FCS institution is confidential and exempt from public records requirements.

The bill provides that the personal identifying information of an applicant included in a final group of applicants for president of a state university or FCS institution is no longer confidential and exempt beginning at the earlier of the date the final group of applicants to be considered for president is established or at least 21 days before the date of a meeting at which an interview of an applicant will be conducted or at which final action or a vote is to be taken on the offer of the employment of an applicant as president.

The bill exempts from public meetings requirements any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose personal identifying information of such applicants. The bill provides that a complete recording must be made of any portion of a meeting that is closed and any closed portion of such meeting may not be held off the record. The recording of the closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution.

The bill specifies that the public meeting exemption does not apply to:

- Any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant for president of a state university or FCS institution.
- Any meeting held after a final group of applicants for president of a state university or FCS institution has been established.

The exemption from public records and public meetings established in the bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 sets forth the public necessity justifying the exemptions.⁶² The bill asserts that applicants for president who are currently employed could jeopardize their current positions if it were known that they were seeking employment elsewhere. Further, the bill specifies that an exemption is necessary to allow a presidential search committee to access the most experienced and desirable pool of qualified applicants from which to fill the position of president.

The bill takes effect 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

⁶² Art. I, s. 24(c), Fla. Const.

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:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements or to the public meetings requirements. This bill enacts a new exemption for personal identifying information about applicants for the position of president at a state university or Florida College System (FCS) institution and a new exemption for certain portions of meetings that may discuss applicants for the position, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

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

Breadth of Exemption

Public Records Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information of applicants for the position of president of a state university or FCS institution. This bill exempts from inspection and copying only personal identifying information of such individuals unless the applicant makes the list of finalists. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

Public Meetings Exemption

Article I, s. 24(c) of the State Constitution also requires an exemption to the public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. Like the public records exemption, the stated purpose of the law is to protect personal identifying information of applicants for the position of president of a state university or FCS institution prior to the selection of the final group. The bill appears to only exempt the portion of the meeting held for the purpose of identifying or vetting applicants, including any portion of a meeting which would disclose personal identifying information. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector may continue to be subject to the costs associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

State universities and FCS institutions may incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.098 of the Florida Statutes.

This bill creates an unnumbered section of law.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on February 17, 2021:

- Limits the exemption to personal identifying information of applicants for president held by a university or FCS institution.
- Establishes that the public meetings exemption does not apply to any meeting held after the final group of applicants have been recognized.

- Adds that the personal identifying information of an applicant included in the final group of applicants is no longer confidential and exempt beginning at the earlier of the date the final group of applicants to be considered for president is established.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senators Brandes and Rodrigues

585-02179-21

2021220c1

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 1004.098, F.S.; providing an exemption
4 from public records requirements for any personal
5 identifying information of an applicant for president
6 of a state university or a Florida College System
7 institution held by a state university or a Florida
8 College System institution; specifying when the
9 personal identifying information of applicants who are
10 in the final group of applicants is no longer
11 confidential and exempt; providing an exemption from
12 public meeting requirements for any portion of a
13 meeting held for the purpose of identifying or vetting
14 applicants for president of a state university or a
15 Florida College System institution, including any
16 portion of a meeting which would disclose certain
17 personal identifying information of such applicants;
18 requiring that a recording be made of any portion of a
19 closed meeting which would disclose personal
20 identifying information of such applicants; providing
21 that no portion of a closed meeting may be held off
22 the record; providing that the recording of any closed
23 portion of a meeting is exempt from public records
24 requirements; specifying that certain meetings are not
25 exempt from public meeting requirements; providing for
26 future legislative review and repeal of the
27 exemptions; providing a statement of public necessity;
28 providing an effective date.
29

Page 1 of 4

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

31
32 Section 1. Section 1004.098, Florida Statutes, is created
33 to read:

34 1004.098 Applicants for president of a state university or
35 Florida College System institution; public records exemption;
36 public meetings exemption.—

37 (1) (a) Any personal identifying information of an applicant
38 for president of a state university or a Florida College System
39 institution held by a state university or a Florida College
40 System institution is confidential and exempt from s. 119.07(1)
41 and s. 24(a), Art. I of the State Constitution.

42 (b) Notwithstanding paragraph (a), the personal identifying
43 information of an applicant included in the final group of
44 applicants for president of a state university or a Florida
45 College System institution is no longer confidential and exempt
46 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
47 beginning at the earlier of the date the final group of
48 applicants to be considered for president is established or 21
49 days before the date of a meeting at which an interview of an
50 applicant will be conducted or at which final action or a vote
51 is to be taken on the offer of the employment of an applicant as
52 president.

53 (2) (a) Any portion of a meeting held for the purpose of
54 identifying or vetting applicants for president of a state
55 university or a Florida College System institution, including
56 any portion of a meeting which would disclose personal
57 identifying information of such applicants which is otherwise
58 confidential and exempt under subsection (1), is exempt from s.

Page 2 of 4

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585-02179-21 2021220c1

286.011 and s. 24(b), Art. I of the State Constitution.

(b) A complete recording must be made of any portion of a meeting which is closed pursuant to paragraph (a), and any closed portion of such meeting may not be held off the record. The recording of the closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) The public meeting exemption provided in paragraph (a) does not apply to:

1. Any portion of a meeting held for the purpose of establishing qualifications for the position or establishing any compensation framework to be offered to an applicant for president of a state university or a Florida College System institution.

2. Any meeting that is held after a final group of applicants for president of a state university or a Florida College System institution has been established.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any personal identifying information of an applicant for president of a state university or a Florida College System institution held by a state university or a Florida College System institution be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature also finds that it is a public necessity that any portion of a meeting held for the purpose of identifying or vetting applicants for

585-02179-21 2021220c1

president of a state university or a Florida College System institution, including any portion of a meeting which would disclose personal identifying information of such applicants, be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution, and that the recording of such meeting be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The task of filling the position of president of a state university or a Florida College System institution is often conducted by an executive search committee. Many, if not most, applicants for such a position are currently employed at another job at the time they apply and could jeopardize their current positions if it were to become known that they were seeking employment elsewhere. These exemptions from public records and public meeting requirements are needed to ensure that such a search committee can avail itself of the most experienced and desirable pool of qualified applicants from which to fill the position of president of a state university or a Florida College System institution. If potential applicants fear the possibility of losing their current jobs as a consequence of attempting to progress along their chosen career path or simply seeking different and more rewarding employment, failure to have these safeguards in place could have a chilling effect on the number and quality of applicants available to fill the position of president of a state university or a Florida College System institution.

Section 3. 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 Rules

BILL: CS/CS/SB 266

INTRODUCER: Rules Committee; Community Affairs Committee; and Senators Perry and Baxley

SUBJECT: Home-based Businesses

DATE: April 14, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Paglialonga	Ryon	CA	Fav/CS
2. McKay	McKay	CM	Favorable
3. Paglialonga	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 266 preempts areas of regulation for home-based businesses to the state and forbids counties and municipalities from prohibiting, restricting, regulating, or licensing a home-based business in a manner that is different from other businesses in a local government's jurisdiction. By operation of law, state preemption would cause existing local government ordinances in areas of law restricted by the bill to become null and void.

The bill includes criteria that home-based businesses must meet to operate in an area zoned for residential use. To be considered a home-based business under the bill, a business must be subordinate to the use of the dwelling for residential purposes, require no external modifications that detract from the residential appearance, and use no equipment or process that creates noise, vibration, heat, smoke, dust, glare, fumes, or odors that are plainly detectable from the street or neighboring properties.

The bill also provides requirements a home-based businesses must comply with to operate in an area zoned for residential use. These requirements address the following areas:

- The number of employees or independent contracts allowed to work at a home-based business;
- The amount of traffic and parking generated by a home-based business;
- The vehicles and heavy equipment allowed to operate and park at a home-based business;
- The hours of operation for business activities;

- The relevant regulations concerning the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids; and
- The business transactions conducted in view of the street.

The bill maintains that a local government may still enforce noise ordinances and impose local business taxes under ch. 205, F.S. Furthermore, the bill provides that the home-based business state regulations do not supersede any current or future declaration of condominium adopted pursuant to ch. 718, F.S., cooperative document adopted pursuant to ch. 719, F.S., or declaration of covenants adopted pursuant to ch. 720, F.S.

These limitations on home-based businesses resemble current home occupation ordinances imposed by local governments.

The bill takes effect on July 1, 2021.

II. Present Situation:

Home Rule Powers and Preemption

The Florida Constitution

The Florida Constitution establishes and describes the duties, powers, structure, function, and limitations of government in Florida. Article VIII, section 1 of the Florida Constitution, endows counties and municipalities the power of self-government or home rule power. Under the home rule power, local governments have broad authority to exercise the state's sovereign police powers and legislate on any matter that is not inconsistent with the federal and state constitution and laws.

Counties

A county without a charter has such power of self-government as provided by general or special law and may enact county ordinances not inconsistent with general law.¹ Counties operating under county charters have all the powers of local self-government not inconsistent with general law or with special law approved by a vote of the electors.² General law authorizes counties "the power to carry on county government"³ and to "perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law."⁴

Municipalities

Municipalities may be established or abolished, and their charters amended by general or special law. Municipalities have governmental, corporate, and proprietary powers to conduct municipal government, perform municipal functions, and render municipal services. They may exercise any of these powers for municipal purposes except as otherwise provided by law.⁵ Chapter 166, F.S.,

¹ FLA. CONST. art. VIII, s. 1(f).

² *Id.* at (g).

³ Section 125.01(1), F.S.

⁴ *Id.* at (w).

⁵ FLA. CONST. art. VIII, s. 2.

also known as the Municipal Home Rule Powers Act,⁶ acknowledges these constitutional grants of police powers and better defines municipal powers of self-government.⁷ Chapter 166, F.S., provides municipalities with broad home rule powers to act in a manner not inconsistent with the Florida Constitution, general and special law, and a charter for the county in which the municipality is located.⁸

State Preemption

Although local governments have broad home rule powers, the state legislature may preempt this self-government power and preclude local governments from exercising legislative authority in particular areas of law.⁹ Florida law recognizes two types of preemption: express and implied.

Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹⁰ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹¹ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.¹² On the other hand, implied preemption is found where the local legislation would present the danger of conflicting with the state's pervasive regulatory scheme.¹³ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area to the state, and there are strong public policy reasons for doing so.¹⁴ In cases determining the validity of ordinances enacted in the face of express and implied state preemption, the effect has been to find such ordinances null, void, and unenforceable.¹⁵

Community Planning

State police powers are derived from the Tenth Amendment to the U.S. Constitution, which affords states all rights and powers "not delegated to the United States."¹⁶ Under this provision, states have police powers to establish and enforce laws protecting the public's welfare, safety, and health.¹⁷ These police powers provide counties and municipalities the authority to enact comprehensive zoning plans to lay out zones or districts where potential uses of real property may be forbidden or restricted.¹⁸ A local government's ability to regulate and restrict the use of

⁶ Section 166.011, F.S.

⁷ Florida House of Representatives, Publications, *The Local Government Formation Manual 2017-2018*, p. 16, available at: <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2017&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf>. (last visited Mar. 19, 2021).

⁸ Section 166.021(4), F.S.

⁹ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

¹⁰ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

¹¹ *Mulligan*, 934 So.2d at 1243.

¹² *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

¹³ See *GLA & Assocs., Inc. v. City of Boca Raton*, 855 So. 2d 278, 282 (Fla. 4th DCA 2003).

¹⁴ *Id.*

¹⁵ *Thomas v. State*, 614 So.2d 468, 470 (Fla.1993); *Hillsborough County v. Fla. Rest. Ass'n*, 603 So.2d 587, 591 (Fla. 2d DCA 1992) ("If [a county] has enacted such an inconsistent ordinance, the ordinance must be declared null and void.")

¹⁶ U.S. CONST. amend. X.

¹⁷ See *NFIB v. Sebelius*, 567 U.S. 519, 535-536 (2012).

¹⁸ *Village of Belle Terre v. Boraas*, 416 U.S. 1, 94 S. Ct. 1536 (1974)

private property through community planning is not unlimited and must, ultimately, bear a substantial relation to the public health, safety, morals or general welfare.¹⁹

Section 163.3167, F.S. of the Community Planning Act²⁰ statutorily requires incorporated municipalities and counties to prepare and maintain a comprehensive plan to set out the regulations and policies governing land within a community. Comprehensive plans address both physical elements of land and buildings and the land uses permitted therein. Under s.163.3177, F.S., comprehensive plans are required to include elements that address the distribution, extent, and location of various land uses within a community. Some of the statute's land uses include residential, commercial, industrial, agricultural, recreational, conservation education, public, historic, and mixed-use categories.²¹

Residential Use Restrictions

Community zoning plans typically contain two significant distinctions of property use: residential and commercial. Property zoned for residential use requires residents to use a building or premises therein as a dwelling.²²

Areas zoned for residential use may exclude other nonresidential buildings and uses. Residential use ordinances allow local governments to deny land uses not customary to a home or dwelling. Courts have opined that residential land use restrictions serve the public health, safety, morals, and general welfare by providing an attractive community, lessening congestion, increasing safety, and preventing overcrowding, among other things.²³ Although local governments may use similar definitions of residential use in an ordinance, counties and municipalities are free to decide the specific uses or terms allowed for this land.

As a practical matter, residential use restrictions largely exclude property uses that include most commercial or business operations. Residential use areas are often cordoned off from business zones to promote the state's interest in preserving the quality of home life for the community and ensuring residential neighborhoods' safety.²⁴ The traditional purpose for this categorical separation of residential and business uses has been to prevent unwanted secondary effects of a business operating in a residential area.²⁵

Home Occupation Ordinances

Although local governments have the authority to discriminate between commercial and residential land uses, local governments have historically persevered the right for individuals to

¹⁹ See *State of Washington ex rel. Seattle Title Trust Co. v. Roberge*, 278 U.S. 116, 121 (1928).

²⁰ See ch. 163, part II, F.S.

²¹ Section 163.3177, F.S.

²² Black's Law Dictionary 505 (6th ed. 1990) (*Dwelling* is defined as: "The house or other structure in which a person or persons live; a residence; abode; habitation; the apartment or building, or group of buildings, occupied by a family as a place of residence. Structure used as place of habitation.")

²³ *Flava Works, Inc. v. City of Miami*, 800 F.Supp.2d 1182 (S.D. Fla. 2011).

²⁴ *Voyeur Dorm, L.C. v. City of Tampa, Fla.*, 265 F.3d 1232 (11th Cir. 2001).

²⁵ In *Village of Euclid, Ohio v. Amber Realty Co.*, 272 U.S. 365 (1926) (upholding the constitutionality of a broad residential zoning restriction on all land uses that did not constitute a single-family dwelling), the 1926 Supreme Court describes numerous secondary effects of allowing businesses to operate in a residential zone and states the benefits of exclusion.

use residential dwellings to conduct business for certain activities deemed home occupations. Home occupation provisions are widely incorporated in residential land use ordinances and are considered an accessory use²⁶ to a residential property. The overarching premise of home occupation provisions is that residents may use a dwelling for business activities secondary to residential uses and don't disturb the residential character of the property. There is no enumerated right to or precise definition of a home occupation in Florida law. Local governments have the home rule power to include home occupation provisions in land use ordinances and define the provision as they see fit.

Current home occupation ordinances vary on the types of businesses allowed, the activities authorized, and the permitting and taxes imposed. Common home occupation regulation areas include residential character requirements, licensing/permitting/certification, permitted home occupations, prohibited home occupations, signage, employees, traffic and parking, storage and sale of merchandise, and floor area used for the home occupation.

The following excerpts are examples of local government ordinances addressing the common areas of home occupation regulation:

- Jacksonville limits home occupations to small-scale, limited businesses that do not detract from the residential character of the neighborhood, and limits the floor area that may be used by the home occupation.²⁷
- Orlando requires home occupations to obtain an occupational license, and the applicant must also submit detailed information relating to the physical space of the home.²⁸ Orlando also prohibits certain specified occupations.²⁹
- Miami limits home occupations to specified occupations, and occupations that do not generate high vehicular demand.³⁰
- Miami-Dade County prohibits on-site signage related to the home occupation.³¹
- Winter Park prohibits employees other than family members living in the house, and prohibits the use of accessory buildings.³²
- Clearwater requires traffic generated by the home occupation to be no greater in volume than regular residential traffic, limits the use of commercial vehicles, and prohibits parking by marked vehicles on the property.³³
- Tampa prohibits the storage or sale of merchandise, and prohibits the conduct of a home-based business in any accessory building;³⁴
- Volusia County limits home-based businesses to no more than 25 percent of the habitable floor area of the residence.³⁵

²⁶ Black's Law Dictionary 15 (6th ed. 1990) (*accessory use* is "a use which is dependent on or pertains to principal or main use; a use which is subordinate to, clearly incidental to, customary in connection with, and ordinarily located on same lot with, principle use").

²⁷ Jacksonville, FL., Sec. 656.369(c)(1).

²⁸ Orlando, FL., Sec. 58.941.

²⁹ Orlando, FL., Sec. 58.939.

³⁰ Miami, FL., Sec. 622.7.2.

³¹ Miami-Dade County, FL., Sec. 33-25.1(A)4.

³² Winter Park, FL., Sec. 58-71(5).

³³ Clearwater, FL., Sec. 3-1102.A.5 – 7.

³⁴ Tampa, FL., Ch. 27, art. VI, div. 2, s. 27-282.5.

³⁵ Volusia County, FL., Ch. 72, art. II, div. 8, s. 72-283.

- Naples prohibits the conduct of retail, wholesale, or warehousing activities at a home-based business.³⁶
- Gainesville limits a home-based business to no more than one automobile used for the home-based business parked on the premises within view of surrounding properties, and limits the amount and size of the signage on that automobile.³⁷

Another common component of home occupation ordinances is the method of enforcing these restrictions. Typically, local government code enforcement divisions are tasked with the enforcement of home occupation ordinances. Other community residents may report violations to a code enforcement officer, who usually provides the violator with a warning about the behavior. If the restricted behavior continues, local governments have the authority to issue a civil infraction or penalty that the violator may contest in court. Repeated refusal to cease code violations could result in a local government issuing misdemeanor fines as described in s. 775.083, F.S.

Florida Business Address

To establish a formal business organization in Florida, an individual must file specific paperwork with the Florida Department of State, Division of Corporations. Regardless of the corporate business structure, Florida law requires that the business provide the street address of its principal place of business, register agent, and persons owning the business.³⁸ Residential property may be used as a principal place of business for these corporate filings. It is unclear how using a residential home address as a principal place of business for state corporate filings is interpreted in the context of home occupation ordinances.

III. Effect of Proposed Changes:

The bill creates s. 559.955, F.S., to preempt areas of regulation for home-based businesses to the state. The bill forbids counties and municipalities from prohibiting, restricting, regulating, or licensing a home-based business in a different manner from other businesses in a local government's jurisdiction, other than as provided in the bill. By operation of law, state preemption would cause existing local government ordinances in areas of law restricted by the bill to become null and void.

To be considered a home-based business under the bill, a business must meet the following criteria:

- Be subordinate to the use of the dwelling for residential purposes.
- Require no external modifications that detract from the residential appearance.
- Use no equipment or process that creates noise, vibration, heat, smoke, dust, glare, fumes, or odors plainly detectable from the street or neighboring properties.

³⁶ Naples, FL., Ch. 56, art. III, s. 56-92.

³⁷ Gainesville, FL., Ch. 30, art. V, div. 2, s. 30-5.37.

³⁸ See s. 605.0201, F.S. (limited liability company); s. 607.0202, F.S. (corporation); s. 620.1111, F.S. (partnership).

Additionally, a home-based business must meet the following requirements to operate in an area zoned for residential use:

- May only have two non-resident employees or independent contractors work at the dwelling.
- May not generate traffic or a need for parking greater in volume than would normally be expected at a similar residence.
- Must comply with local governments regulations regarding the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted.
- Must park vehicles and trailers in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
- Must comply with local government regulations concerning the parking or storage of heavy equipment at the business. The bill provides a definition of "heavy equipment" as used by this requirement.
- May only involve activities secondary to the property's use as a residential dwelling.
- Must comply with all local regulations related to hours of operation and business activities conducted outside of the primary residential structure, including exterior signage or storage. Notwithstanding, a local government may not impose any restriction on hours of operation between 9 a.m. and 6 p.m.
- Must comply with all relevant local, state, and federal regulations regarding the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.
- May not conduct any business transactions at the business in view of the street.

The bill clarifies that local governments may still impose noise ordinances and local business taxes on home-based businesses. The bill also provides that the home-based business state regulations do not supersede any current or future declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration of covenants adopted pursuant to chapter 720.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Restricting the number and types of persons allowed to engage in otherwise legal activities³⁹ conducted wholly within the confines of a private dwelling may unconstitutionally infringe on an individual's freedom of association⁴⁰ and right to privacy.⁴¹ If these fundamental rights are implicated, the judiciary may require the State to demonstrate that limiting the number and types of persons allowed to work at a home-based business serves a compelling State interest and accomplishes its goals through the use of the least intrusive means.⁴²

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

None.

B. Private Sector Impact:

For small and family-owned businesses that operate in a local government jurisdiction with a more severe restriction on home occupations, the bill may provide a net positive fiscal impact by allowing these businesses to avoid the costs associated with commercial property. Notwithstanding, this positive fiscal impact may be negatively correlated to the market demand for small-scale commercial real estate.

³⁹ See *Henry v. Board of County Com'rs of Putnam County*, 509 So.2d 1221 (Fla. 5th DCA 1987)(describing that there is a considerable distinction between regulating the use of land and prohibiting the advertising for, and business use of, telephone located on residential property); see also *Coca-Cola Co., Food Division, Polk County v. State, Dept. of Citrus*, 406 So.2d 1079 (Fla.1981)(wherein the Florida Supreme Court discussed first amendment protection of commercial speech).

⁴⁰ "Our decisions establish that the First and Fourteenth Amendments protect the freedom to choose one's associates. Constitutional protection is extended, not only to modes of association that are political in the usual sense, but also to those that pertain to the social and economic benefit of the members... The freedom of association is often inextricably entwined with the constitutionally guaranteed right of privacy. The right to establish a home is an essential part of the liberty guaranteed by the Fourteenth Amendment. And the Constitution secures to an individual a freedom to satisfy his intellectual and emotional needs in the privacy of his own home." See *Village of Belle Terre v. Boraas*, 416 U.S. 1, 15 (1974)(Justice Marshall, dissenting; quotations and citations omitted).

⁴¹ Courts have long recognized that the boundaries of a home create a constitutionally protected zone of privacy. See *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965). The Florida Constitution contains an explicit right to privacy which affords Florida citizens greater protection in the area of privacy than does the federal Constitution. See *State v. J.P.*, 907 So.2d 1101, 1115 (Fla. 2004).

⁴² See *State v. J.P.*, at 1109. See also *Winfield v. Div. of Pari-Mutuel Wagering*, 477 So.2d 544 (Fla.1985)(explaining that where law intrudes on fundamental right to privacy guaranteed in Florida's Constitution, the State must demonstrate that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least intrusive means).

C. Government Sector Impact:

The bill may have a negative fiscal impact on local governments that charge fees related to home occupations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 559.955 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/CS by Rules on April 14, 2021:

The committee substitute makes the following changes:

- Removes the requirement that a home-based business must be consistent with the residential character of the dwelling unit.
- Provides that a home-based business may not use equipment or process that creates noise, vibration, heat, smoke, dust, glare, fumes, or odors that are plainly detectable from the street or neighboring properties, as opposed to detectable by neighbors.
- Removes the prohibition against home-based businesses using equipment or process that creates electrical or electronic interference detectable by neighbors.
- Restricts the amount of traffic and parking a home-based business may generate, prohibits business vehicles from parking at certain locations, and allows local governments to regulate specific aspects of business vehicles, trailers, and heavy equipment.
- Prohibits local governments from imposing any restriction on home-based business hours between 9 a.m. and 6 p.m.
- Provides that any local regulations on a home-based business concerning the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.
- Prohibits home-based businesses from conducting transactions in view of the street.
- Provides that the home-based business regulations do not prohibit local governments from enacting or enforcing noise ordinances.

CS by Community Affairs on March 10, 2021:

The committee substitute revises the criteria and requirements a business must meet to be considered a home-based business and allowed to operate in a residential zone. The

committee substitute retains the bill's core elements but makes several technical and substantive changes to provide more detailed and precise descriptions of home-based business restrictions.

It also clarifies that the bill's regulations do not supersede any current or future declaration of condominium adopted pursuant to ch. 718, F.S., cooperative document adopted pursuant to ch. 719, F.S., or declaration of covenants adopted pursuant to ch. 720, F.S.

B. Amendments:

None.



248258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
	.	
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	.	

The Committee on Rules (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 33 - 78
and insert:

1. The business is subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit and that are visible from the street or neighboring properties; and

2. The business uses no equipment or process that creates noise, vibration, heat, smoke, dust, glare, fumes, or odors that



248258

are plainly detectable from the street or neighboring properties.

(b) A home-based business must meet all of the following requirements:

1. The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business.

2. Traffic and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this subparagraph, the term "heavy equipment" means commercial, industrial, or agricultural vehicles, equipment, or machinery. The term includes, but is not limited to, semi-trailers, tractors, construction equipment, earth-moving equipment, cement mixers, and any other similar equipment or machinery classified as commercial by the manufacturer.

3. Business activities related to hours of operation and



248258

business activities conducted outside of the primary residential structure, including exterior signage displays or exterior storage, must comply with all local regulations. However, a local government may not impose any restriction on hours of operation between 9 a.m. and 6 p.m.

4. The activities of the business must be secondary to the property's use as a residential dwelling.

5. All business activities must comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

6. Any business transactions conducted at the business must not take place in view of the street.

(3) A home-based business:

(a) May operate in an area zoned for residential use; and

(b) Is subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(4) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to otherwise regulate a home-based business, other than as provided in this section.

(5) (a) This section does not supersede any current or future declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or



248258

declaration of covenants adopted pursuant to chapter 720.

(b) This section does not prohibit local governments from
enacting or enforcing noise ordinances.

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

And the title is amended as follows:

Delete lines 6 - 11

and insert:

requirements for home-based businesses; defining the
term "heavy equipment"; authorizing a home-based
business to operate in an area zoned for residential
use; specifying that home-based businesses are subject
to certain business taxes; providing prohibitions and
authorizations for local governmental actions relating
to home-based businesses;

By the Committee on Community Affairs; and Senators Perry and Baxley

578-02661-21

2021266c1

A bill to be entitled

An act relating to home-based businesses; creating s. 559.955, F.S.; providing legislative findings and intent; specifying conditions under which a business is considered a home-based business; providing requirements for home-based businesses; authorizing a home-based business to operate in a residential zone under certain circumstances; specifying that home-based businesses are subject to certain business taxes; prohibiting a local government from taking certain actions relating to home-based businesses; providing construction; providing an effective date.

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

Section 1. Section 559.955, Florida Statutes, is created to read:

559.955 Home-based businesses; legislative findings and intent; preemption.—

(1) It is the intent of the Legislature to encourage small and home-based business enterprises. To that end, the Legislature finds that:

(a) Small and home-based businesses are a critical part of the economy of this state and provide unique and valuable benefits to the communities in which they are located.

(b) Residential property is often the most valuable asset owned by a potential small business entrepreneur.

(c) Residential property can be put to beneficial use by potential small business entrepreneurs in ways that are

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consistent with residential use.

(2) (a) For purposes of this section, a business is considered a home-based business if:

1. The business is consistent with the residential character of the dwelling unit;

2. The business is subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit; and

3. The business uses no equipment or process that creates noise, vibration, heat, smoke, dust, glare, fumes, odors, or electrical or electronic interference detectable by neighbors.

(b) A home-based business must meet all of the following requirements:

1. The employees of the home-based business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business.

2. Parking related to the business activities of the home-based business must comply with all local or state parking regulations.

3. Business activities related to hours of operation and business activities conducted outside of the primary residential structure, including exterior signage displays or exterior storage, must comply with all local regulations.

4. The activities of the home-based business must be secondary to the property's use as a residential dwelling.

5. All home-based business activities must comply with any

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relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.

(3) A home-based business that operates from a residential property as provided in subsection (2):

(a) May operate in an area zoned for residential use;

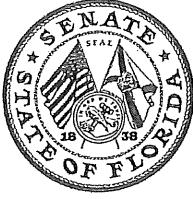
(b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government's jurisdiction; and

(c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(4) Local governments may not enact or enforce any ordinance, regulation, or policy, or take any action to otherwise regulate a home-based business, other than as provided in this section.

(5) This section does not supersede any current or future declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration of covenants adopted pursuant to chapter 720.

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill #266**, relating to Home-based Businesses, be placed on the:

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

Statement of Intent:

SB 266 will help people start a business or work from their home more easily because of smaller costs associated with location that large corporations do not need to consider. The property rights of neighbors are considered and protected by limitations placed on how the home based business operates.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long horizontal line extending from the end.

Senator Keith Perry
Florida Senate, District 8

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

Reset Form

THE FLORIDA SENATE
APPEARANCE RECORD

3/14/21

Meeting Date

266
Bill Number (if applicable)

Topic Home-Based Businesses

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 East Jefferson Street

Phone 8504455367

Street

Tallahassee

FL

32301

Email Tim.nungesser@nfib.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NFIB

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

266

Bill Number (if applicable)

248258

Topic Home-based Businesses

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address PO Box 1757

Phone (850)-701-3676

Street

Tallahassee

FL

32301

Email dcruz@flcities.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Cities, Inc.

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)

4/14/21
Meeting Date

CS/SB 266
Bill Number (if applicable)

Topic HOME BASED BUSINESS

Amendment Barcode (if applicable)

Name JASON STEELE

Job Title DIRECTOR OF GOVERNMENT

Address 709 S. HARBOR CITY BLVD Phone 321-258-8993
Street

MELB. FLA 32901 Email JASONSTEELE
City State Zip © ME.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing SATELLITE BCH/ INDIAN LANTIC, FLA

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

4-14-21

Meeting Date

0266

Bill Number (if applicable)

Topic Home Based Business

Amendment Barcode (if applicable)

Name Courtney Barker

Job Title City Manager

Address 565 Cassia Blvd

Phone 321-773-4407

Street

Satellite Beach

FL

32937

Email cbarker@satellitebeach.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Satellite Beach

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/14/21

Meeting Date

266

Bill Number (if applicable)

Topic

Home Based Businesses

248258

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing NFIB

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.

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This information was not read
into the record by the Chair

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 Rules

BILL: CS/CS/CS/SB 426

INTRODUCER: Rules Committee; Community Affairs Committee; Transportation Committee; and Senator Boyd

SUBJECT: State Preemption of Seaport Regulations

DATE: April 15, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Vickers	TR	Fav/CS
2. Paglialonga	Ryon	CA	Fav/CS
3. Price	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 426 prohibits a local ballot initiative or referendum from restricting maritime commerce in Florida's seaports. The prohibition applies, but is not limited, to restricting such commerce based on any of the following:

- Vessel type, size, number, or capacity.
- Number, origin, nationality, embarkation, or disembarkation of passenger or crew or their entry into this state of any local jurisdiction.
- Source, type, loading, or unloading of cargo.
- Environmental or health records of a particular vessel or vessel line.

Any conflicting local ballot initiative or referendum adopted before, on, or after the effective date of the act, and any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in such an initiative or referendum is prohibited, void, and expressly preempted to the state.

The bill also prohibits a local government, or a political subdivision or special district thereof, from restricting maritime commerce in any Florida seaport located in or adjoining an area designated as an area of critical state concern before, on, or after the effective date of the act with respect to any federally authorized passenger cruise vessel based on any of the following:

- Vessel type, size, number, or capacity, except when the port, by virtue of the physical limitations of its docking, berthing, or navigational capabilities, is unable to accommodate a passenger cruise vessel pursuant to applicable federal or state laws or regulations.
- Number, origin, nationality, embarkation, or disembarkation of passengers or crew or their entry into this state or any local jurisdiction.
- Source, type, loading, or unloading of cargo related or incidental to its use as a passenger cruise vessel.
- Environmental or health records of a particular passenger cruise vessel or cruise line.

The bill prohibits and voids, and expressly preempts to the state, any conflicting provision of a local law, a charter, an ordinance, a resolution, a regulation, a policy, an initiative, or a referendum existing before, on, or after the effective date of the act. These provisions do not apply to a special district established for port management by special act of the Legislature and, except for the prohibition against a local ballot initiative or referendum restricting maritime commerce in Florida's seaports, do not otherwise limit the authority of a subject local government, or political subdivision or special district thereof, to manage seaport commerce as provided by Florida law, issue and enforce tariffs, and enter into contracts related to the port facilities.

The bill includes a severability clause and takes effect upon becoming law.

The fiscal impact to state and local governments and the private sector is indeterminate. See the "Fiscal Impact Statement" heading below.

II. Present Situation:

Regulation of Vessels and Maritime Commerce

Generally, federal law controls¹ the regulation of maritime commerce², navigation,³ seaport security⁴, the regulation of commercial vessels, shipping⁵ and common carriers, vessel-related environmental and pollution standards,⁶ disease and quarantine efforts,⁷ and other aspects of admiralty law in and upon the navigable waters of the United States. The U.S. Supreme Court

¹ *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 516 (1992). Where Congress has explicitly preempted state law in an area, federal law supplants all state regulation in that area. Even in the absence of express congressional intent to preempt state law, federal preemption is implied where (1) state law “actually conflicts with federal law” or (2) federal law so thoroughly occupies a legislative field “as to make reasonable the inference that Congress left no room for the States to supplement it.”

² *United States v. Locke*, 529 U.S. 89, 103 (2000). (“The existence of the treaties and agreements on standards of shipping is of relevance, of course, for these agreements give force to the longstanding rule that the enactment of a uniform federal scheme displaces state law, and the treaties indicate Congress will have demanded national uniformity regarding maritime commerce.”)

³ See 33 U.S.C. §§ 1221 et seq. The Ports and Waterways Safety Act of 1972 (PWSA) authorizes the U.S. Coast Guard to establish vessel traffic service/separation schemes (VTSS) for ports, harbors, and other waters subject to congested vessel traffic. The VTSS apply to commercial ships, other than fishing vessels, weighing 300 gross tons (270 gross metric tons) or more. The Oil Pollution Act amended the PWSA to mandate that appropriate vessels must comply with the VTSS. The PWSA was amended by the Port and Tanker Safety Act (PTSA) of 1978 (Public Law 95-474). Under the PTSA, Congress found that increased supervision of vessel and port operations was necessary to reduce the possibility of vessel or cargo loss, or damage to life, property or the marine environment and ensure that the handling of dangerous articles and substances on the structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements. NOAA, *Ports and Waterways Safety Act*, [PortsandWaterwaysSafetyAct.pdf](https://www.noaa.gov/ports-and-waterways-safety-act) ([noaa.gov](https://www.noaa.gov)) (last visited March 3, 2021).

⁴ For example, the Maritime Transportation Security Act of 2002 created a broad range of programs to improve the security conditions at the ports and along American waterways, such as identifying and tracking vessels, assessing security preparedness, and limiting access to sensitive areas.

⁵ See Shipping Act of 1984. 46 U.S.C. §§ 40101(1), 40101(2). One purpose of the Act is to ‘establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs.’ A second purpose is to ensure that U.S.-flag ships are on a level playing field with foreign vessels.

⁶ In 1973, the International Maritime Organization (IMO) adopted the International Convention for the Prevention of Pollution by Ships and subsequently modified it by Protocol in 1978. The Convention is widely known as MARPOL 73/78. Its objective is to limit ship-borne pollution by restricting operational pollution and reducing the possibility of accidental pollution. MARPOL specifies standards for stowing, handling, shipping, and transferring pollutant cargoes, as well as standards for discharge of ship-generated operational wastes. Acceptance of the convention by national government obliges them to make the requirements part of domestic law. USCG, *Office of Commercial Vessel Compliance*, <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/Domestic-Compliance-Division/MARPOL/> (last visited Mar. 1, 2021).

⁷ See John T. Oliver, *Legal and Policy Factors Governing the Imposition of Conditions on Access and Jurisdiction Over Foreign-Flag Vessels in U.S. Ports*, 5 S.C. J. Int’l. L. & Bus. 209, 2 (2009) footnotes 153 & 154. 42 U.S.C. § 267(a): “[The Surgeon General] shall from time to time select suitable sites for and establish such additional ... anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.” “It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations” U.S.C. § 268(b). Congress has provided statutory authority for controlling infectious diseases, including quarantining of suspect vessels and their crews and passengers. 42 U.S.C. §§ 264-272. The President regularly updates the list of communicable diseases subject to quarantine. Exec. Order No. 13,295, Apr. 4, 2003, 68 Fed. Reg. 17,255 (Apr. 9, 2003), reprinted in 42 U.S.C. § 264, as amended by Exec. Order No. 13,375, Apr. 1, 2005, 70 Fed. Reg. 17299 (Apr. 5, 2005). He has also delegated to the Secretary of Health and Human Services his authority to carry out duties under the statute.

has consistently determined that federal supremacy principles mandate preemption of efforts of state and local governments to impose conditions on port entry that federal laws already cover.⁸

The United State Coast Guard (USCG) regulates all commercial vessels, including cruise vessels, calling on U.S. ports, regardless of the vessel's county of origin, and inspect each foreign-flagged cruise vessel calling on a U.S. port at least twice a year to ensure compliance with certain treaties and U.S. regulations governing safety, security, and environmental protections.⁹

Federal law does allow a state to regulate its ports and waterways, so long as the regulation is based on the peculiarities of local waters that call for special precautionary measures.¹⁰ For example, Title I of the Ports and Waterways Safety act does not preempt a state regulation directed to local circumstances and problems, such as water depth and narrowness, idiosyncratic to a peculiar port or waterway, if the USCG has not adopted regulations on the subject or determined that regulation is unnecessary or inappropriate.¹¹ A review of relevant case law suggests, however, that clear identification of the extent of a state's authority to regulate its ports and waterways is nonetheless elusive.

As for county and municipal governments, even when a state has authority concurrent with federal law, sometimes counties and cities do not. As an example, federal law relating to marine sanitation devices and discharges, 33 U.S.C. §1322(f)(A) provides that “no State or political subdivision” may adopt and enforce a statute or regulation that is more stringent than those promulgated under that section, while 33 U.S.C. §1322(f)(B) provides that “a State” may adopt and enforce a statute or regulation with respect to the design, manufacture, installation, or use of any marine sanitation device on a houseboat.

Federal Preemption

With respect to interstate commerce, the U.S. Supreme Court has discussed the historical development of and the modern test for any challenge to a state's authority to regulate:

Modern precedents rest upon two primary principles that mark the boundaries of a State's authority to regulate interstate commerce. First, state regulations may not discriminate against interstate commerce; and second, States may not impose undue burdens on interstate commerce. State laws that discriminate against interstate commerce face “a virtually *per se* rule of invalidity.” State laws that “regulat[e] even-handedly to effectuate a legitimate local public interest...will be upheld unless the

⁸ See *United States v. Locke*, 471 U.S. 84 (1985).

⁹ U.S. House of Representatives, Subcommittee on Coast Guard and Maritime Transportation, *Hearing on “Commercial and Passenger Vessel Safety: Challenges and Opportunities*, p. 4 (Nov. 9 2019), available at <https://www.congress.gov/116/meeting/house/110181/documents/HHRG-116-PW07-20191114-SD001.pdf> (last visited April 13, 2021).

¹⁰ Ports and Waterways Safety Act of 1972, 33 U.S.C. §1223(a) (2006). There is no pre-emption by operation of Title I of the Ports and Waterways Safety Act if the state regulation is directed to local circumstances and problems, such as water depth and narrowness, idiosyncratic to a particular port or waterway, and if the Coast Guard has not adopted regulations on the subject or determined that regulation is unnecessary or inappropriate.

¹¹ See *United State v. Locke*, 529 U.S. 89,109 (2000).

burden imposed on such commerce *is clearly excessive in relation to the putative local benefits.*” Although subject to exceptions and variations, these two principles guide the court in adjudicating cases challenging state laws under the Commerce Clause.¹²

State Preemption

Municipalities and counties derive broad home rule authority from the Florida Constitution and general law. Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature “has preempted a particular subject area” or (2) the local enactment conflicts with a state statute. Where state preemption applies it precludes a local government from exercising authority in that particular area.¹³

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹⁴ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁵ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.¹⁶ In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁷

Florida Ports

Florida is home to 15 deep-water seaports, including: Port Canaveral, Port Citrus, Port Everglades, Port of Fernandina, Port of Fort Pierce, Port of Jacksonville, Port of Key West, Port Manatee, Port of Miami, Port of Palm Beach, Port of Panama City, Port of Pensacola, and Port of Port St. Joe, Port of St. Petersburg, and Port of Tampa.¹⁸

¹² See *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080, 2091 ((2018)). Citations and internal quotation marks omitted. Emphasis added.

¹³ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009). Historically, certain types of local action have been found to frustrate the purpose of state law, and, thus, conflict has resulted. Specifically, Florida jurisprudence makes clear that local action cannot 1) provide for more stringent regulation than the state legislation in violation of the express wording of the statute; 2) provide for a more stringent penalty than that allowed by state statute; 3) prohibit behavior otherwise allowed by state legislation; 4) allow behavior otherwise prohibited by state statute; or 5) provide for a different method for doing a particular act than the method proscribed by state legislation. Generally, a local government can pass more stringent regulations than those provided for by statute. However, if the state legislation expressly forbids a stricter regulation or if the imposition of a stricter regulation frustrates the purpose of the statute, the local government must abstain. As an example of express prohibition, current law recognizes that the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the State Legislature may act, except among other items, “Any subject expressly preempted to state or county government by the constitution or by general law.” Section 166.021(3)(c), F.S.

¹⁴ See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).

¹⁵ *Mulligan*, 934 So. 2d at 1243.

¹⁶ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

¹⁷ See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁸ For a map of Florida’s deep-water seaports which indicates the primary streams of commerce (i.e. cargo, cruise passenger, other, or a combination thereof) see DOT, *Seaport System*, <https://www.fdot.gov/seaport/seamap.shtml> (last visited April 13, 2021).

Approximately half of Florida's deep-water ports are organized as independent or dependent special districts created by special act,¹⁹ and the remainder are organized within their respective municipal or county government. Four ports (Port of Key West, Port of St. Pete, Port of Panama City, Port of Pensacola) are departments, or an agency, of the respective municipalities. The Port of Key West is the only one of the four ports that currently offers cruise ship docking and related services.

According to the Florida Ports Council, Florida seaports generate nearly 900,000 direct and indirect jobs and contribute \$117.6 billion in economic value to the state through cargo and cruise activities. Florida maritime activities account for approximately 13 percent of Florida's gross domestic product while contributing \$4.2 billion in state and local taxes.²⁰ In 2018, approximately 110,268,130 tons of cargo and 16,835,986 passengers moved through Florida's seaports.²¹

State Law Relating to Seaports

Florida Seaport Transportation and Economic Development Program

In 1990, the Legislature created ch. 311, F.S., authorizing the Florida Seaport Transportation and Economic Development (FSTED) Program.²² The program established a collaborative relationship between the Florida Department of Transportation (FDOT) and the seaports and currently codifies an annual minimum of \$25 million for a seaport grant program.²³ FSTED funds are to be used on approved projects on a 50-50 matching basis.²⁴ Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port;
- The dredging or deepening of channels, turning basins, or harbors;
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing;
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce;
- The acquisition of land to be used for port purposes;
- The acquisition, improvement, enlargement, or extension of existing port facilities;
- Environmental protection projects: which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites; or which result from the funding of eligible projects;

¹⁹ See Florida Department of Economic Opportunity, *Special District Accountability Program*, available at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited March 5, 2021).

²⁰ Florida Ports Council, *The Florida System of Seaports*, <https://flaports.org/about/the-florida-system-of-seaports/> (last visited April 13, 2021).

²¹ FDOT, *2018 Update of Tables and Figures*, p.4, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/seaport/pdfs/2018-update-of-tables-and-figures-florida-seaport-system-plan-717752830.pdf?sfvrsn=e1879b60_2 (last visited April 13, 2021).

²² Chapter 90-136, L.O.F.

²³ Sections 311.07 and 311.09, F.S.

²⁴ Section 311.07(3)(a), F.S.

- Transportation facilities which are not otherwise part of the FDOT's adopted Work Program.²⁵
- Intermodal access projects;
- Construction or rehabilitation of port facilities, excluding any park or recreational facility, in ports listed in s. 311.09(1), F.S.,²⁶ with operating revenues of \$5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports; and
- Seaport master plan or strategic plan development updates, including the purchase of data to support such plans or other provisions of the Community Planning Act.²⁷

The FSTED program is managed by the FSTED Council, which consists of the port director, or director's designee of the 15 deep-water ports, the Secretary of the FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.²⁸ In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

Community Planning Act

The Community Planning Act includes four primary references to deep-water ports:

Section 163.3177(6)(b), F.S., identifies different levels of transportation analysis that must be included in a local government's comprehensive plan transportation element based on the size and location of the local government and whether it is in the metropolitan planning area of a Metropolitan Planning Organization. At a minimum, traffic circulation issues related to ports must be addressed as well as plans for port facilities. Additionally, cities greater than 50,000 persons and counties greater than 75,000 persons must address "Plans for port . . . and related facilities coordinated with the general circulation and transportation element." Some or all of these requirements can be addressed in the port master plan.

Section 163.3177(6)(g)8., F.S., requires that the comprehensive plan's coastal management element "Direct the orderly development, maintenance, and use of ports to facilitate deep-water commercial navigation and other related activities." This requirement can be addressed in the port master plan.

Section 163.3178(2)(k), F.S., requires that port master plans be included in the local government's coastal management element and requires that port master plans identify existing port facilities and any proposed expansions. To the extent that they are applicable, port master plans must also address the following requirements:

- Provide a land use and inventory map of existing coastal uses;
- Analyze the environmental, socioeconomic, and fiscal impact of development;
- Analyze effects of existing drainage systems on estuarine water quality;

²⁵ FDOT's Work Program is adopted pursuant to s. 339.135, F.S.

²⁶ The ports listed in s. 311.09(1), F.S., are the ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

²⁷ Part II of Ch. 163, F.S.

²⁸ Section 311.09(1), F.S.

- Outline principles for hazard mitigation and protection of human life;
- Outline principles for protecting existing beach and dune systems;
- Outline principles to eliminate inappropriate and unsafe development;
- Identify public access to shoreline areas and preservation of working waterfronts;
- Designate coastal high-hazard areas and mitigation criteria;
- Outline principles to assure that public facilities will be in place; and
- Mitigate the threat to human life and protect the coastal environment.

Section 163.3178(3), F.S., provides that certain eligible port expansions, projects, and facilities, both on the port and within three miles of the port, cannot be designated as Developments of Regional Impact if they are consistent with an in compliance port master plan.

Port Facility Financing

Section 315.03, F.S. authorizes any county, port district,²⁹ port authority,³⁰ municipality or certain governmental units created pursuant to the Florida Interlocal Cooperation Act³¹ that includes at least one deep-water port to:

- Exercise jurisdiction, control and supervision over any port facilities now or hereafter acquired, owned, or constructed by the local government(s).
- Operate and maintain, and to fix and collect rates, rentals, fees and other charges for any of the services and facilities provided by the port facilities now or hereafter acquired, owned or constructed by the unit excluding state bar pilots.
- Lease or rent, or contract with others for the operation of all or any part of any port facilities now or hereafter acquired, owned or constructed by the unit, on such terms and for such period or periods and subject to such conditions as the governing body shall determine to be in the best interests of the local government(s).

Vessel Movement and Related Fees

Section 313.22, F.S., authorizes ports to regulate vessel movements within its jurisdiction, whether involving public or private facilities or areas, by:

- Scheduling vessels for use of berths, anchorages, or other facilities at the port.
- Ordering and enforcing a vessel, at its own expense and risk, to vacate or change position at a berth, anchorage, or facility, whether public or private, in order to facilitate navigation, commerce, protection of other vessels or property, or dredging of channels or berths.
- Designating port facilities for the loading or discharging of vessels.
- Assigning berths at wharves for arriving vessels.

Ports are authorized to establish fees and compensation for these services when provided by the port.

²⁹ A “port district” is any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities. Section 315.02(1), F.S.

³⁰ A “port authority” is created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law. Section 315.02(2), F.S.

³¹ Section 163.01(7)(d), F.S.

Harbor Safety

Ports, in agreement with the United States Coast Guard, state harbor pilots, and other ports in its operating port area, must adopt guidelines for:

- Minimum bottom clearance for each berth and channel,
- The movement of vessels, and
- Radio communications of vessel traffic for all commercial vessels entering and leaving its harbor channels.³²

County Seaport Projects and Facilities

Section 125.012, F.S. confers broad authority to counties to provide for port improvements within their jurisdiction, including the ability to:

- Construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, repair, and operate any project³³, either within or without the territorial boundaries of the county.
- Subject to the jurisdiction of the United States and the State of Florida and the general laws of Florida relating to dredging and filling, to construct, establish, and improve harbors in the county and all navigable and nonnavigable waters connected therewith; to regulate and control all such waters; to construct and maintain such canals, slips, turning basins, and channels and upon such terms and conditions as may be required by the United States; and to enact, adopt, and establish by resolution rules and regulations for the complete exercise of jurisdiction and control over all such waters.
- To appoint shipping masters for ports or harbors under its control, to determine their qualifications, and to adopt rules and regulations prescribing their duties.
- To license stevedores as independent contractors for hire to handle stevedoring at and in the harbors and airports in the county, to fix the terms and conditions of such licenses, and to determine the fees to be charged for same.
- To make and enter into all contracts and agreements and to do and perform all acts and deeds necessary and incidental to the performance of its duties and the exercise of its powers.
- To fix, regulate, and collect rates and charges for the services and facilities furnished by any project under its control; to establish, limit, and control the use of any project as may be deemed necessary to ensure the proper operation of the project; to impose sanctions to promote and enforce compliances; to prescribe rules and regulations and impose penalties and sanctions to ensure the proper performance of the duties of any stevedore or of any shipping master and the enforcement of any rule or regulation which the county may adopt in the regulation of the ports, harbors, wharves, docks, airports, and other projects under its control.
- To fix the rates of wharfage, dockage, warehousing, storage, and port and terminal charges for the use of the port and harbor facilities located within or without the county and owned or operated by the county; and to fix and determine the rates, tolls, and other charges for the use of harbor and airport improvements and harbor and airport facilities located within or without

³² Section 313.23, F.S.

³³ Section 125.011(2)(a), F.S., defines “project” as one or more of the following: “harbor, port, shipping, and airport facilities of all kinds and includes, but is not limited to, harbors, channels, turning basins, anchorage areas, jetties, breakwaters, waterways, canals, locks, tidal basins, wharves, docks, piers, slips, bulkheads, public landings, warehouses, terminals, refrigerating and cold storage plants, railroads and motor terminals for passengers and freight, rolling stock, car ferries, boats, conveyors and appliances of all kinds for the handling, storage, inspection and transportation of freight and the handling of passenger traffic, ... and the loading and unloading and handling of passengers, mail, express and freight.”

the county insofar as it may do so under the State Constitution and the Constitution and laws of the United States.

- To regulate the operation, docking, storing, and conduct of all watercraft of any kind plying or using the waterways within the county and of all aircraft of any kind operating over and within the county or utilizing any other area, field, location, or place within the county for air navigation purposes or for the repair, storage, or handling of aircraft within the county.
- To receive and accept, from any federal agency, grants for or in aid of the construction, improvement, or operation of any project and to receive and accept contributions from any source of either money, property, labor, or other things of value.
- To make any and all applications required by the Treasury Department and other departments or agencies of the United States Government as a condition precedent to the establishment within the county of a free port, foreign trade zone, or area for the reception from foreign countries of articles of commerce; to expedite and encourage foreign commerce and the handling, processing, and delivery thereof into foreign commerce free from the payment of custom duties and to enter into any agreements required by such departments or agencies in connection therewith; and to make like applications and agreements with respect to the establishment within the county of one or more bonded warehouses.
- To enter into any contract with the government of the United States or any agency thereof which may be necessary in order to procure assistance, appropriations, and aid for the deepening, widening, and extending of channels and turning basins, the building and construction of public mass transit facilities, airport and airport facilities, slips, wharves, breakwaters, jetties, bulkheads, and any and all other harbor and air navigation improvements and facilities.
- To make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and estimates of cost and revenues as it may deem necessary and to prepare and adopt a comprehensive plan or plans for the location, construction, improvement, and development of any project.
- To grant exclusive or nonexclusive franchises to persons, firms, or corporations for the operating of restaurants, cafeterias, bars, taxicabs, vending machines, and other concessions of a nonaeronautical nature in, on, and in connection with any project owned and operated by the county.
- To adopt and promulgate suitable rules, regulations, and directions for the operation and conduct of any project owned or operated by the county and for the use of any such project and any facility connected therewith by others.
- To enter into contracts with utility companies or others for the supplying by such utility companies or others of water, electricity, or telephone service to or in connection with any project.
- To own, maintain, operate, and control export trading companies, foreign sales corporations, and consulting services corporations as provided by the laws of the United States or this state; to enter into management contracts with such corporations or companies established for the purpose of providing or operating such facilities; to own, maintain, operate, and control cargo clearance centers and customs clearance facilities, and to enter into management contracts with corporations established for the purpose of providing or operating such facilities; to maintain the confidentiality of trade information and data pursuant to the patent or copyright laws of the United States, pursuant to the patent or copyright laws of foreign nations to the extent that same are enforced by the courts of the United States, and pursuant

to the trade secrets doctrine; and to authorize airport and port employees to serve as officers and directors of export trading companies, foreign sales corporations, customs and cargo clearance corporations, and consulting services corporations for the sale of services to others. Counties are authorized to expend any unobligated and available surplus funds from the authorized activities for the construction of capital facilities.

Passenger Transportation Fees and For-hire Vehicles

Sections 316.85(6), and 627.748(17)(b), F.S., acknowledge the ability of a seaport to charge reasonable fees to for-hire vehicles for their use of the airport's or seaport's facilities as well as designate locations for staging, pickup, or other similar operations at the seaport.

Areas of Critical State Concern

The Areas of Critical State Concern Program “is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.”³⁴

According to the Florida Department of Economic Opportunity:

The Department reviews all local development projects within the designated areas and may appeal to the Florida Land and Water Adjudicatory Commission any local development orders that are inconsistent with state guidelines and local comprehensive plans and regulations. The Department also is responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed and adopted by local government within the designated areas.³⁵

Currently designated areas of critical state concern include the:

- Big Cypress Area (portions of Collier, Miami-Dade, and Monroe Counties).
- Green Swamp Area (portions of Polk and Lake Counties).
- City of Key West and the Florida Keys Area (Monroe County).
- Apalachicola Bay Area (Franklin County).

The Port of Key West appears to be the only currently designated area of critical state concern in which a seaport that accommodates cruise ships is located.

Recent Developments in Key West

CS/CS/CS/SB 426 appears to be generated in part by three petition initiatives to amend the City of Key West (the City) charter. The three amendments:

³⁴ See Florida Department of Economic Opportunity, *Areas of Critical State Concern Program*, available at [Florida Areas of Critical State Concern - FloridaJobs.org](https://www.floridajobs.org/critical-state-concern) (last visited April 12, 2021).

³⁵ *Id.* See also s. 380.05, F.S.

- Limited the number of persons disembarking from cruise ships to a total of not more than 1,500 per day at any and all public and privately owned or leased property located within the municipal boundary of the City;
- Prohibited any cruise ship with a capacity of 1,300 or more persons from disembarking individuals at any and all public or privately owned or leased property located within the City.
- Prohibited any cruise ship with a capacity of 1,300 or more persons from disembarking individuals at any and all public or privately owned or leased property located within the City.

The proposed initiatives were placed on the November 3, 2020, general election ballot and, after some preliminary litigation which failed to remove the initiatives from the ballot, Key West voters approved the City charter amendments. Apparently due to COVID-19, no cruise ships are currently sailing into the Port of Key West.³⁶ According to the City's website, the Port of Key West currently has three docking facilities, the City-owned Mallory Square Dock, the privately-owned Pier B, and the Navy Mole Pier.³⁷ The cruise schedule link on the City's website shows no scheduled cruises until June of this year.³⁸

III. Effect of Proposed Changes:

The bill sets out a number of revised "whereas" clauses and creates a new section of law relating to regulation of commerce in Florida seaports.

Section 1 creates s. 311.25, F.S., prohibiting a local ballot initiative or referendum from restricting maritime commerce in Florida's seaports. The prohibition applies, but is not limited, to restricting such commerce based on any of the following:

- Vessel type, size, number, or capacity
- Number, origin, nationality, embarkation, or disembarkation of passenger or crew or their entry into this state of any local jurisdiction.
- Source, type, loading, or unloading of cargo.
- Environmental or health records of a particular vessel or vessel line.

The bill prohibits, voids, and expressly preempts to the state any local ballot initiative or referendum, and any local law, charter amendment, ordinance, resolution, regulation, or policy in a local ballot initiative or referendum in violation of the prohibition, adopted before, on, or after the effective date of the act. This provision voids the recently enacted City of Key West charter amendments.

The bill also prohibits a local government, or a political subdivision or special district thereof, from restricting maritime commerce in any seaport of this state located in or adjoining an area

³⁶ The Center for Disease Control and Prevention issued a No Sail Order that expired on October 21, 2020, and subsequently announced a framework for conditional sailing, described as a phased resumption of cruise ship passenger operations, and "establishing requirements to mitigate the COVID-19 risk to passengers and crew, prevent the further spread of COVID-19 from cruise ships into U.S. communities, and protect public health and safety." The order may be viewed at https://www.cdc.gov/quarantine/pdf/CDC-Conditional-Sail-Order_10_30_2020-p.pdf (last visited March 3, 2021).

³⁷ See City of Key West, Florida, *Cruise Ships/Marine Services*, available at <https://www.cityofkeywest-fl.gov/158/Cruise-Ships-Marine-Services> (last visited April 13, 2021).

³⁸ *Id.* (Scroll down to find the link.)

designated as an area of critical state concern, with respect to any federally authorized passenger cruise vessel, including, but not limited to, a restriction based on any of the following:

- Vessel type, size, number, or capacity, except when the port, by virtue of the physical limitations of its docking, berthing, or navigational capabilities, is unable to accommodate a passenger cruise vessel pursuant to applicable federal or state laws or regulations.
- Number, origin, nationality, embarkation, or disembarkation of passengers or crew or their entry into this state or any local jurisdiction.
- Source, type, loading, or unloading of cargo related or incidental to its use as a passenger cruise vessel.
- Environmental or health records of a particular passenger cruise vessel or cruise line.

The bill prohibits, voids, and expressly preempts to the state any conflicting provision of a local law, a charter, an ordinance, a resolution, a regulation, a policy, an initiative, or a referendum existing before, on, or after the effective date of the act. These provisions do not apply to a special district established for port management by special act of the Legislature and, except for the prohibition against a local ballot initiative or referendum restricting maritime commerce in Florida's seaports as specified, do not otherwise limit the authority of a subject local government, or political subdivision or special district thereof, to:

- Engage in any activity authorized under ch. 311, ch. 315, s. 313.22, or s. 313.23, F.S., including those surrounding the continued operation and development of the port and port facilities and the implementation of seaport security measures pursuant to ss. 311.12-311.124, F.S.
- Issue and enforce tariffs properly filed with the Federal Maritime Commission.
- Enter into leases, terminal agreements, or other contracts with tenants, customers, and other users of port facilities.

Because the Port of Key West is currently the only locally-governed port located in or adjoining an area of critical state concern and offering cruise vessel docking and related services, the bill's prohibitions appear to apply only to the Port of Key West.

Section 2 sets out a severability clause.

Section 3 directs the Division of Law Revision to replace the phrase "the effective date of this act" wherever it occurs in the act with the date the act becomes law.

Section 4 provides the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

Given the current COVID-related environment and the Center for Disease Control and Prevention's (CDC) conditional sail order, the fiscal impact to the cruise industry is indeterminate.

C. Government Sector Impact:

Given the current COVID-related environment and the CDC's conditional sail order, the fiscal impact to state and local government is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 311.25 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/CS/CS by Rules on April 14, 2021:

The CS:

- Prohibits a local government, or a political subdivision or special district thereof, from restricting maritime commerce in any seaport of this state located in or

adjoining an area designated as an area of critical state concern, with respect to any federally authorized passenger cruise vessel, including, but not limited to, a restriction based on specified criteria.

- Prohibits, voids, and expressly preempts to the state any conflicting provision of a local law, a charter, an ordinance, a resolution, a regulation, a policy, an initiative, or a referendum existing before, on, or after the effective date of the act.
- Includes a severability clause.

CS/CS by Community Affairs on March 24, 2021:

The CS:

- Provides that any local policy regulating seaports in violation of the bill is expressly preempted to the state.
- Provides that a special district established for port management by special act of the Legislature is exempt from the bill's application and removes the reference to a special district within the boundaries of a single municipality.
- Provides that the regulations of a municipality or political subdivision thereof may not restrict maritime commerce "including, but not limited to," the regulations specified in the bill.
- Provides an exemption for municipalities that have been consolidated with a county (i.e., the city of Jacksonville) from the bill's application. The amendment preserves the original exemption for municipalities that are also counties as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).
- Provides that the restrictions imposed by the bill do not otherwise limit the authority of a relevant governmental entity to manage seaport commerce as provided by specified Florida statutes, issue and enforce tariffs, and enter into contracts related to the port facility operations.

CS by Transportation on March 10, 2021:

The CS:

- Prohibits a local ballot initiative or referendum from restricting maritime commerce in Florida's seaports based on specified criteria.
- Prohibits and voids a local ballot initiative or referendum, or any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in a local ballot initiative or referendum in violation of the prohibition before, on, or after the effective date of the act.
- Prohibits a municipality or political subdivision thereof, or a special district within the boundaries of a single municipality from restricting maritime commerce in the seaports with respect to any federally authorized passenger cruise vessel based on specified criteria.
- Prohibits and voids any conflicting provision of a law, a charter, an ordinance, a resolution, a regulation, a policy, an initiative, or a referendum existing before, on, or after the effective date of the act.

B. Amendments:

None.

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



189734

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
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The Committee on Rules (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 112 - 158
and insert:

(b) Any local ballot initiative or referendum that is in conflict with paragraph (a) and that was adopted before, on, or after the effective date of this act, and any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in such an initiative or referendum, is prohibited, void, and expressly preempted to the state.

(2) (a) A local government or a political subdivision or



189734

special district thereof may not restrict maritime commerce in
any seaport of this state located in or adjoining an area
designated as an area of critical state concern before, on, or
after the effective date of this act with respect to any
federally authorized passenger cruise vessel, including, but not
limited to, a restriction based on any of the following:

1. Vessel type, size, number, or capacity, except when the
port, by virtue of the physical limitations of its docking,
berthing, or navigational capabilities, is unable to accommodate
a passenger cruise vessel pursuant to applicable federal or
state laws or regulations.

2. Number, origin, nationality, embarkation, or
disembarkation of passengers or crew or their entry into this
state or any local jurisdiction.

3. Source, type, loading, or unloading of cargo related or
incidental to its use as a passenger cruise vessel.

4. Environmental or health records of a particular
passenger cruise vessel or cruise line.

(b) Any provision of a local law, a charter, an ordinance,
a resolution, a regulation, a policy, an initiative, or a
referendum which is in conflict with paragraph (a) and which
existed before, on, or after the effective date of this act is
prohibited, void, and expressly preempted to the state.

(c) This subsection does not apply to a special district
established for port management by special act of the
Legislature.

(d) Except as provided in paragraph (a), this subsection
does not otherwise limit the authority of a subject local
government or a political subdivision or special district



189734

thereof to:

1. Engage in any activity authorized under this chapter, chapter 315, s. 313.22, or s. 313.23, including those surrounding the continued operation and development of the port and port facilities and the implementation of seaport security measures pursuant to ss. 311.12-311.124.

2. Issue and enforce tariffs properly filed with the Federal Maritime Commission.

3. Enter into leases, terminal agreements, or other contracts with tenants, customers, and other users of port facilities.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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

And the title is amended as follows:

Delete lines 9 - 94

and insert:

prohibiting local governments and their political subdivisions and special districts from restricting maritime commerce in a seaport located in or adjoining an area of critical state concern with respect to any federally authorized passenger cruise vessel; providing that certain actions relating to such restrictions are prohibited, void, and expressly



189734

preempted to the state; providing applicability;
clarifying remaining authority of certain local
entities; providing for severability; providing a
directive to the Division of Law Revision; providing
an effective date.

WHEREAS, maritime commerce between and among seaports, both
foreign and domestic, is the subject of extensive federal and
state regulation designed to protect the marine environment and
the health, safety, and welfare of the general public and those
involved in conducting that commerce, and

WHEREAS, the economic impact of a seaport extends far
beyond the boundaries of the local jurisdiction in which the
port is located, materially contributing to the economies of
multiple cities and counties within the region and to the
economy of this state as a whole, and

WHEREAS, Florida seaports currently generate nearly 900,000
direct and indirect jobs and contribute \$117.6 billion in
economic value to this state through cargo and cruise
activities, accounting for approximately 13 percent of this
state's gross domestic product and \$4.2 billion in state and
local taxes, and

WHEREAS, because this state is a peninsula, much of this
state is highly dependent upon the unimpeded flow of maritime
commerce through its seaports, which is made even more critical
when this state is threatened or impacted by natural disasters,
such as tropical storms and hurricanes, and

WHEREAS, because of its geographic location, this state is
a hub for global maritime commerce and is uniquely positioned to



189734

capture an even larger share of this commerce as global trade routes shift, and

WHEREAS, the international, national, statewide, and regional importance of Florida seaports has long been recognized in federal and state law with respect to the regulation, planning, and public financing of seaport operations and facilities, and

WHEREAS, this state is widely known as the cruise capital of the world, and the cruise industry is vital to this state's economy, contributing more than \$9 billion in direct spending on an annual basis and supporting 159,000 jobs with more than \$8 billion in total wages and salaries before the current pandemic, and

WHEREAS, 8.3 million passengers boarded cruises from one of this state's five cruise ports in 2019, accounting for 60 percent of embarkations in the United States, generating 11 million passenger and crew onshore visits in both home port and transit port calls in this state, and

WHEREAS, allowing a ballot initiative or referendum in each local seaport jurisdiction to impose its own requirements on the maritime commerce conducted in that port could result in abrupt changes in the supply lines bringing goods into and out of this state and could reasonably be expected to suppress such commerce and potentially drive it out of the port and out of this state in search of a more consistent and predictable operating environment, thus disrupting this state's economy and threatening the public's health, safety, and welfare, and

WHEREAS, allowing a ballot initiative or referendum in each local seaport jurisdiction to impose its own requirements on the



189734

maritime commerce conducted in that port could result in abrupt changes in vessel traffic, frustrating the multiyear planning process for all Florida seaports and the assumptions and forecasts underlying federal and state financing of port improvement projects, and

WHEREAS, this state must establish land and water management policies to guide local decisions relating to growth and development, protecting and optimizing the use of this state's natural resources and environment while also preserving private property rights and advancing the health, safety, and welfare of the residents of this state, and

WHEREAS, the need for specific guidance and oversight in the balancing of all of these interests, including the state's interest in fostering tourism, is even more acute in areas of critical state concern designated under part I of chapter 380, which help protect significant environmental, natural, or other resources of regional or statewide importance from uncoordinated development, and

WHEREAS, areas of critical state concern generate tourism from both the residents of this state and visitors to this state, allowing them to directly experience and learn about these unique areas and generating additional tourism in the broader region and the state, and

WHEREAS, passenger cruise vessels allow for increased tourism in areas of critical state concern while avoiding many of the environmental impacts that would otherwise be generated by land-based tourism with respect to transportation, utility, wastewater, and other infrastructure, and

WHEREAS, the necessary constraints on development in areas



189734

of critical state concern may increase the cost of land-based tourism to such a degree that many people and families may find themselves financially unable to visit these areas, and the local workforce may find it more difficult to secure affordable housing, and

WHEREAS, when considering local requirements that would restrict cruise tourism in an area of critical state concern, the more limited geographic and political scope of a local government may make it less sensitive to the negative impact of those requirements on neighboring jurisdictions and on the region and the state, and

WHEREAS, many local and regional economies in this state rely heavily on tourism, and the surrounding politics can be particularly complex at a local level, significantly heightening concerns over the ability of a local government to impose requirements that would restrict cruise tourism, and

WHEREAS, in light of the matters of regional and statewide concern directly and indirectly affected by such actions, a local government with jurisdiction over a seaport located in or adjoining an area of critical state concern should not be permitted to impose its own requirements that would restrict maritime commerce with respect to federally authorized passenger cruise vessels, and

WHEREAS, due to the potential negative impacts, the permissible scope of local ballot initiatives or referendums and of the powers of certain local governments in areas of critical state concern must be appropriately limited, NOW, THEREFORE,



803408

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/14/2021	.	
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	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment

Delete line 141
and insert:

(c) This subsection does not apply to either of the
following:

1. A municipality that has a seaport with a draft of less
than 24 feet and a port channel entrance with a width of less
than 250 feet; or

2. A municipality the

By the Committees on Community Affairs; and Transportation; and
Senator Boyd

578-03314-21

2021426c2

1 A bill to be entitled
2 An act relating to state preemption of seaport
3 regulations; creating s. 311.25, F.S.; prohibiting a
4 local ballot initiative or referendum from restricting
5 maritime commerce in the seaports of this state;
6 providing that such a local ballot initiative,
7 referendum, or action adopted therein is prohibited,
8 void, and expressly preempted to the state;
9 prohibiting municipalities and certain special
10 districts from restricting maritime commerce in the
11 seaports of this state with respect to any federally
12 authorized passenger cruise vessel; providing that
13 certain actions relating to such restrictions are
14 prohibited, void, and expressly preempted to the
15 state; providing applicability; clarifying remaining
16 authority of certain local entities; providing a
17 directive to the Division of Law Revision; providing
18 an effective date.
19
20 WHEREAS, maritime commerce between and among seaports, both
21 foreign and domestic, is the subject of extensive federal and
22 state regulation designed to protect the marine environment and
23 the health, safety, and welfare of the general public and those
24 involved in conducting that commerce, and
25 WHEREAS, the economic impact of a seaport extends far
26 beyond the boundaries of the local jurisdiction in which the
27 port is located, materially contributing to the economies of
28 multiple cities and counties within the region and to the
29 economy of this state as a whole, and

Page 1 of 6

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

578-03314-21

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30 WHEREAS, Florida seaports currently generate nearly 900,000
31 direct and indirect jobs and contribute \$117.6 billion in
32 economic value to this state through cargo and cruise
33 activities, accounting for approximately 13 percent of this
34 state's gross domestic product and \$4.2 billion in state and
35 local taxes, and
36 WHEREAS, because this state is a peninsula, much of this
37 state is highly dependent upon the unimpeded flow of maritime
38 commerce through its seaports, which is made even more critical
39 when this state is threatened or impacted by natural disasters,
40 such as tropical storms and hurricanes, and
41 WHEREAS, because of its geographic location, this state is
42 a hub for global maritime commerce and is uniquely positioned to
43 capture an even larger share of this commerce as global trade
44 routes shift, and
45 WHEREAS, the international, national, statewide, and
46 regional importance of Florida seaports has long been recognized
47 in federal and state law with respect to the regulation,
48 planning, and public financing of seaport operations and
49 facilities, and
50 WHEREAS, this state is widely known as the cruise capital
51 of the world, and the cruise industry is vital to this state's
52 economy, contributing more than \$9 billion in direct spending on
53 an annual basis and supporting 159,000 jobs with more than \$8
54 billion in total wages and salaries before the current pandemic,
55 and
56 WHEREAS, 8.3 million passengers boarded cruises from one of
57 this state's five cruise ports in 2019, accounting for 60
58 percent of embarkations in the United States, generating 11

Page 2 of 6

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

578-03314-21

2021426c2

million passenger and crew onshore visits in both home port and transit port calls in this state, and

WHEREAS, allowing a ballot initiative or referendum in each local seaport jurisdiction to impose its own requirements on the maritime commerce conducted in that port could result in abrupt changes in the supply lines bringing goods into and out of this state and could reasonably be expected to suppress such commerce and potentially drive it out of the port and out of this state in search of a more consistent and predictable operating environment, thus disrupting this state's economy and threatening the public's health, safety, and welfare, and

WHEREAS, allowing a ballot initiative or referendum in each local seaport jurisdiction to impose its own requirements on the maritime commerce conducted in that port could result in abrupt changes in vessel traffic, frustrating the multiyear planning process for all Florida seaports and the assumptions and forecasts underlying federal and state financing of port improvement projects, and

WHEREAS, there are similar concerns regarding the capacity of a municipality and certain special districts to impose such requirements on the maritime commerce conducted in a port, as the more limited geographic and political scope of a municipality and certain special districts may make such entity less sensitive to the negative impact of such requirements on neighboring municipalities and on the county, region, and state, and

WHEREAS, many local economies in this state depend heavily on tourism, on which the surrounding politics can be particularly complex at the municipal level, which significantly

578-03314-21

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heightens concerns that surrounding municipalities and certain special districts may impose local requirements affecting passenger cruise vessels or cruise lines, and

WHEREAS, in light of these potential negative impacts, the permissible scope of local ballot initiatives or referendums and of the powers of a municipality and certain special districts must be appropriately limited, NOW, THEREFORE,

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

Section 1. Section 311.25, Florida Statutes, is created to read:

311.25 Regulation of commerce in Florida seaports.-

(1) (a) A local ballot initiative or referendum may not restrict maritime commerce in the seaports of this state, including, but not limited to, restricting such commerce based on any of the following:

1. Vessel type, size, number, or capacity.

2. Number, origin, nationality, embarkation, or disembarkation of passengers or crew or their entry into this state or any local jurisdiction.

3. Source, type, loading, or unloading of cargo.

4. Environmental or health records of a particular vessel or vessel line.

(b) Any local ballot initiative or referendum, or any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in a local ballot initiative or referendum, in violation of paragraph (a) which was adopted before, on, or after the effective date of this act is prohibited, void, and

578-03314-21

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expressly preempted to the state.

(2) (a) A municipality or political subdivision thereof, or a special district other than one established for port management by special act of the Legislature, may not restrict maritime commerce in the seaports of this state with respect to any federally authorized passenger cruise vessel, including, but not limited to, a restriction based on any of the following:

1. Vessel type, size, number, or capacity, except when the port, by virtue of the physical limitations of its docking, berthing, or navigational capabilities, is unable to accommodate a passenger cruise vessel pursuant to applicable federal or state laws or regulations.

2. Number, origin, nationality, embarkation, or disembarkation of passengers or crew or their entry into this state or any local jurisdiction.

3. Source, type, loading, or unloading of cargo related or incidental to its use as a passenger cruise vessel.

4. Environmental or health records of a particular passenger cruise vessel or cruise line.

(b) Any provision of a law, a charter, an ordinance, a resolution, a regulation, a policy, an initiative, or a referendum which is in conflict with paragraph (a) and which existed before, on, or after the effective date of this act is prohibited, void, and expressly preempted to the state.

(c) This subsection does not apply to a municipality the government of which has been consolidated with that of a county or to a municipal government that is a county as defined in s. 125.011(1).

(d) Except as provided in paragraph (a), this subsection

578-03314-21

2021426c2

does not otherwise limit the authority of a subject municipality, political subdivision thereof, or special district to:

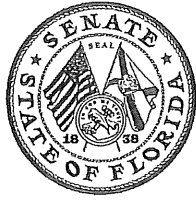
1. Engage in any activity authorized under this chapter, chapter 315, s. 313.22, or s. 313.23, including those surrounding the continued operation and development of the port and port facilities and the implementation of seaport security measures pursuant to ss. 311.12-311.124.

2. Issue and enforce tariffs properly filed with the Federal Maritime Commission.

3. Enter into leases, terminal agreements, or other contracts with tenants, customers, and other users of port facilities.

Section 2. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

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



SENATOR JIM BOYD
21st District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture
Appropriations Subcommittee on Agriculture
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

March 29, 2021

Senator Kathleen Passidomo
Committee on Rules
402 Senate Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Madame Chair Passidomo:

I respectfully request that CS/CS/SB 426: State Preemption of Seaport Regulations, be scheduled for a hearing in the Committee on Rules at your earliest convenience. CS/CS/SB 426 is necessary in order to prohibit local government from restricting maritime commerce in Florida seaports.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in black ink, appearing to read "Jim Boyd".

Jim Boyd

cc: John Phelps
Cynthia Futch

REPLY TO:

- ☐ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

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

THE FLORIDA SENATE

APPEARANCE RECORD

04/14/2021

Meeting Date

426

Bill Number (if applicable)

Topic State Preemption of Seaport Regulations

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Harbor Pilots Association

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/01
Meeting Date

58426
Bill Number (if applicable)
189734

Topic SENATE PREEMPTION

Name MICHAEL RUBIN

Job Title VP GOVT AFFAIRS

Address 502 E JEFFERSON ST
Street

Phone 950 228 028

TALE, FL 32301
City State Zip

Email M.L.RUBIN@FLPORTS.ORG

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA PORTS COUNCIL

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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

SB 426

Bill Number (if applicable)

Topic

Importance of cruise ship industry

Amendment Barcode (if applicable)

Name

Michael Halpern

Job Title

Businessman

Address

209 Duval Street

Phone

305 797-7023

Street

Key West, Florida

Email

mhpa@bellsouth.net

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

small businesses of Key West

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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21
Meeting Date

SB 426
Bill Number (if applicable)

Topic Shortcomings of FIU Report

Amendment Barcode (if applicable)

Name Danny Hughes

Job Title Businessman

Address 112 Ann St.
Street

Phone 504 915-3525

Key West FL 33040
City State Zip

Email danny@dannyhughes.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Former Governor-Appointed Port Commissioner / 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.

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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)

4/14/21
Meeting Date

SB 426
Bill Number (if applicable)

Topic St. Preemption of Seaports

Amendment Barcode (if applicable)

Name Holly Parker Curry

Job Title FL Policy Manager

Address 1229 Mitchell Ave.

Phone 850-567-3393

Street

City

State

Zip

Tallahassee, FL 32303

Email ~~hollyhparker@~~sunfrider.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Sunfrider Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

4-14-21
4-14-21
Meeting Date

426
Bill Number (if applicable)

Topic Support Preemptors

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

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4-14-21

Meeting Date

SB426

Bill Number (if applicable)

Topic

Hom. Rule

Amendment Barcode (if applicable)

Name

JENI JOHNSTON

Job Title

MAYOR OF KEY WEST

Address

1300 White Street

Phone

305-797-0955

Street

Key West, FL

State

33040

Zip

Email

+JohnstonKW@gmail.com

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

City of Key West

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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 14, 2021

Meeting Date

426

Bill Number (if applicable)

Topic State Preemption of Seaport Regulations

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Attorney

Address 201 East Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email josh@dacfl.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Ports for Economic Independence

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.

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S-001 (10/14/14)

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

4.14.21
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

426
Bill Number (if applicable)

Topic Seaport Pre-emption

Amendment Barcode (if applicable)

Name Evan Haskell

Job Title Bicycle Shop Owner

Address 3812 Flagler Ave
Street

Phone 305-393-5797

Key West FL 33040
City State Zip

Email evhaskell@gmail.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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21
Meeting Date

SB426
Bill Number (if applicable)

Topic SB426

Amendment Barcode (if applicable)

Name Billy Litmer

Job Title Captain & Small Business Owner

Address 1220 Varela St
Street

Phone 305 998 9363

Key West FL 33040
City State Zip

Email Litmerw@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Honest Eco

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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4-15
Meeting Date

426
Bill Number (if applicable)

Topic Sports Preemption
Name Arlo Haskel

Amendment Barcode (if applicable)

Job Title _____

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 Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21
Meeting Date

SB 426
Bill Number (if applicable)

Topic SB 426

Amendment Barcode (if applicable)

Name JOLLY BENSON

Job Title President

Address 2612 Harris Ave
Street

Phone 305.797.2106

KEY WEST FL 33040
City State Zip

Email JOLLY.S.BENSON@GMAIL.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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021
Meeting Date

SB426
Bill Number (if applicable)

Topic Homework is GOOD, SB426 is bad!

Amendment Barcode (if applicable)

Name Nathaniel Linville

Job Title Owner of Store

Address 1106 Thompson St
Street

Phone 305-292-6306

Key West FL 33040
City State Zip

Email Nathaniel.Linville@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing myself + my business

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

S-001 (10/14/14)

4/14/20
Meeting Date

513426

Bill Number (if applicable)

Topic Protect Key West Reefs

Name Shawn Martin

Job Title *Chair -*

Address 3202 Hamlet Ave
Street

Phone 803 925 0155

City N. Y West State FL Zip 33040

Chair @ Florida Keys -
Email ~~XXXXXXXXXX~~ XXXXXXXXXX@sunrider.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Surprise Foundation, Florida Keys

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.

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S-001 (10/14/14)

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

4/13
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

426
Bill Number (if applicable)

Topic Port Preemption

Amendment Barcode (if applicable)

Name Kate Miano

Job Title Owner

Address 526 Angela

Phone 305 923 4617

Street Key West, FL
City State Zip

Email Kwqueenkate@gmail.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

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S-001 (10/14/14)

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

4/14/2021
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

SB 426
Bill Number (if applicable)

Topic Port Preemption

Amendment Barcode (if applicable)

Name Will Benson

Job Title Fishing Guide

Address 17216 Bonita Ln E
Street

Phone 305 923 6114

Sugarloaf Key FL 33042
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL NMS Advisory Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

Meeting Date 4/15/21

Bill Number (if applicable) sb 426

Topic sb 426

Amendment Barcode (if applicable)

Name Jack Davis

Job Title Commercial fisherman

Address 1 Boca Chica Rd

Phone 305 394 7032

Street

City Key West State FL Zip 33040

Email fishgeiger@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4-14-21
Meeting Date

513426
Bill Number (if applicable)

Topic Home Rule

Amendment Barcode (if applicable)

Name CHAD HUFF

Job Title FISHING GUIDE

Address 1530 74th STREET OCEAN
Street

Phone 234-462-3571

MARATHON FL 33050
City State Zip

Email Capt.C.huff@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF & BUSINESS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

SB426

Bill Number (if applicable)

Topic ~~HOUSE RULE~~ HOME RULE

Amendment Barcode (if applicable)

Name JILLIAN TISDALE

Job Title ASST. MANAGER

Address 118 S. ROLLING HILL RD.

Phone 352-792-4676

Street

TAVERNIER FL

33070

City

State

Zip

Email tisdalejillian@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

4-14-21

Meeting Date

SB 426

Bill Number (if applicable)

Topic

Port Premysion

Amendment Barcode (if applicable)

Name

TONY YAM12

Job Title

Marketing Director

Address

2213 FLAGLER Avenue

Street

Key West

City

FL

State

33040

Zip

Phone

305 587-1107

Email

tyam12@hotmail.com

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21
Meeting Date

SB 426
Bill Number (if applicable)

Topic Home Rule

Amendment Barcode (if applicable)

Name Andrew Tiplor

Job Title Fishing Guide

Address 1171 Coates Lane
Street

Phone (305) 744-9796

Land, or Key FL 33042
City State Zip

Email Scarpa1@BellSouth.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Lower Keys Guides Association

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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4-14-21
Meeting Date

SB 426
Bill Number (if applicable)

Topic Port Pre capture

Amendment Barcode (if applicable)

Name Rita Troxel

Job Title Film Commissioner Retired

Address 93 Sugarloaf Drive
Street
Sugarloaf Key, FL 33042
City State Zip

Phone 305-296-5395

Email RitaTroxel@me.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

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/26

Meeting Date

SB426

Bill Number (if applicable)

Topic SB426

Amendment Barcode (if applicable)

Name Ian Slater

Job Title Fishing Guide

Address 1410 20th St

Phone 321 591 6738

Street

Key West

FL

33040

City

State

Zip

Email Captain Ian Slater @ Gmail (.com)

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Captain Ian Slater LLC (charter's)

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.

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21
Meeting Date

SB 426
Bill Number (if applicable)

Topic Cruise Ship Accompany

Amendment Barcode (if applicable)

Name Brian Stille

Job Title Fishing Guide

Address 5 Beach Dr.

Phone 561 358 7908

Street
City Key West State FL Zip 33020

Email Brian@lowkeyangling.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Low Key Angling LLC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

SB 426

Bill Number (if applicable)

Topic Port Preemption

Amendment Barcode (if applicable)

Name Jose Pagan

Job Title Citizen

Address 16780 Cypress Road

Phone 954-629-3105

Street

Sugarloaf Shores Fl. 33042

City

State

Zip

Email jose.pagan@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Cleaner Safer Shores

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)

4/14/21

Meeting Date

426

Bill Number (if applicable)

Topic Preemption of Seaports

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address 126 N. Mills Ave

Phone _____

Street

Orlando FL 32801

Email _____

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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

4/14/21

Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

426

Bill Number (if applicable)

Topic Sea Ports

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City State Zip

Email travis@moore-relations.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Defenders of Wildlife

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.

This information was not read
into the record by the Chair

S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

426

Bill Number (if applicable)

Topic Seaports

Amendment Barcode (if applicable)

Name Alik Moncrief (a-LEE-key)

Job Title Executive Director

Address 1700 N. Monroe St. #11-286

Phone 8504437609

Street

Tallahassee

FL

32303

Email contact@fcvoters.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conservation Voters

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.

This information was not read
into the record by the Chair

S-001 (10/14/1

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

THE FLORIDA SENATE

APPEARANCE RECORD

4-14-2021

Meeting Date

SB 426

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bailey Meyers

Job Title Videographer

Address 2425 Linda Ave
Street

Phone 386-956-2571

Key West FL
City State Zip

Email BaileyMeyersCB@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

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.

This information was not read
into the record by the Chair

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 Rules

BILL: CS/CS/SB 522

INTRODUCER: Appropriations Committee; Regulated Industries Committee; and Senator Diaz

SUBJECT: Vacation Rentals

DATE: April 12, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	Imhof	RI	Fav/CS
2. Davis	Sadberry	AP	Fav/CS
3. Oxamendi	Phelps	RC	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 522 revises the regulation of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). Current law prohibits local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive.

The bill preempts the regulation of advertising platforms to the state. An advertising platform is a person who electronically advertises a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property’s vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers on the vacation rental’s advertisement, and attest that, to the best of their knowledge, those numbers are

current, valid, and accurate. The vacation rental property owner or operator must display this tax and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number and the Florida sales tax registration and tourist development tax account numbers of each property that advertises on its platform. The advertising platform must verify the validity of the vacation rental's license number before it publishes the advertisement and must perform ongoing checks every calendar quarter thereafter. To facilitate this verification, the division must maintain vacation rental license information in a readily accessible electronic format. The advertising platform must remove from public view any advertisement or listing that fails to display a valid vacation rental license number.

Under the bill, advertising platforms must provide to the division on a quarterly basis information that assists the division with identification and verification of the vacation rental property's compliance with the bill's requirements.

Advertising platforms are required by the bill to collect and remit any taxes imposed under chapters 125, 205, and 212, Florida Statutes, that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable basis if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

Additionally, the bill:

- Requires advertising platforms to adopt anti-discrimination policies and to inform users of the public lodging discrimination prohibition found in section 509.092, Florida Statutes;
- Allows Department of Revenue to adopt emergency rules for six months which may be renewed until permanent rules are adopted;
- Provides that its terms do not supersede any current or future declaration or covenant for condominium, cooperative, or homeowners' associations; and
- Requires a sexual offender or predator to register at the local sheriff's office no later than 5:00 p.m., 24 hours after establishing a temporary residence in a vacation rental.

The bill provides appropriations and positions for the DBPR and the Florida Department of Law Enforcement to implement the provisions of the bill.

There may be an increase in local tourist development taxes relating to the additional projected licenses. The Revenue Estimating Conference determined that the provisions in the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

The bill takes effect upon becoming a law. However, the provisions relating to the regulation of advertising platforms take effect January 1, 2022.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation is the state agency charged with enforcing the provisions of

ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

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

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

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

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

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

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

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

¹ Section 509.013(4)(a), F.S.

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

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.²

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

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

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for "a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively."⁴ The division does not license or regulate the rental of individual rooms within a dwelling unit based on the roominghouse and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.⁵

² Section 509.242(1), F.S.

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

⁴ The division further classifies a vacation rental license as a single, group, or collective license. See Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.

⁵ Department of Business and Professional Regulation, *2021 Agency Legislative Bill Analysis for SB 522*, at 2 (Feb. 8, 2021) (on file with the Senate Committee on Regulated Industries).

The 48,226 public lodging establishments licensed by the division are distributed as follows:⁶

- Hotels – 2,191 licenses;
- Motels – 2,497 licenses;
- Nontransient apartments – 18,571 licenses;
- Transient apartments – 942 licenses;
- Bed and Breakfast Inns – 269 licenses;
- Vacation rental condominiums – 9,031 licenses;
- Vacation rental dwellings – 17,934 licenses; and
- Vacation rental timeshare projects – 27 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and nontransient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.⁷ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2019-2020, the division received 1,391 consumer complaints regarding vacation rentals. In response to the complaints, the division's inspection confirmed a violation for 38 of the complaints.⁸

The division's inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other general safety and regulatory matters.⁹ The division must notify the local fire safety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,¹⁰ which relates to a public lodging establishment.¹¹

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.¹²

⁶ Department of Business and Professional Regulation, *HR400A-Sum Public Food and Lodging Statewide Account Summary*, (Oct. 1, 2020) available at <http://www.myfloridalicense.com/dbpr/hr/reports/statistics/documents/licensecount1.pdf> (last visited Feb. 5, 2021).

⁷ Section 509.032(2)(a), F.S.

⁸ Department of Business and Professional Regulation, *Division of Hotels and Restaurants Annual Report for FY 2019-2020* at page 21, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2019_20.pdf (last visited Feb. 5, 2021).

⁹ See ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. See also Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Feb. 5, 2021).

¹⁰ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹¹ Section 509.032(2)(d), F.S.

¹² See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Feb. 5, 2021).

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

Current law does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹³

Section 509.032(7)(b), F.S., prohibits local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹⁴

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.¹⁵

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁶

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁷ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use, or occupancy.”¹⁸

¹³ Section 509.032(7)(a), F.S.

¹⁴ See s. 163.3164(43), F.S., which provides that the state land planning agency is the Department of Economic Opportunity.

¹⁵ Chapter 2011-119, Laws of Fla.

¹⁶ *Id.*

¹⁷ Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).

¹⁸ *Id.*

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.¹⁹ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.²⁰

In addition, the Attorney General issued an advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed ordinance regarding vacation rentals.²¹ The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²²

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.²³ The new provisions would be preempted by state law if they revise an ordinance in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered “less restrictive” than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a

¹⁹ Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances*, Oct. 22, 2013, (on file with the Senate Committee on Regulated Industries).

²⁰ Op. Att’y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 13, 2014), available at <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E> (last visited Feb. 7, 2021).

²¹ Op. Att’y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals – Zoning*, Oct. 5, 2016 (on file with the Senate Committee on Regulated Industries).

²² *Id.*

²³ Op. Att’y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) available at <http://www.myfloridalegal.com/ago.nsf/Opinions/933B3706FADB00CA85258458006F4CFA> (last visited Feb. 17, 2021).

complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.²⁴

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of one or more specified sex offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.²⁵ The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. Generally, the sexual predator or offender must register with the sheriff 48 hours after being released from prison or otherwise establishing residence in Florida. The laws span several different chapters and numerous statutes²⁶ and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Florida Department of Corrections (FDC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;²⁷
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.²⁸

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification requirements in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.²⁹

²⁴ See Florida Commission on Human Relations, *Public Accommodations*, <https://fchr.myflorida.com/public-accommodations> (last visited Feb. 7, 2021).

²⁵ Sections 775.21 and 943.0435, F.S.

²⁶ Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

²⁷ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

²⁸ Sections 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

²⁹ Sections 943.0435(1)(h), 985.4815(1)(h), 944.606(1)(f), and 944.607(1)(f), F.S., address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.³⁰ Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the FDC's control or custody, under the FDC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel.

A sexual predator or offender must register at the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence.³¹

The FDLE, through its agency website, provides a searchable database that includes some of this information.³² Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

Residence Definitions

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.³³

"Permanent residence" means a place where the person abides, lodges, or resides for three or more consecutive days.³⁴

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of three or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.³⁵

³⁰ All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register under s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (in the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). *See* ss. 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (in the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

³¹ Sections 775.21(6)(e)1.a. and 943.0435(2)(a)1., F.S., providing registration requirements for sexual predators and offenders, respectively.

³² The FDLE is the central repository for registration information, and also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *See* <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Jan. 26, 2021).

³³ Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.

³⁴ Section 775.21(2)(k), F.S.

³⁵ Section 775.21(2)(n), F.S.

“Transient residence” means a county where a person lives, remains, or is located for a period of three or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.³⁶

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt the regulation of advertising platforms to the state.

The bill permits any “grandfathered” local law, ordinance, or regulation adopted on or before June 1, 2011, to be amended to be less restrictive.

Definition of “Advertising Platform”

The bill creates s. 509.013(17), F.S., to define the term “advertising platform.” Under the bill, an advertising platform:

- Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Requirements for Operators of Vacation Rentals

The bill amends s. 509.241, F.S., to require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number, the applicable Florida sales tax registration, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be paid for each rental of the property as a vacation rental property.

Requirements for Advertising Platforms

Effective January 1, 2022, the bill creates s. 509.243, F.S., to provide requirements, including a quarterly reporting, and tax collection and remittance requirements, for an advertising platform.

Advertising and Reporting Requirements

Under the bill, an advertising platform must:

³⁶ Section 775.21(2)(o), F.S

- Require that a person who places an advertisement for the rental of a vacation rental to:
 - Include the vacation rental license number and the applicable Florida sales tax registration, and merchant business tax receipt or tourist development tax account numbers in the vacation rental's advertisement; and
 - Attest to the best of their knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.
- Verify and display the vacation rental property's license number, the verification must occur before the platform publishes the rental property's advertisement, and re-occur on a quarterly basis.
- Display the vacation rental property's applicable tax numbers.
- Provide to the Division of Hotels and Restaurants (division) on a quarterly basis, by file transfer protocol or electronic data exchange file:
 - The uniform resource locator (URL) for the Internet address of the vacation rental advertisement; and
 - Unless otherwise stated in the advertisement at the provided URL, the physical address of the vacation rental, including the unit designation, the vacation rental license number, and applicable tax numbers.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

The division must maintain vacation rental license information in a readily accessible electronic format.

The bill provides processes for the division to issue a cease and desist order for any person who violates ch. 509, F.S. The bill authorizes the division to seek an injunction or a writ of mandamus to enforce a cease and desist order. If the Department of Business and Professional Regulation (DBPR) is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.

Tax Collection and Reporting Requirements

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,³⁷ 125.0108,³⁸ 205.044,³⁹ 212.03,⁴⁰ 212.0305,⁴¹ and 212.055, F.S.,⁴² resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

³⁷ Section 125.0104, F.S., relates to the local option tourist development tax.

³⁸ Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.

³⁹ Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.

⁴⁰ Section 212.03, F.S., relates to the transient rentals tax.

⁴¹ Section 212.0305, F.S., relates to convention development taxes.

⁴² Section 212.055, F.S., relates to discretionary sales taxes.

The bill also amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:

- Provide that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
- Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill also amends s. 509.013, F.S., to define the term “merchant business taxes” as the tax imposed under s. 205.044, F.S. The bill includes the merchant business tax numbers as one of the tax account number vacation rental owners or operators must include in their advertisement on an advertising platform and as one of the taxes advertising platforms must collect and remit.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2023.

Sexual Predators and Offenders Registration

The bill amends s. 775.21, F.S., to redefine the term “temporary residence” in the context of sexual predator or offender registration requirements, to mean lodging in a vacation rental for 24 hours or more. Under current law, a sexual offender or predator must register at the local sheriff’s office no later than 5:00 p.m., 48 hours after establishing a temporary residence in a vacation rental.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium, cooperative documents, or declaration of covenants or declaration for a homeowners’ association.

Appropriations

The bill authorizes three full-time equivalent (FTE) positions with an associated salary rate of 111,036, and appropriates \$194,042 in recurring funds and \$176,143 in nonrecurring funds from the Hotel and Restaurant Trust Fund to the DBPR to implement provisions of the bill.

In addition, the bill authorizes two FTE positions with associated salary rate of 90,150, and appropriates \$148,941 in recurring funds and \$363,590 in nonrecurring funds from the General Revenue Fund to the Florida Department of Law Enforcement to implement provisions of the bill.

Effective Date

The bill takes effect upon becoming a law. However, the provisions of s. 509.243, F.S., relating to advertising platforms, take effect January 1, 2022.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill amends s. 775.21, F.S., to require a sexual offender or predator to register at the local sheriff's office no later than 5:00 p.m., 24 hours after establishing a temporary residence in a vacation rental. Under current law, a sexual offender or predator must register at the local sheriff's office no later than 5:00 p.m., 48 hours after establishing a temporary residence in a vacation rental.

The FDLE has expressed concerns with this provision in the bill. The FDLE notes that sexual offender and predator registration is civil and regulatory process, not punishment. Its purpose is to protect the public by providing information and serving as an investigative tool for law enforcement. If the impact on sexual predator and offender registration is viewed as punishment or to intended prevent or limit the ability of sexual offenders and predators to travel freely within the state, the FDLE advises that these concerns may lead to significant litigation, in an area of law that has been closely examined and vetted through the courts and upheld as constitutional. Such litigation may jeopardize constitutionality, and therefore the viability, of Florida sexual offender and predator registration laws.⁴³

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

The bill does not affect current fees for a vacation rental license.

⁴³ *Id.* at 5.

The Department of Business and Professional Regulation (DBPR) anticipates an indeterminate increase in its collection of vacation rental license fees because vacation rentals currently operating without a license would require a license number to post an advertisement on an advertising platform. The department also anticipates an indeterminate increase in fines collected due to noncompliance.⁴⁴

Local governments may see an increase in local tourist development taxes.

The Revenue Estimating Conference determined that the provisions of the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.⁴⁵

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The DBPR estimates a cost of \$370,185 (\$194,042 recurring) to the Hotel and Restaurant Trust Fund and a need of three full-time positions and seven OPS employees in order to process an estimated increase in licenses, complaints, and compliance cases.⁴⁶ The bill authorizes three full-time equivalent (FTE) positions with an associated salary rate of 111,036, and appropriates \$194,042 in recurring funds and \$176,143 in nonrecurring funds from the Hotel and Restaurant Trust Fund to the DBPR to implement provisions of the bill.

According to the Florida Department of Law Enforcement (FDLE), amending the definition of “temporary residence” to include a vacation rental where a person lodges for 24 hours or more will lead to a “substantial increase” in the number of sexual predators and offenders required to complete a registration, although the FDLE was unable to estimate the number of sexual predators or offenders subject to the revised definition.⁴⁷ The increase of registrations could potentially impact the workload associated with the Florida Sexual Offender and Predator Registry and require programmatic changes to FDLE’s technology systems. The bill authorizes two FTE positions with associated salary rate of 90,150, and appropriates \$148,941 in recurring funds and \$363,590 in nonrecurring funds from the General Revenue Fund to the FDLE to implement provisions of the bill.

VI. Technical Deficiencies:

None.

⁴⁴ See note 5, *supra* at page 7.

⁴⁵ Revenue Estimating Impact Conference, *Vacation Rentals*, CS/SB 522, (Feb. 26, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/Impact0226.pdf (last visited Mar. 10, 2021).

⁴⁶ See note 5, *supra* at pages 5 and 8.

⁴⁷ Florida Department of Law Enforcement, *2021 Agency Legislative Bill Analysis for CS/SB 522*, at 3 (Feb. 25, 2021) (on file with the Senate Subcommittee on Agriculture, Environment, and General Government).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 159.27, 212.03, 212.08, 316.1955, 404.056, 477.0135, 509.221, 509.013, 509.032, 509.241, 509.243, 553.5041, 705.17, 705.185, 717.1355, 775.21, and 877.24.

IX. Additional Information:

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

CS/CS by Appropriations on March 11, 2021:

The committee substitute:

- Removes provisions from the bill that preempt all inspections of vacation rentals to the state and required local governments to regulate activities that arise when a property is used as a vacation rental uniformly with all other residential properties.
- Maintains current law on the regulation of vacation rentals by local governments.
- Permits “grandfathered” local laws, ordinances, or regulations adopted on or before June 1, 2011, to be amended to be less restrictive.
- Provides positions and appropriations.

CS by Regulated Industries on February 16, 2021:

The committee substitute:

- Amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:
 - Clarify that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
 - Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
 - Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.
- Includes “merchant business taxes” under s. 205.044, F.S., within the types of taxes an advertising platform must remit.
- Revises the exemption in s. 509.032(7)(c), F.S., for local laws, ordinances, or regulations of a jurisdiction within an area of critical state concern to permit such jurisdictions to regulate and inspect vacation rentals, prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals, if the laws, ordinances, or regulations were adopted before June 1, 2011.
- Redefines the term “temporary residence” in the context of sexual predator or offender registration requirements, to mean lodging in a vacation rental for 24 hours or more.

- Authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This provision expires on January 1, 2023.

B. Amendments:

None.

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



888468

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 303 - 446

and insert:

Section 3. Paragraph (c) of subsection (3) and paragraphs (a) and (b) of subsection (7) of section 509.032, Florida Statutes, are amended, and paragraph (d) is added to subsection (7) of that section, to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:



888468

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013 ~~s. 509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number



888468

of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, licensing, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b)1. A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when such law, ordinance, or regulation is amended to be less restrictive or to comply with the local registration requirements provided in this paragraph. Notwithstanding paragraph (a), a local law, ordinance, or regulation may require the registration of vacation rentals with a local vacation rental registration program. Local governments may adopt a vacation rental registration program pursuant to subparagraph 3. and impose a fine for failure to register under



888468

70 the vacation rental registration program.

71 2. Local governments may charge a fee of no more than \$50
72 for processing a registration application. A local law,
73 ordinance, or regulation may not require renewal of a
74 registration more than once per year. However, if there is a
75 change of ownership, the new owner may be required to submit a
76 new application for registration.

77 3. As a condition of registration, the local law,
78 ordinance, or regulation may only require the owner or operator
79 of a vacation rental to:

80 a. Submit identifying information about the owner or the
81 owner's agents and the subject vacation rental property.

82 b. Obtain a license as a transient public lodging
83 establishment issued by the division within 60 days after local
84 registration.

85 c. Obtain all required tax registrations, receipts, or
86 certificates issued by the Department of Revenue, a county, or a
87 municipal government.

88 d. Update required information on a continuing basis to be
89 current.

90 e. Comply with parking standards and solid waste handling
91 and containment requirements so long as such standards are not
92 imposed solely on vacation rentals.

93 f. Designate and maintain at all times a responsible party
94 who is capable of responding to complaints and other immediate
95 problems related to the vacation rental, including being
96 available by telephone at a listed phone number.

97 g. Pay in full all recorded municipal or county code liens
98 against the subject property. The local government may withdraw



888468

its acceptance of a registration on the basis of an unsatisfied recorded municipal or county code lien.

4.a. Within 15 business days after receiving an application for registration of a vacation rental, the local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice specifying with particularity any areas that are deficient.

b. The vacation rental owner or operator and the local government may agree to a reasonable request to extend the time periods in this subparagraph, particularly in the event of a force majeure or other extraordinary circumstance.

c. When a local government denies an application for registration of a vacation rental, the local government must give written notice to the applicant. Such notice may be provided by United States mail or electronically. The written notice must specify with particularity the factual reasons for the denial and include a citation to the applicable portions of an ordinance, a rule, a statute, or other legal authority for the denial of the registration. A local government cannot deny any applicant from reapplying if the applicant cures the identified deficiencies.

d. If the local government fails to accept or deny the registration within the timeframes provided in this subparagraph, the application is deemed accepted.

e. Upon an accepted registration of a vacation rental, a local government shall assign a unique registration number to the vacation rental or other indicia of registration and provide such registration number or other indicia of registration to the owner or operator of the vacation rental in writing or



888468

electronically.

5. The local government may terminate or refuse to issue or
renew a vacation rental registration when:

a. The operation of the subject premises violates a local
law, ordinance, or regulation not otherwise preempted pursuant
to this subsection; or

b. The premises and its owner are the subject of a final
order or judgment lawfully directing the termination of the
premises' use as a vacation rental.

(d) The regulation of advertising platforms is preempted to
the state, and advertising platforms shall be regulated under
this chapter.

Section 4. Effective January 1, 2022, subsections (2) and
(3) of section 509.241, Florida Statutes, are amended to read:

509.241 Licenses required; exceptions.—

(2) APPLICATION FOR LICENSE.—Each person who plans to open
a public lodging establishment or a public food service
establishment shall apply for and receive a license from the
division prior to the commencement of operation. A condominium
association, as defined in s. 718.103, which does not own any
units classified as vacation rentals or timeshare projects under
s. 509.242(1)(c) or (g) is not required to apply for or receive
a public lodging establishment license. All applications for a
vacation rental license shall, if applicable, include the local
registration number or other proof of registration required by
local law, ordinance, or regulation. Upon receiving an
application for a vacation rental license, the division may
grant a temporary license that shall allow the vacation rental
to begin operation while the application is pending and to post



888468

the information required under s. 509.243(1)(c). The temporary license shall automatically expire upon final agency action regarding the license application.

(3) DISPLAY OF LICENSE.—Any license issued by the division ~~must shall~~ be conspicuously displayed to the public inside in the ~~office or lobby of the~~ licensed establishment. Public food service establishments that which offer catering services must shall display their license number on all advertising for catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and the local registration number, if applicable.

Section 5. Effective January 1, 2022, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1)(a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number and the local registration number, if applicable; and

2. Attest to the best of their knowledge that the license number for the vacation rental property and the local registration are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the vacation rental license number and the local registration number, if applicable. Effective July 1, 2022, the advertising platform must check that the vacation rental license number provided by the owner or operator appears as current on the information posted by the division pursuant to paragraph (c) and applies to



888468

the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

(c) By July 1, 2022, the division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

(2) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(3) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(4) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease



888468

and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(5) The division may fine an advertising platform an amount not to exceed \$1,000 per offense for violations of this section or of the rules of the division. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division. The division shall issue a written warning or notice and provide the advertising platform 15 days to cure a violation before commencing any legal proceeding under this subsection.

(6) Advertising platforms must adopt an antidiscrimination policy to help prevent discrimination among their users and must inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

(7) Advertising platforms that comply with the requirements of this section are deemed to be in compliance with the requirements of this chapter. Nothing in this section creates or is intended to create a private cause of action against advertising platforms. An advertising platform may not be held liable for any action it takes voluntarily in good faith in relation to its users to comply with this chapter or the



888468

advertising platform's terms of service.

Section 6. Subsections (10) and (11) are added to section 509.261, Florida Statutes, to read:

509.261 Revocation or suspension of licenses; fines; procedure.—

(10) The division may revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

(a) The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chapter 718, chapter 719, or chapter 720;

(b) The owner or operator fails to provide proof of registration, if required by local law, ordinance, or regulation;

(c) The registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5.; or

(d) The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

(11) The division may suspend, for a period of not more than 30 days, a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation rental during a period of 90 days. The division shall issue a written warning or notice and provide an opportunity to cure a violation before commencing any legal proceeding under this subsection.

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



888468

And the title is amended as follows:

Delete lines 8 - 45

and insert:

cross-reference; revising the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; revising an exemption to the prohibition against certain local regulation of vacation rentals; expanding the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizing local governments to adopt vacation rental registration programs and impose fines for failure to register; authorizing local governments to charge fees for processing registration applications; specifying requirements, procedures, and limitations for local vacation rental registration programs; authorizing local governments to terminate or refuse to issue or renew vacation rental registrations under certain circumstances; preempting the regulation of advertising platforms to the state; amending s. 509.241, F.S.; requiring applications for vacation rental licenses to include certain information; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to issue temporary licenses upon receipt of vacation rental license applications; providing for expiration of temporary vacation rental licenses; requiring licenses issued by the division to



888468

be displayed conspicuously to the public inside the
licensed establishment; requiring the owner or
operator of certain vacation rentals to also display
its vacation rental license number and applicable
local registration number; creating s. 509.243, F.S.;
requiring advertising platforms to require that
persons placing advertisements for vacation rentals
include certain information in the advertisements and
attest to certain information; requiring advertising
platforms to display and check such information;
requiring the division to maintain certain information
in a readily accessible electronic format by a certain
date; requiring advertising platforms to remove an
advertisement or listing under certain conditions and
within a specified timeframe; requiring advertising
platforms to collect and remit taxes for certain
transactions; authorizing the division to issue and
deliver a notice to cease and desist for certain
violations; providing that such notice does not
constitute agency action for which certain hearings
may be sought; authorizing the division to file
certain proceedings; authorizing the division to seek
certain remedies for the purpose of enforcing a cease
and desist notice; authorizing the division to collect
attorney fees and costs under certain circumstances;
authorizing the division to impose a fine on
advertising platforms for certain violations;
requiring the division to issue written warnings or
notices before commencing certain legal proceedings;



888468

331 requiring advertising platforms to adopt an
332 antidiscrimination policy and to inform their users of
333 the policy's provisions; providing construction;
334 amending s. 509.261, F.S.; authorizing the division to
335 revoke, refuse to issue or renew, or suspend vacation
336 rental licenses under certain circumstances; amending
337 s. 775.21,

By the Committees on Appropriations; and Regulated Industries;
and Senator Diaz

576-02741-21

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1 A bill to be entitled
2 An act relating to vacation rentals; amending s.
3 212.03, F.S.; requiring advertising platforms to
4 collect and remit taxes for certain transactions;
5 reordering and amending s. 509.013, F.S.; defining the
6 terms "advertising platform" and "merchant business
7 tax receipt"; amending s. 509.032, F.S.; conforming a
8 cross-reference; revising an exemption to the
9 prohibition against certain local regulation of
10 vacation rentals; preempting the regulation of
11 advertising platforms to the state; amending s.
12 509.241, F.S.; requiring licenses issued by the
13 Division of Hotels and Restaurants of the Department
14 of Business and Professional Regulation to be
15 displayed conspicuously to the public inside the
16 licensed establishment; requiring the operator of
17 certain vacation rentals to also display its vacation
18 rental license number and applicable merchant business
19 tax receipt or tax account numbers; creating s.
20 509.243, F.S.; requiring advertising platforms to
21 require that persons placing advertisements for
22 vacation rentals include certain information in the
23 advertisements and attest to certain information;
24 requiring advertising platforms to display and verify
25 such information; requiring the division to maintain
26 certain information in a readily accessible electronic
27 format; requiring advertising platforms to quarterly
28 provide the division with certain information
29 regarding vacation rentals in this state listed on the

Page 1 of 24

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

576-02741-21

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30 platforms; requiring advertising platforms to remove
31 an advertisement or listing under certain conditions
32 and within a specified timeframe; requiring
33 advertising platforms to collect and remit taxes for
34 certain transactions; authorizing the division to
35 issue and deliver a notice to cease and desist for
36 certain violations; providing that such notice does
37 not constitute agency action for which certain
38 hearings may be sought; authorizing the division to
39 file certain proceedings; authorizing the division to
40 seek certain remedies for the purpose of enforcing a
41 cease and desist notice; authorizing the division to
42 collect attorney fees and costs under certain
43 circumstances; requiring advertising platforms to
44 adopt an antidiscrimination policy and to inform their
45 users of the policy's provisions; amending s. 775.21,
46 F.S.; revising the definition of the term "temporary
47 residence"; amending ss. 159.27, 212.08, 316.1955,
48 404.056, 477.0135, 509.221, 553.5041, 705.17, 705.185,
49 717.1355, and 877.24, F.S.; conforming cross-
50 references to changes made by the act; providing
51 applicability; authorizing the department to adopt
52 emergency rules; providing requirements and an
53 expiration for such rules; providing for the
54 expiration of such rulemaking authority; providing
55 appropriations; providing effective dates.

57 Be It Enacted by the Legislature of the State of Florida:
58

Page 2 of 24

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Section 1. Effective January 1, 2022, subsection (2) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(2) (a) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(b) If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013, to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit taxes as provided in this paragraph.

1. An advertising platform, as defined in s. 509.013, which

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owns, operates, or manages a vacation rental or which is related within the meaning of ss. 1504, 267(b), or 707(b) of the Internal Revenue Code of 1986 to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental.

2. An advertising platform to which subparagraph 1. does not apply shall collect and remit all taxes due from the owner, operator, or manager under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental. Of the total amount paid by the lessee or rentee, the amount retained by the advertising platform for reservation or payment service is not taxable under this section or ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

In order to facilitate the remittance of such taxes, the department and counties that have elected to self-administer the taxes imposed under chapter 125 must allow advertising platforms to register, collect, and remit such taxes.

Section 2. Section 509.013, Florida Statutes, is reordered and amended to read:

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

(1) "Advertising platform" means a person who:

(a) Provides an online application, software, a website, or a system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and

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(c) Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

(3)(1) "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(9)(2) "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4)(3) "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

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

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

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests

576-02741-21

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for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

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

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a

576-02741-21 2021522c2

single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(10)(a)-(5)(a) "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before ~~prior to~~ being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or

576-02741-21 2021522c2

sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

576-02741-21

2021522c2

4. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2)~~(6)~~ "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(12)~~(7)~~ "Single complex of buildings" means all buildings

576-02741-21

2021522c2

or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(13)~~(10)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(14)~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(15)~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

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

(18)~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(16)~~(13)~~ "Transient" means a guest in transient occupancy.

(7)~~(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an

576-02741-21

2021522c2

operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

~~(8)-(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

~~(6)-(16)~~ "Nontransient" means a guest in nontransient occupancy.

(5) "Merchant business tax receipt" means a business tax receipt or registration issued by a municipality that imposes a tax under s. 205.044 on transient occupancy.

Section 3. Paragraph (c) of subsection (3) and paragraph (b) of subsection (7) of section 509.032, Florida Statutes, are amended, and paragraph (d) is added to subsection (7) of that section, to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food

576-02741-21

2021522c2

service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013 ~~s. 509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(b) A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011,

576-02741-21

2021522c2

including when such law, ordinance, or regulation is amended to be less restrictive.

(d) The regulation of advertising platforms is preempted to the state, and advertising platforms shall be regulated under this chapter.

Section 4. Effective January 1, 2022, subsection (3) of section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(3) DISPLAY OF LICENSE.—Any license issued by the division must ~~shall~~ be conspicuously displayed to the public inside in the office or lobby of the licensed establishment. Public food service establishments that which offer catering services must shall display their license number on all advertising for catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be paid for each rental of the property as a vacation rental.

Section 5. Effective January 1, 2022, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1)(a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be

576-02741-21

2021522c2

paid before the advertisement may be listed; and

2. Attest to the best of their knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax number. The advertising platform must verify that the vacation rental license number provided by the owner or operator is valid and applies to the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

(c) The division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

(2) An advertising platform must provide to the division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rentals located in this state which are advertised on its platform, along with the following information for each vacation rental:

(a) The uniform resource locator for the Internet address of the vacation rental advertisement.

(b) Unless otherwise stated in the vacation rental advertisement at the Internet address provided pursuant to

576-02741-21

2021522c2

paragraph (a), the physical address of the vacation rental, including any unit designation, the vacation rental license number provided by the owner or operator, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which taxes will be remitted for the rentals commenced through the advertisement.

(3) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(4) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(5) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a

576-02741-21

2021522c2

writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(6) Advertising platforms must adopt an antidiscrimination policy to help prevent discrimination among their users and must inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

Section 6. Paragraph (n) of subsection (2) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

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

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. The term also includes a vacation rental, as defined in s. 509.242, where a person lodges for 24 hours or more.

Section 7. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have

576-02741-21

2021522c2

the following meanings:

(12) "Public lodging or restaurant facility" means property used for any public lodging establishment as defined in s. 509.242 or public food service establishment as defined in s. 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or necessary to, another facility qualifying under this part.

Section 8. Paragraph (jj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

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

576-02741-21

2021522c2

compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jj) *Complimentary meals*.—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013 ~~s. 509.013(4)(a)~~ which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Section 9. Paragraph (b) of subsection (4) of section 316.1955, Florida Statutes, is amended to read:

316.1955 Enforcement of parking requirements for persons who have disabilities.—

(4)

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

Section 10. Subsection (5) of section 404.056, Florida

576-02741-21

2021522c2

Statutes, is amended to read:

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

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

“RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.”

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

Section 11. Subsection (6) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(6) A license is not required of any individual providing makeup or special effects services in a theme park or

576-02741-21

2021522c2

entertainment complex to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects services to the general public. The term “theme park or entertainment complex” has the same meaning as in s. 509.013 ~~s. 509.013(9)~~.

Section 12. Paragraph (b) of subsection (2) of section 509.221, Florida Statutes, is amended to read:

509.221 Sanitary regulations.—

(2)

(b) Within a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to be in the same building as the public food service establishment, so long as they are reasonably accessible.

Section 13. Paragraph (b) of subsection (5) of section 553.5041, Florida Statutes, is amended to read:

553.5041 Parking spaces for persons who have disabilities.—

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located to conform to ss. 502 and 503 of the standards.

(b) If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible

576-02741-21

2021522c2

entrance.

Section 14. Subsection (2) of section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—

(2) Sections 705.1015-705.106 do not apply to any personal property lost or abandoned on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~§-~~ ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with s. 705.185.

Section 15. Section 705.185, Florida Statutes, is amended to read:

705.185 Disposal of personal property lost or abandoned on the premises of certain facilities.—When any lost or abandoned personal property is found on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~§-~~ ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with this section, any lost or abandoned property must be delivered to such owner or operator, who must take charge of the property and make a record of the date such property was found. If the property is not claimed by its owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the

576-02741-21

2021522c2

property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or other disposal as the charitable institution deems appropriate. The rightful owner of the property may reclaim the property from the owner or operator of the premises at any time before the disposal or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises. A charitable institution that accepts an electronic device, as defined in s. 815.03(9), access to which is not secured by a password or other personal identification technology, shall make a reasonable effort to delete all personal data from the electronic device before its sale or disposal.

Section 16. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013 ~~§-~~ ~~509.013(9)~~, or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

Section 17. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~§-~~ ~~509.013(9)~~.

576-02741-21

2021522c2

639 Section 18. The application of this act does not supersede
640 any current or future declaration or declaration of condominium
641 adopted pursuant to chapter 718, Florida Statutes, cooperative
642 document adopted pursuant to chapter 719, Florida Statutes, or
643 declaration or declaration of covenant adopted pursuant to
644 chapter 720, Florida Statutes.

645 Section 19. (1) The Department of Revenue is authorized,
646 and all conditions are deemed to be met, to adopt emergency
647 rules pursuant to s. 120.54(4), Florida Statutes, for the
648 purpose of implementing s. 212.03, Florida Statutes, including
649 establishing procedures to facilitate the remittance of taxes.

650 (2) Notwithstanding any other provision of law, emergency
651 rules adopted pursuant to subsection (1) are effective for 6
652 months after adoption and may be renewed during the pendency of
653 procedures to adopt permanent rules addressing the subject of
654 the emergency rules.

655 (3) This section expires January 1, 2024.

656 Section 20. For the 2021-2022 fiscal year, the sums of
657 \$194,042 in recurring funds and \$176,143 in nonrecurring funds
658 from the Hotel and Restaurant Trust Fund are appropriated to the
659 Department of Business and Professional Regulation, and three
660 full-time equivalent positions with a total associated salary
661 rate of 111,036 are authorized for the purpose of implementing
662 this act.

663 Section 21. For the 2021-2022 fiscal year, the sums of
664 \$148,941 in recurring funds and \$363,590 in nonrecurring funds
665 from the General Revenue Fund are appropriated to the Florida
666 Department of Law Enforcement, and two full-time equivalent
667 positions with a total associated salary rate of 90,150 are

576-02741-21

2021522c2

668 authorized for the purpose of implementing this act.

669 Section 22. Except as otherwise expressly provided in this
670 act, this act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1014

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Baxley

SUBJECT: Employee Organizations

DATE: April 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Candelaria</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1014 requires employee organizations that have been certified as the bargaining agent for a unit of K-12 instructional personnel¹ to disclose in its application for registration renewal the number of employees who are eligible for representation and the number of employees who are represented by the employee organization as of December 31 of that renewal period. An employee organization whose dues-paying membership, as of December 31 of that renewal period, is less than 50 percent of the employees eligible for representation must petition for recertification with the Public Employees Relations Commission (Commission).

The bill requires K-12 instructional personnel to pay dues and uniform assessments directly to the employee organization and prohibits dues and uniform assessments from being deducted and collected by a district school board.

The bill requires K-12 instructional personnel to sign and submit a form to the employee organization acknowledging Florida is a right-to-work state before the employee organization can collect dues or uniform assessments. The bill specifies the language and font of the acknowledgement.

¹-Section 1012.01(6), F.S., defines “educational support employees” to mean K-12 employees whose job functions are neither administrative nor instructional, yet whose work supports the educational process.

The bill creates a process with which employee organizations representing instructional personnel employed by a Florida College System (FCS) or State University System (SUS) institution must comply with when submitting an application for renewal of registration.

The bill requires an employee organization representing instructional personnel employed by an FCS or an SUS institution to apply for recertification if it does not meet the 50 percent threshold for dues-paying membership within the bargaining unit. An FCS or SUS institution is authorized to challenge an employee organization's application for renewal of registration if it believes that the application is inaccurate.

The bill may increase the workload of, and the associated costs incurred by, the Commission.

The bill takes effect July 1, 2021.

II. Present Situation:

Collective Bargaining

Article 1, Section 6 of the State Constitution guarantees that “the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.² Through collective bargaining, public employees³ collectively negotiate with their public employer⁴ in the determination of the terms and conditions of their employment.⁵ The Public Employees Relations Commission (Commission) is responsible for assisting in resolving disputes between public employees and public employers.⁶

² Section 447.201, F.S.

³ Section 447.203(3), F.S., defines the term “public employee” to mean any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
 - 1. Federal license requirement.
 - 2. Federal autonomy regarding investigation and disciplining of appointees.
 - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

⁴ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁵ Section 447.301(2), F.S.

⁶ Section 447.201(3), F.S.

An “employee organization” is any “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.”⁷ When an employee organization is approved by the employees, recognized by the employer, and authorized to conduct collective bargaining, it is referred to as a certified bargaining agent, and becomes the exclusive representative of all employees in that unit.⁸

After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of wages, hours, and terms and conditions of employment of the employees.⁹ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.¹⁰ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹¹ Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.¹²

Registration of Employee Organization

An employee organization seeking to become a certified bargaining agent for public employees has to register with the Commission prior to requesting recognition by a public employer for purposes of collective bargaining and before submitting a petition to the Commission requesting certification as an exclusive bargaining agent.¹³ The application for registration with the commission must include:

- The name and address of the organization and of any parents organization or organization with which it is affiliated;
- The names and addresses of the principal officers and all representatives of the organization;
- The amount of the initiation fee and of the monthly dues which members must pay;
- The current annual financial statement of the organization;
- The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached;
- A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin;
- A copy of the current constitution and bylaws of the employee organization; and
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption

⁷ Section 447.203(11), F.S.

⁸ Sections 447.203(12), 447.307(1), F.S.

⁹ Section 447.309(1), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 447.309(5), F.S.

¹³ Section 447.305(1), F.S.

of a rule by the commission, a state or national affiliate or parent organization of any registering labor organization may annually submit a copy of its current constitution and bylaws.¹⁴

A registration granted to an employee organization is valid for one year from the date of assurance. A registration must be renewed annually by filing an application for renewal under oath with the commission. An application for renewal must reflect any changes in the information provided to the commission in conjunction with the employee organization's preceding application for registration or previous renewal.¹⁵ Each application for renewal of registration is required to include a current annual financial report containing detailed information outlined in s. 447.305(2)(a-e), F.S.

Certification of Employee Organization

Any employee organization which is selected by a majority of public employees in a designated unit as their representative for collective bargaining purposes can request recognition by the public employer. In return the employer, if satisfied as to the majority status of the employee organization, recognizes the employee organization as the collective bargaining representative of employees in the designated unit. Following recognition by the employer, the employee organization must immediately petition the commission for certification.¹⁶ The Commission will review only the appropriateness of the unit proposed by the employee organization. Appropriateness is defined as the history of employee relations within the organization of the public employer concerning organization and negotiation and the interest of the employees and the employer.¹⁷ If the unit is appropriate, the commission will immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate, the commission may dismiss the petition.

If the public employer refuses to recognize the employee organization, the employee organization may file a petition with the Commission for certification as the bargaining agent. The petition has to be accompanied by dated statements signed by at least 30 percent of the employees in the designated unit. The commission will investigate the petition to determine its sufficiency, and provide for an appropriate hearing upon notice, and may order an election by secret ballot. Any registered employee organization desiring placement on the ballot in any election to be conducted may be permitted by the commission to intervene. If an employee organization is selected by the majority of the employees, the commission will then certify the employee organization as the exclusive collective representative.¹⁸

An employee organization which has been certified as the bargaining agent has the right to have its dues and assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and assessments.¹⁹

¹⁴ Section 447.305(1)(a-h), F.S.

¹⁵ Section 447.305(2)F.S.

¹⁶ Section 447.307(1)(a), F.S.

¹⁷ Section 447.307(4)(f)(5), F.S.

¹⁸ Section 447.307(3)(a-d), F.S.

¹⁹ Section 447.303, F.S.

Right-to-Work

The State Constitution forbids an employer from denying citizens the right to work based on membership or non-membership in any employee organization.²⁰ As such, public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.²¹

Instructional Personnel

Instructional personnel is defined as any K-12 staff member whose functions includes the provision of direct instructional services to students. This includes K-12 personnel whose functions provide direct support in the learning process of students.²² Included in the classification of instructional personnel are:

- Classroom teachers;²³
- Student personnel services;²⁴
- Librarians/media specialist;²⁵
- Other instructional staff such as specialists and trainers;²⁶ and
- Educational paraprofessionals.²⁷

The Florida College System

The Legislature established the Florida College System (FCS).²⁸ The programs and services offered by FCS institutions in providing associate and baccalaureate degrees must be delivered in a cost-effective manner that demonstrates substantial savings to the student and to state over the cost of providing the degree at a state university. Each institution within the FCS must be governed by a local board of trustees that is responsible for implementing state policy, budgeting, and education standards. An FCS institution may not use the designation “university.”²⁹

The FCS is comprised of the following 28 locally-governed institutions:

- Eastern Florida State College;
- Broward College;
- College of Central Florida;
- Chipola College;
- Daytona State College;
- Florida SouthWestern State College;

²⁰ Fla. Const. art. 1, s. 6.

²¹ Section 447.301(1) and (2), F.S.

²² Section 1012.01(2), F.S.

²³ Section 1012.01(2)(a), F.S.

²⁴ Section 1012.01(2)(b), F.S.

²⁵ Section 1012.01(2)(c), F.S.

²⁶ Section 1012.01(2)(d), F.S.

²⁷ Section 1012.01(2)(e), F.S.

²⁸ Section 1001.60, F.S.

²⁹ *Id.*

- Florida State College at Jacksonville;
- The College of the Florida Keys;
- Gulf Coast State College;
- Hillsborough Community College;
- Indian River State College;
- Florida Gateway College;
- Lake-Sumter State College;
- Miami Dade College;
- North Florida College;
- Northwest Florida State College;
- Palm Beach State College;
- Pasco-Hernando State College;
- Pensacola State College;
- Polk State College;
- St. Johns River State College;
- St. Petersburg College;
- Santa Fe College;
- Seminole State College of Florida;
- South Florida State College;
- Tallahassee Community College; and
- Valencia College.³⁰

The State University System

Article IX, section 7, of the Florida Constitution grants the Board of Governors (BOG) the authority to regulate the State University System (SUS). The BOG is responsible for managing the SUS, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs.³¹ The mission of the SUS is to achieve excellence through teaching students, advancing research and providing public service for the benefit of Florida's citizens, their communities, and economies.³² Each institution is governed by a board of trustees comprised of 13 members.

The SUS is comprised of the following 14 state universities:

- The University of Florida;
- The Florida State University;
- The Florida Agricultural and Mechanical University;
- The University of South Florida;
- The Florida Atlantic University;
- The University of West Florida;
- The University of Central Florida;
- The University of North Florida;

³⁰ Section 1000.21(3)(a-bb), F.S., lists the 28 locally-governed institutions which comprise the FCS.

³¹ Section 1001.705(2), F.S.

³² Article IX, S. 7, FLA. CONST.

- The Florida International University;
- The Florida Gulf Coast University;
- New College of Florida; and
- The Florida Polytechnic University.³³

III. Effect of Proposed Changes:

Section 1 amends s. 1012.2315, F.S., to require an employee organization that is certified to represent K-12 instructional personnel to disclose in its annual application for registration renewal the number of employees who are eligible for representation and the number of employees who are represented by the employee organization to use data as of December 31 of that renewal period.

As noted above, current law requires an application for renewal to include the number of employees in the bargaining unit eligible for representation and the number of employees represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues. The bill specifies that these numbers are to be calculated, *as of December 31 of that renewal period*. As noted above, current law requires an employee organization whose dues paying membership is less than 50 percent of the employees eligible for representation in the designated unit to petition the Commission for recertification. The bill clarifies that the dues paying membership is to be calculated *as of December 31 of that renewal period*.

The Commission is authorized to conduct an investigation to confirm the validity of any information provided on the application for renewal of registration.

If the Commission has reason to believe a registered employee organization has reported inaccurate figures in its application, it can require the employee organization to submit its membership roll in order to verify the accuracy of the reported figures. If the employee organization fails to submit its membership roll within 30 days of receiving a written request from the Commission, the employee organization's certification will be revoked. Additionally, the bill provides for revocation of an employee organization's certification if the employee organization does not submit, or intentionally misstates the required information. The bill grants rulemaking authority to the Commission to implement the renewal provisions.

This section prohibits an employee organization that has been certified as the bargaining agent for K-12 instructional personnel from having its dues and uniform assessment deducted and collected by a district school board from the salaries of instructional personnel. Instead, K-12 instructional personnel must pay their dues and uniform assessment directly to the employee organization that been certified as their bargaining agent.

Beginning August 1, 2021, and each August 1 thereafter, before the employee organization can collect dues or uniform assessments from any K-12 instructional personnel for the upcoming year, the employee must sign and submit a form to the employee organization acknowledging

³³ Section 1000.21, F.S.

Florida is a right-to-work state. The form must contain the following acknowledgement in bold letters and in at least 14-point type:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

The Commission is granted authority to adopt rules to carry out the provisions of the bill.

Sections 2 and 3 create ss. 1012.8552 and 1012.916, F.S., respectively, to require an employee organization that has been certified as the bargaining agent for a unit of instructional personnel employed by an FCS or SUS institution to include for each such certified bargaining unit the following information and documentation in its application for renewal of registration:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization;
- The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues;
- Documentation provided by the institution verifying the information provided; and
- Documentation provided by the institution verifying that it was provided a copy of the employee organization's application for renewal of registration.

An application for renewal of registration is incomplete and is ineligible for consideration by the Commission if it does not include all of the information and documentation required for submission. The Commission must notify the employee organization if the application is incomplete. Any incomplete application must be dismissed if the required information and documentation are not provided within 10 days after the employee organization receives such notice.

This section requires employee organizations whose due-paying membership is less than 50 percent of the employees eligible for representation in the bargaining unit to petition for recertification as the exclusive representative of all employees in the bargaining unit within one month after the date on which the employee organization applies for renewal of registration. If an employee organization does not comply, the employee organization's certification is revoked.

The bill authorizes an FCS or SUS institution to challenge an employee organization's application for renewal of registration if the institution believes that the application is inaccurate. The Commission, or one of its designated agents, will review the application to determine its accuracy and compliance. If the Commission finds that the application is inaccurate or does not comply with the requirements, the Commission must revoke the registration and certification of the employee organization.

Section 4 provides the bill take 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:

An employee organization representing K-12 instructional personnel, FCS instructional personnel, or SUS instructional personnel may incur additional costs associated with having to petition for recertification if it fails to meet the 50 percent dues-paying threshold provided in the bill.

To the extent to which the new requirements depress union membership or salary deductions for union dues or increase costs associated with the creation and use of membership authorization and dues deduction forms, public sector unions may experience a negative fiscal impact.

C. Government Sector Impact:

The Commission may experience additional workload and costs associated with an increase in the number of recertification petitions filed by employee organizations who do not meet the 50 percent threshold provided in the bill.³⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1012.2315 of the Florida Statutes.

This bill creates sections 1012.8552 and 1012.916 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 17, 2021:**

The CS:

- For employee organizations representing K-12 instructional personnel:
 - Imposes a date certain – as of December 31 of that renewal period - for calculating required information relating to the number of employees for an application for renewal of registration;
 - Authorizes the Commission to conduct an investigation to confirm the validity of information submitted on the application for renewal;
 - Authorizes the Commission to revoke the certification of the employee organization if (1) it does not submit or intentionally misstates required information; or (2) does not submit its membership roll within 30 days of receiving a written request from the Commission;
 - Grants rulemaking authority to the Commission;
 - Prohibits the employee organization from having its dues and uniform assessments deducted and collected by a district school board from the salaries and requires such instructional personnel to pay their dues and uniforms assessments directly to the employee organization; and
 - Requires K-12 instructional personnel to sign and submit an acknowledgment form to the employee organization acknowledging Florida is a right-to-work state before dues and uniform assessments may be deducted.

³⁴ Public Employees Relation Commission, Agency Analysis for SB 1014, (February 25, 2021)(on file with the Governmental Oversight and Accountability Committee). However, this analysis addressed the costs associated with the original filed bill, not the Committee Substitute.

- For employee organizations representing instructional personnel employed by an FCS or SUS institution:
 - Provides for information required for on an employee organization's application for renewal of registration;
 - Prohibits the Commission from accepting or considering an application that is considered incomplete;
 - Requires an employee organization with less than 50 percent dues-paying membership to petition the Commission for recertification as the exclusive representative of all employees;
 - Authorizes the FCS and SUS institutions to challenge an employee organization's application for renewal if the institution believes such application is inaccurate; and
 - Authorizes the Commission to revoke the registration and certification of the employee organization if the Commission finds the application to be inaccurate or in noncompliance.

B. Amendments:

None.



162200

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 447.301, Florida
Statutes, is amended to read:

447.301 Public employees' rights; organization and
representation.—

(1) (a) Public employees ~~shall~~ have the right to form, join,
and participate in, or to refrain from forming, joining, or
participating in, any employee organization of their own



162200

choosing.

(b)1. An employee who desires to join an employee organization must sign a membership authorization form with the bargaining agent. The membership authorization form must contain the following acknowledgment in bold letters and in at least a 14-point type:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

2. An employee organization must revoke an employee's membership upon receipt of his or her written request for revocation. If an employee must complete a form to request revocation of membership from the employee organization, the form may not require a reason for the employee's decision to revoke his or her membership.

3. This paragraph does not apply to members of bargaining units that represent law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10 or firefighters as defined in s. 633.102.

Section 2. Section 447.303, Florida Statutes, is amended to read:

447.303 Dues; deduction and collection.—

(1) Except as authorized in subsection (2), an employee



162200

organization that has been certified as a bargaining agent may not have its dues and uniform assessments deducted by the employer from the salaries of those employees in the unit. Public employees may pay their dues and uniform assessments directly to the employee organization that has been certified as their bargaining agent.

(2) (a) An ~~Any~~ employee organization that ~~which~~ has been certified as a bargaining agent to represent law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10 or firefighters as defined in s. 633.102 ~~has shall have~~ the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments. However, such authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Said deductions shall commence upon the bargaining agent's written request to the employer.

(b) Reasonable costs to the employer of said deductions is ~~shall be~~ a proper subject of collective bargaining.

(c) Such right to deduction, unless revoked under ~~pursuant to~~ s. 447.507, is ~~shall be~~ in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit.

(3) The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

Section 3. Section 447.305, Florida Statutes, is amended to read:



162200

447.305 Registration of employee organization.—

(1) Every employee organization seeking to become a certified bargaining agent for public employees shall register with the commission pursuant to the procedures set forth in s. 120.60 prior to requesting recognition by a public employer for purposes of collective bargaining and prior to submitting a petition to the commission requesting certification as an exclusive bargaining agent. Further, if such employee organization is not registered, it may not participate in a representation hearing, participate in a representation election, or be certified as an exclusive bargaining agent. The application for registration required by this section shall be under oath and in such form as the commission may prescribe and shall include:

(a) The name and address of the organization and of any parent organization or organization with which it is affiliated.

(b) The names and addresses of the principal officers and all representatives of the organization.

(c) The amount of the initiation fee and of the monthly dues which members must pay.

(d) The current annual financial statement of the organization.

(e) The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached.

(f) A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race,



162200

sex, religion, or national origin.

(g) A copy of the current constitution and bylaws of the employee organization.

(h) A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption of a rule by the commission, a state or national affiliate or parent organization of any registering labor organization may annually submit a copy of its current constitution and bylaws.

(2) A registration granted to an employee organization pursuant to the provisions of this section shall run for 1 year from the date of issuance. A registration shall be renewed annually by filing application for renewal under oath with the commission, which application shall reflect any changes in the information provided to the commission in conjunction with the employee organization's preceding application for registration or previous renewal, whichever is applicable. Each application for renewal of registration shall include a current annual financial report, signed by its president and treasurer or corresponding principal officers, containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year and in such categories as the commission may prescribe:

(a) Assets and liabilities at the beginning and end of the fiscal year;

(b) Receipts of any kind and the sources thereof;

(c) Salary, allowances, and other direct or indirect



162200

disbursements, including reimbursed expenses, to each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such employee organization and any other employee organization affiliated with it or with which it is affiliated or which is affiliated with the same national or international employee organization;

(d) Direct and indirect loans made to any officer, employee, or member which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment; and

(e) Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment.

(3) In addition to subsection (2), an employee organization that has been certified as the bargaining agent for public employees must include for each such certified bargaining unit the following information and documentation in its application for renewal of registration:

(a) The number of employees in the bargaining unit who are eligible for representation by the employee organization as of December 31 of that renewal period.

(b) The number of employees who are represented by the employee organization as of December 31 of that renewal period, specifying the number of members who pay dues and the number of members who do not pay dues.

(c) Documentation provided by the public employer verifying the information provided in paragraphs (a) and (b).

(d) Documentation provided by the public employer verifying that it was provided a copy of the employee organization's



162200

application for renewal of registration.

(4) An application for renewal of registration is incomplete and is not eligible for consideration by the commission if it does not include all of the information and documentation required in subsection (3). The commission shall notify the employee organization if the application is incomplete. An incomplete application must be dismissed if the required information and documentation are not provided within 10 days after the employee organization receives such notice.

(5) Notwithstanding the provisions of chapter 447 relating to collective bargaining, an employee organization whose dues-paying membership is less than 50 percent of the employees eligible for representation in the bargaining unit must petition the commission pursuant to s. 447.307(2) and (3) for recertification as the exclusive representative of all employees in the bargaining unit within 1 month after the date on which the employee organization applies for renewal of registration pursuant to subsection (2). The certification of an employee organization that does not comply with this section is revoked.

(6) The public employer or a bargaining unit employee may challenge an employee organization's application for renewal of registration if the public employer or employee believes that the application is inaccurate. The commission or one of its designated agents shall review the application to determine its accuracy and compliance with this section. If the commission finds that the application is inaccurate or does not comply with this section, the commission shall revoke the registration and certification of the employee organization.

(7) Subsections (3) through (6) do not apply to an employee



162200

organization that has been certified as the bargaining agent representing law enforcement officers, correctional officers, or correctional probation officers as those terms are defined in s. 943.10 or firefighters as defined in s. 633.102.

(8)~~(3)~~ A registration fee shall accompany each application filed with the commission. The amount charged for an application for registration or renewal of registration shall not exceed \$15. All such money collected by the commission shall be deposited in the General Revenue Fund.

(9)~~(4)~~ Every employee organization shall keep accurate accounts of its income and expenses, which accounts shall be open for inspection at all reasonable times by any member of the organization or by the commission.

Section 4. Paragraph (c) of subsection (4) of section 1012.2315, Florida Statutes, is amended to read:

1012.2315 Assignment of teachers.—

(4) COLLECTIVE BARGAINING.—

~~(c)1. In addition to the provisions under s. 447.305(2), an employee organization that has been certified as the bargaining agent for a unit of instructional personnel as defined in s. 1012.01(2) must include for each such certified bargaining unit the following information in its application for renewal of registration:~~

~~a. The number of employees in the bargaining unit who are eligible for representation by the employee organization.~~

~~b. The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues.~~

~~2. Notwithstanding the provisions of chapter 447 relating~~



162200

~~to collective bargaining, an employee organization whose dues
paying membership is less than 50 percent of the employees
eligible for representation in the unit, as identified in
subparagraph 1., must petition the Public Employees Relations
Commission pursuant to s. 447.307(2) and (3) for recertification
as the exclusive representative of all employees in the unit
within 1 month after the date on which the organization applies
for renewal of registration pursuant to s. 447.305(2). The
certification of an employee organization that does not comply
with this paragraph is revoked.~~

Section 5. For the purpose of incorporating the amendment
made by this act to section 447.303, Florida Statutes, in a
reference thereto, subsection (3) of section 110.114, Florida
Statutes, is reenacted to read:

110.114 Employee wage deductions.—

(3) Notwithstanding the provisions of subsections (1) and
(2), the deduction of an employee's membership dues deductions
as defined in s. 447.203(15) for an employee organization as
defined in s. 447.203(11) shall be authorized or permitted only
for an organization that has been certified as the exclusive
bargaining agent pursuant to chapter 447 for a unit of state
employees in which the employee is included. Such deductions
shall be subject to the provisions of s. 447.303.

Section 6. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:



162200

A bill to be entitled
An act relating to employee organizations; amending s.
447.301, F.S.; requiring that a public employee who
desires to join an employee organization sign a
membership authorization form; requiring that the form
include a specified acknowledgement; requiring an
employee organization to revoke an employee's
membership upon receipt of the employee's request for
revocation; providing that a revocation form may not
require an employee to state a reason for the
revocation; providing nonapplicability with respect to
employee organizations that represent certain
employees; amending s. 447.303, F.S.; prohibiting an
employee organization from having its dues and uniform
assessments deducted and collected by an employer;
allowing public employees to pay their dues and
uniform assessments directly to the employee
organization; providing that an employee organization
that represents certain employees has the right to
have its dues and uniform assessments deducted and
collected by the employer; amending s. 447.305, F.S.;
revising the information and documentation required to
be included in an application for renewal of
registration of an employee organization; providing
that an application for renewal is incomplete and is
not eligible for consideration by the Public Employees
Relations Commission in certain instances; requiring
the commission to notify an employee organization if
its application is incomplete; providing that an



162200

incomplete application must be dismissed in certain instances; requiring certain employee organizations to recertify as bargaining agents; allowing an employer or a bargaining unit employee to challenge an employee organization's application for renewal of registration; requiring the commission or its designated agent to review the application; requiring the commission to revoke the registration and certification in certain instances; providing for nonapplicability with respect to employee organizations that represent certain employees; amending s. 1012.2315, F.S.; removing duplicative provisions; reenacting s. 110.114(3), F.S., relating to employee wage deductions, to incorporate the amendment made to s. 447.303, F.S., in a reference thereto; providing an effective date.

By the Committee on Governmental Oversight and Accountability;
and Senator Baxley

585-02994-21

20211014c1

1 A bill to be entitled
2 An act relating to employee organizations; amending s.
3 1012.2315, F.S.; revising the information that
4 employee organizations that have been certified as the
5 bargaining agent for a unit of instructional personnel
6 must report in applications for renewal of
7 registration; requiring certain employee organizations
8 to petition the Public Employees Relations Commission
9 for recertification; authorizing the commission to
10 conduct an investigation to confirm the validity of
11 certain information; authorizing the commission to
12 require an employee organization to submit certain
13 information as part of such investigation; providing
14 for the revocation of an employee organization's
15 certification if it fails to meet certain
16 requirements; requiring the commission to adopt rules;
17 prohibiting an employee organization from having its
18 dues and uniform assessments deducted and collected by
19 a district school board; requiring certain
20 instructional personnel to sign and submit a specified
21 form to the employee organization by a certain date
22 and annually thereafter before the employee
23 organization may collect dues or uniform assessments
24 for the upcoming school year; creating s. 1012.8552,
25 F.S.; requiring an employee organization certified as
26 the bargaining agent for a unit of Florida College
27 System institution instructional personnel to include
28 specified information and documentation in an
29 application for registration renewal; providing that

Page 1 of 8

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30 certain applications are incomplete; providing
31 procedures for incomplete applications; requiring
32 certain employee organizations to petition the
33 commission for recertification; authorizing a Florida
34 College System institution to challenge an employee
35 organization's application; requiring the commission
36 to review a challenged application and revoke an
37 employee organization's registration and certification
38 in certain circumstances; creating s. 1012.916, F.S.;
39 requiring an employee organization certified as the
40 bargaining agent for a unit of State University System
41 institution instructional personnel to include
42 specified information and documentation in an
43 application for registration renewal; providing that
44 certain applications are incomplete; providing
45 procedures for incomplete applications; requiring
46 certain employee organizations to petition the
47 commission for recertification; authorizing a State
48 University System institution to challenge an employee
49 organization's application; requiring the commission
50 to review a challenged application and revoke an
51 employee organization's registration and certification
52 in certain circumstances; providing an effective date.

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

55
56 Section 1. Paragraph (c) of subsection (4) of section
57 1012.2315, Florida Statutes, is amended, and paragraphs (d) and
58 (e) are added to that subsection, to read:

Page 2 of 8

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

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1012.2315 Assignment of teachers.—

(4) COLLECTIVE BARGAINING.—

(c)1. In addition to the provisions under s. 447.305(2), an employee organization that has been certified as the bargaining agent for a unit of instructional personnel as defined in s. 1012.01(2) must include for each such certified bargaining unit the following information in its application for renewal of registration:

a. The number of employees in the bargaining unit who are eligible for representation by the employee organization as of December 31 of that renewal period.

b. The number of employees who are represented by the employee organization as of December 31 of that renewal period, specifying the number of members who pay dues and the number of members who do not pay dues.

2. Notwithstanding the provisions of chapter 447 relating to collective bargaining, an employee organization whose dues-paying ~~dues-paying~~ membership as of December 31 of that renewal period is less than 50 percent of the employees eligible for representation in the unit, as identified in subparagraph 1., must petition the Public Employees Relations Commission pursuant to s. 447.307(2) and (3) for recertification as the exclusive representative of all employees in the unit within 1 month after the date on which the organization applies for renewal of registration pursuant to s. 447.305(2). The certification of an employee organization that does not comply with this paragraph is revoked.

3. The commission may conduct an investigation to confirm the validity of any information submitted pursuant to this

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paragraph.

a. If the commission has reason to believe a registered employee organization has reported inaccurate figures pursuant to this paragraph, it can require the employee organization to submit its membership roll in order to verify the accuracy of the reported figures. If the employee organization fails to submit its membership roll within 30 days of receiving a written request from the commission, the employee organization's certification will be revoked.

b. If a registered employee organization does not submit or intentionally misstates the information required in this paragraph for a certified bargaining unit it represents, the employee organization's certification for that unit will be revoked.

4. The commission shall adopt rules to carry out this paragraph.

(d) Notwithstanding the provisions of s. 447.303 relating to dues deduction and collection, an employee organization that has been certified as the bargaining agent for instructional personnel may not have its dues and uniform assessments deducted and collected by a district school board from the salaries of instructional personnel. Instructional personnel who are represented by an employee organization must pay their dues and uniform assessments directly to the employee organization that has been certified as their bargaining agent.

(e) Beginning August 1, 2021, and each August 1 thereafter, before the employee organization can collect dues or uniform assessments from any instructional personnel for the upcoming school year, the employee must sign and submit a form to the

585-02994-21

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employee organization acknowledging Florida is a right-to-work state. The form must contain the following acknowledgement in bold letters and in at least 14-point type:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and uniform assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

Section 2. Section 1012.8552, Florida Statutes, is created to read:

1012.8552 Collective bargaining.-

(1) In addition to s. 447.305(2), an employee organization that has been certified as the bargaining agent for a unit of instructional personnel employed by a Florida College System institution must include for each such certified bargaining unit the following information and documentation in its application for renewal of registration:

(a) The number of employees in the bargaining unit who are eligible for representation by the employee organization on the date the application is filed.

(b) The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues.

(c) Documentation provided by the institution verifying the information provided in paragraphs (a) and (b).

(d) Documentation provided by the institution verifying that it was provided a copy of the employee organization's

585-02994-21

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application for renewal of registration.

(2) An application for renewal of registration is incomplete and is not eligible for consideration by the Public Employees Relations Commission if it does not include all of the information and documentation required in subsection (1). The commission shall notify the employee organization if the application is incomplete. Any incomplete application must be dismissed if the required information and documentation are not provided within 10 days after the employee organization receives such notice.

(3) Notwithstanding the provisions of chapter 447 relating to collective bargaining, an employee organization whose dues-paying membership is less than 50 percent of the employees eligible for representation in the bargaining unit must petition the commission pursuant to s. 447.307(2) and (3) for recertification as the exclusive representative of all employees in the bargaining unit within 1 month after the date on which the employee organization applies for renewal of registration pursuant to s. 447.305(2). The certification of an employee organization that does not comply with this section is revoked.

(4) A Florida College System institution may challenge an employee organization's application for renewal of registration if the institution believes that the application is inaccurate. The commission or one of its designated agents shall review the application to determine its accuracy and compliance with this section. If the commission finds that the application is inaccurate or does not comply with this section, the commission shall revoke the registration and certification of the employee organization.

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Section 3. Section 1012.916, Florida Statutes, is created to read:

1012.916 Collective bargaining.-

(1) In addition to s. 447.305(2), an employee organization that has been certified as the bargaining agent for a unit of instructional personnel employed by a State University System institution must include for each such certified bargaining unit the following information and documentation in its application for renewal of registration:

(a) The number of employees in the bargaining unit who are eligible for representation by the employee organization on the date the application is filed.

(b) The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues.

(c) Documentation provided by the institution verifying the information provided in paragraphs (a) and (b).

(d) Documentation provided by the institution verifying that it was provided a copy of the employee organization's application for renewal of registration.

(2) An application for renewal of registration is incomplete and is not eligible for consideration by the Public Employees Relations Commission if it does not include all of the information and documentation required in subsection (1). The commission shall notify the employee organization if the application is incomplete. Any incomplete application must be dismissed if the required information and documentation are not provided within 10 days after the employee organization receives such notice.

585-02994-21

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(3) Notwithstanding the provisions of chapter 447 relating to collective bargaining, an employee organization whose dues-paying membership is less than 50 percent of the employees eligible for representation in the bargaining unit must petition the commission pursuant to s. 447.307(2) and (3) for recertification as the exclusive representative of all employees in the bargaining unit within 1 month after the date on which the employee organization applies for renewal of registration pursuant to s. 447.305(2). The certification of an employee organization that does not comply with this section is revoked.

(4) A State University System institution may challenge an employee organization's application for renewal of registration if the institution believes that the application is inaccurate. The commission or one of its designated agents shall review the application to determine its accuracy and compliance with this section. If the commission finds that the application is inaccurate or does not comply with this section, the commission shall revoke the registration and certification of the employee organization.

Section 4. 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 Rules

BILL: SB 2012

INTRODUCER: Senator Stargel

SUBJECT: Promoting Equality of Athletic Opportunity

DATE: April 12, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2. <u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
3. <u>Sagues</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

I. Summary:

SB 2012 creates the Promoting Equality of Athletic Opportunity Act with the intent of providing female athletes opportunities to demonstrate their strength, skills, and athletic abilities and enabling them to realize the long-term benefits that result from participating and competing in athletic endeavors. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by, or that compete against, a public school or public postsecondary institution to be designated as male, female, or coed.
- Prohibits athletic teams designated for females to be open to students of the male sex.
- Establishes that persons who transition from male to female are eligible to compete in the female category if the student has declared a female gender identity to her school or institution and demonstrates a total testosterone level in serum below 10 nmol/L for at least 12 months before her first competition and throughout the period of desired eligibility.

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules regarding the receipt and timely resolution of disputes by schools and institutions relating to provisions in the bill.

The bill provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the bill's provisions. All such civil actions must be initiated within two years after the alleged harm occurred.

The impact of state revenues or expenditures is indeterminate. *See* Section V.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Athletic Programs

The Florida High School Athletic Association (FHSA) indicates that middle and high school interscholastic athletic programs play a vital role in the education of students who participate in them.¹ Through their participation in interscholastic athletics, students are provided character-building opportunities to demonstrate honesty, integrity, respect, caring, cooperation, trustworthiness, leadership, tolerance, and personal responsibility. These fundamental values enable participants to realize and fulfill their potential as students, athletes, individuals, and citizens.²

Athletics programs are widely accepted as integral parts of the college experience as well.³ The National Collegiate Athletic Association (NCAA) indicates that the benefits of athletics participation include many positive effects on physical, social, and emotional well-being. Playing sports can teach student-athletes important lessons about self-discipline, teamwork, success, and failure and allow student athletes to experience the joy and shared excitement that being a member of a sports team can bring.⁴

Title IX and Sex Discrimination

Title IX is a federal civil rights law passed as part of the Education Amendments of 1972.⁵ This law protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX states that:⁶

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Athletic programs are considered educational programs and activities.⁷ Title IX gives women athletes the right to equal opportunity in sports in educational institutions that receive federal funds, from elementary schools to colleges and universities. While there are few private elementary schools, middle schools, or high schools that receive federal funds, almost all colleges and universities, private and public, receive such funding.⁸

¹ Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), at 6, available at https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf (last visited Mar. 26, 2021).

² *Id.*

³ National Collegiate Athletic Association, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

⁴ *Id.*

⁵ Harvard University, *What is Title IX*, available at <https://titleix.harvard.edu/what-title-ix> (last visited Mar. 26, 2021).

⁶ U.S. Department of Education, Title IX and Sex Discrimination, available at https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html#:~:text=No%20person%20in%20the%20United%20States%20s hall,%20on,education%20program%20or%20activity%20receiving%20Federal%20financial%20assistance (last visited Mar. 26, 2021).

⁷ Women's Sports Foundation, *What is Title IX*, available at <https://www.womenssportsfoundation.org/advocacy/what-is-title-ix/> (last visited Mar. 26, 2021).

⁸ *Id.*

Approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums are receiving federal financial assistance that requires them to observe Title IX regulations. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States.⁹

Title IX regulations require institutions that receive federal education funds to provide equal opportunities in athletics for both sexes.¹⁰ Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes is considered when determining whether an institution has provided equal opportunities for both sexes.¹¹ With respect to scholarships, Title IX regulations require educational institutions that award athletic scholarships or grants-in-aid to provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.¹²

Title IX regulations also authorize educational institutions to sponsor separate athletics teams for members of each sex.¹³

According to the NCAA, there are three areas where Title IX applies to athletics. Title IX:¹⁴

- Requires institutions to offer both sexes an equal opportunity to play but does not require both sexes to be offered identical sports;
- Requires that female and male student-athletes receive athletics scholarship dollars proportional to their participation; and
- Requires equal treatment of female and male athletes in the following: provision of equipment and supplies; scheduling of games and practice times; travel and daily allowance and per diem; access to tutoring; coaching; locker rooms, practice and competitive facilities; medical and training facilities and services; housing and dining facilities and services; publicity and promotions; support services; and recruitment of student-athletes.¹⁵

⁹ U.S. Department of Education, *Title IX and Sex Discrimination*, available at https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html (last visited Mar. 26, 2021).

¹⁰ See U.S. Department of Education, Office of Civil Rights, *Athletics*, available at <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue04.html> (last visited Mar. 26, 2021).

¹¹ 34 C.F.R. s 106.41(c).

¹² 34 C.F.R. s 106.37(c).

¹³ 34 C.F.R. s 106.41(c).

¹⁴ NCAA, *Title IX Frequently Asked Questions*, available at <https://www.ncaa.org/about/resources/inclusion/title-ix-frequently-asked-questions#how> (last visited Mar. 26, 2021).

¹⁵ *Id.*

Transgender Participation in Athletic Programs

The number of students who identify as transgender¹⁶ has steadily increased during the last decade. One estimate indicates that approximately 150,000 students 13 to 17 years of age identify as transgender in the United States.¹⁷

Federal Legislation

Currently, there is no federal law governing transgender participation in sports.¹⁸ However, the U.S. Supreme Court recently ruled that discrimination in employment based on gender identity is illegal.¹⁹ In addition, the U.S. Eleventh Circuit recently affirmed that a Florida school district's policy barring a transgender male student from the boys' restroom did not comport with the Constitution's guarantee of equal protection and Title IX's prohibition of sex discrimination.²⁰

Currently, 25 states are proposing legislation related to transgender student athletics.²¹ Both the NCAA and the FHSAA have issued guidance for transgender participation in athletic programs.

NCAA Inclusion of Transgender Student Athletes

Providing equal opportunities in all aspects of school programming is a core value in education. According to the NCAA, college athletic programs, as integral parts of higher educational institutions, are responsible and accountable for reflecting the goals and values of the educational institutions of which they are a part.²²

The NCAA recommends that policies governing the participation of transgender student-athletes be informed by the following principles and be included in the institution's transgender student-athlete policy statement:²³

- Participation in intercollegiate athletics is a valuable part of the education experience for all students.
- Transgender student-athletes should have equal opportunity to participate in sports.
- The integrity of women's sports should be preserved.
- Policies governing sports should be based on sound medical knowledge and scientific validity.

¹⁶ Transathlete.com, *Trans Terminology*, <https://www.transathlete.com/starthere> (last visited Mar. 26, 2021). NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

¹⁷ UCLA School of Law, Williams Institute, *LGBT FAQs*, <https://williamsinstitute.law.ucla.edu/quick-facts/lgbt-faqs/> (last visited Mar. 26, 2021).

¹⁸ Boston College Journal of Law and Social Justice, *Hurdling Gender Identity discrimination: The Implications of State Participation Policies on Transgender Youth Athletes Ability to Thrive* (2017), available at <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1108&context=jlsj> (last visited Mar. 26, 2021).

¹⁹ *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020).

²⁰ *Adams by & through Kasper v. Sch. Bd. of St. Johns County*, 968 F.3d 1286 (11th Cir. 2020).

²¹ The New York Times, *How Some States Are Moving to Restrict Transgender Women in Sports*, available at <https://www.nytimes.com/2021/03/11/sports/transgender-athletes-bills.html> (last visited Mar. 26, 2021).

²² NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 6, available at https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

²³ *Id.* at 10.

- Policies governing sports should be objective, workable, and practicable and should also be written, available, and equitably enforced.
- Policies governing the participation of transgender students in sports should be fair in light of the tremendous variation among individuals in strength, size, musculature, and ability.
- The legitimate privacy interests of all student-athletes should be protected.
- The medical privacy of transgender students should be preserved.
- Athletics administrators, staff, parents of athletes, and student-athletes should have access to sound and effective educational resources and training related to the participation of transgender and gender-variant²⁴ students in athletics.
- Policies governing the participation of transgender students in athletics should comply with state and federal laws protecting students from discrimination based on sex, disability, and gender identity²⁵ and expression.

The NCAA has published policies to clarify participation of transgender student-athletes undergoing hormonal treatment for gender transition:²⁶

- A transgender male, a female transitioning to a male, student-athlete who has received a medical exception for treatment with testosterone²⁷ for diagnosed Gender Identity Disorder or gender dysphoria²⁸ and/or Transsexualism,²⁹ for purposes of NCAA competition, may compete on a men's team but is no longer eligible to compete on a women's team without changing that team status to a mixed team.³⁰
- A transgender female, a male transitioning to a female, student-athlete being treated with testosterone suppression medication for Gender Identity Disorder or gender dysphoria and/or Transsexualism, for the purposes of NCAA competition, may continue to compete on a men's team but may not compete on a women's team without changing it to a mixed team status until completing one calendar year of testosterone suppression treatment.

²⁴ Gender-variant refers to gender nonconforming. Merriam-Webster Dictionary, *gender variance*, available at <https://www.merriam-webster.com/dictionary/gender%20variance> (last visited Mar. 26, 2021).

²⁵ Gender Identity is defined as a person's internal sense of being male, female, some combination of male and female, or neither male nor female. Merriam-Webster Dictionary, *gender identity*, available at <https://www.merriam-webster.com/dictionary/gender%20identity> (last visited Mar. 26, 2021).

²⁶ NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 13, available at https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

²⁷ Testosterone is defined as a hormone that is hydroxy steroid ketone C₁₉H₂₈O₂ produced especially by the testes or made synthetically and that is responsible for inducing and maintaining male secondary sex characters. Merriam-Webster Dictionary, *testosterone*, available at <https://www.merriam-webster.com/dictionary/testosterone> (last visited Mar. 26, 2021).

²⁸ Gender Identity Disorder and gender dysphoria are defined as a distressed state arising from conflict between a person's gender identity and the sex the person has or was identified as having at birth. Merriam-Webster Dictionary, *gender dysphoria*, available at <https://www.merriam-webster.com/dictionary/gender%20dysphoria> (last visited Mar. 26, 2021). Merriam-Webster Dictionary, *gender identity disorder*, available at <https://www.merriam-webster.com/dictionary/gender%20identity%20disorder> (last visited Mar. 26, 2021).

²⁹ Transsexual is defined as of, relating to, or being a person whose gender identity is opposite the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *transsexual*, available at <https://www.merriam-webster.com/dictionary/transsexualism> (last visited Mar. 26, 2021).

³⁰ A mixed team is a varsity intercollegiate sports team on which at least one individual of each gender competes. A mixed team must be counted as one team. A male participating in competition on a female team makes the team a mixed team. Such a team is ineligible for a women's NCAA championship but is eligible for a men's NCAA championship. A female on a men's team is eligible for a men's NCAA championship. NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 12, available at https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

- Any transgender student-athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.
- A transgender male student-athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
- A transgender female student-athlete who is not taking hormone treatments related to gender transition may not compete on a women's team.

FHSAA Policies for Transgender Athletes

The FHSAA is designated by law as the governing nonprofit organization of athletics in Florida public schools.³¹ The FHSAA is not a state agency but performs similar functions.³² The FHSAA is required to adopt bylaws regulating student eligibility, student residency and transfer, recruiting, and health and safety. Such bylaws include requiring all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team, to satisfactorily pass a medical evaluation each year before participating in interscholastic athletic competition or engaging in any practice, tryout, workout, conditioning, or other physical activity associated with the student's candidacy.³³ The bylaws of the FHSAA govern high school athletic programs in its member schools, unless otherwise specifically provided by law.³⁴

The FHSAA's bylaws state that the FHSAA will not discriminate in its governance policies, programs, and employment practices on the basis of age, color, disability, gender, national origin, race, religion, creed, sexual orientation, or educational choice.³⁵ The FHSAA bylaws further state the FHSAA will conduct its activities in a manner free of gender bias and will adopt rules that enhance schools' efforts to comply with applicable gender-equity laws.³⁶

The FHSAA bylaws³⁷ on athletic participation by gender state the following:

- Girls may play on a boys' team in a sport if the school does not sponsor a girls' team in that sport.
- Team sports that have boys on a girls' team are required to compete in the boys division in that sport.
- Team sports that have both boys and girls on a mixed team are required to compete in the boys division in that sport.
- In an individual sport, girls may not participate on boys' teams in the Florida High School State Championship Series when a sport is offered in the Florida High School State Championship Series for girls.

Under the FHSAA administrative policies, all eligible students should have the opportunity to participate in interscholastic athletics in a manner that is consistent with their gender identity and

³¹ Section 1006.20(1), F.S.

³² *Id.*

³³ Section 1006.20(2), F.S.

³⁴ Section 1006.20(1), F.S.

³⁵ Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), at 7, available at https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf (last visited Mar. 26, 2021).

³⁶ *Id.*

³⁷ *Id.* at 23.

expression, irrespective of the gender listed on a student's birth certificate or records.³⁸ Under this situation, a student may seek review of his or her eligibility for participation through the following process:³⁹

- The student and his or her parent(s) must contact the school administrator or athletic director, prior to the official start date of the sport season, indicating the student has a consistent gender identity and expression different than the gender listed on the student's school registration records and the student desires to participate in a gender-segregated athletic sport in a manner consistent with his or her gender identity and expression.
- The student must provide the principal or athletic director, and the FHSAA, with specified documentation.⁴⁰
- The school administrator must contact the FHSAA, which will assign a facilitator to assist the school and student in preparation and completion of the process.
- The student will be scheduled for a review hearing before a committee⁴¹ specifically established to preside over gender identity reviews.

An appeal process is available to any school on behalf of a student-athlete who is denied participation. If a student is granted eligibility consistent with his or her gender identity and expression, the eligibility is binding for the duration of the student's participation in every sport season of every school year.⁴²

The Role of Testosterone in Athletic Performance

Both males and females produce testosterone naturally in their bodies, males primarily in the testes and females primarily in the ovaries.⁴³ Starting from the onset of male puberty, generally about age 11, testes begin to produce much more testosterone than ovaries. From that point forward, the normal female range is between 0.06 and 1.68 nanomoles⁴⁴ per liter (nmol/L), and

³⁸ *Id.* at 73.

³⁹ This policy does not apply to a private school member of the FHSAA which, because of its strongly held religious beliefs, would be entitled to the exemption provided to educational institutions of religious organizations by law. *Id.*

⁴⁰ Documentation includes current transcript and school registration information; information required for participation and eligibility in FHSAA athletics; written statement from the student affirming the consistent identity and expression to which the student self-relates; documentation from individuals such as, but not limited to, parents, friends and teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent gender identification and expression; a complete list of all the student's prescribed, non-prescribed or over the counter, treatments or medications; written verification from an appropriate health-care professional of the student's consistent gender identification and expression; and any other pertinent documentation or information which the student or parent believe relevant and appropriate. *Id.*

⁴¹ The committee must be comprised of a minimum of three of the following categories, one of which must be from the physical or mental health profession category: Physician with experience in gender identity health care and the World Professional Association for Transgender Health (WPATH) Standards of Care; psychiatrist, psychologist, or licensed mental health professional familiar with the WPATH Standards of Care; school administrator from outside the member school's FHSAA administrative section; athletic director from outside the member school's FHSAA administrative section; an athletic coach of the sport in which participation is desired, from outside the member school's FHSAA administrative section; an individual selected by the FHSAA familiar with Gender Identity and Expression issues. *Id.*

⁴² *Id.*

⁴³ Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf> (last visited Mar. 26, 2021).

⁴⁴ One mole contains exactly $6.02214076 \times 10^{23}$ elementary entities; an elementary entity may be an atom, a molecule, an ion, an electron, any other particle or specified group of particles. National Institute of Standards and Technology, *Definitions of SI Base Units*, available at <https://www.nist.gov/si-redefinition/definitions-si-base-units> (last visited Mar. 26, 2021). A

the normal male range is between 7.7 and 29.4 nmol/L. The gap between the top of the female range and the bottom of the male range is 6.02 nmol/L.⁴⁵

International experts⁴⁶ in the sports science and sports medicine communities agree that males and females are materially different with respect to the main physical attributes that contribute to athletic performance and that the primary reason for sex differences in these attributes is exposure in gonadal males to much higher levels of testosterone during growth and development, and throughout the athletic career.⁴⁷

The Connecticut Interscholastic Athletics Conference (CIAC)⁴⁸ permits transgender girls to compete in girls' events even if they have not yet gone on puberty blockers⁴⁹ or gender affirming hormones.⁵⁰ Two transgender girls who used to compete on their schools' boys' teams moved to the girls' teams when they began to identify as transgender.⁵¹ Cisgender⁵² female high school students have sued the CIAC and their respective boards of education alleging that the defendants' practice of permitting biological males who claim a female gender identity to compete in girls' athletic competitions violates Title IX because it displaces girls from track events and excludes them from honors and opportunities to compete at higher levels critical to college recruitment and scholarship opportunities.⁵³

A study⁵⁴ conducted on transgender males and females in the United States Air Force with an average age of 26.2 years, concluded that transgender females displayed a 15 to 31 percent athletic advantage displayed over cisgender females prior to the commencement of gender-affirming hormones. This advantage declined with feminizing therapy. However, transgender

Nanomole is defined as one billionth of a mole. Merriam-Webster Dictionary, *nanomole*, available at <https://www.merriam-webster.com/medical/nanomole> (last visited Mar. 26, 2021).

⁴⁵ Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf> (last visited Mar. 26, 2021).

⁴⁶ International Experts Statement of the Role of Testosterone in Athletic Performances. Duke Law Center for Sports Law and Policy, *Sex in Sport*, available at <https://law.duke.edu/sports/sex-sport/> (last visited Mar. 26, 2021). Duke Law, *The Role of Testosterone in Athletic Performance* (2019), available at https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf (last visited Mar. 26, 2021).

⁴⁷ Duke Law, *The Role of Testosterone in Athletic Performance* (2019), available at https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf (last visited Mar. 26, 2021).

⁴⁸ CIAC, *CIAC Statement on Office of Civil Rights Decision*, available at <http://ciacsports.com/site/?p=14508> (last visited Mar. 26, 2021).

⁴⁹ A puberty blocker is a type of medicine that is used to prevent puberty from happening. Macmillian Dictionary, *puberty blocker*, available at <https://www.macmillandictionary.com/dictionary/british/puberty-blocker> (last visited Mar. 26, 2021).

⁵⁰ Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex*, (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q21-impact-of-trans-girls-on-hs-sports.pdf> (last visited Mar. 26, 2021) Soule et al v. Connecticut Association of Schools, Inc. et al, 3:20-CV-00201 (2020).

⁵¹ *Id.*

⁵² Cisgender is defined as of, relating to, or being a person whose gender identity corresponds with the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *cisgender* available at <https://www.merriam-webster.com/dictionary/cisgender> (last visited Mar. 26, 2021).

⁵³ Justia Dockets & Filings, Soule et al v. Connecticut Association of Schools, Inc. et al, available at <https://dockets.justia.com/docket/connecticut/ctdce/3:2020cv00201/137997> (last visited Mar. 26, 2021). Soule et al v. Connecticut Association of Schools, Inc. et al, 3:20-CV-00201 (2020).

⁵⁴ Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), available at <https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329> (last visited Mar. 26, 2021).

females still had a nine percent faster mean run speed after the one year period of testosterone suppression that is recommended by World Athletics (WA)⁵⁵ or the International Olympic Committee (IOC)⁵⁶ for inclusion in women's events.⁵⁷ The study confirmed that use of gender-affirming hormones are associated with changes in athletic performance and demonstrated that the pretreatment differences between transgender and cisgender women persist beyond the 12-month time requirement currently being proposed for athletic competition by the WA and the IOC. The study suggests that more than 12 months of testosterone suppression may be needed to ensure that transgender women do not have an unfair competitive advantage when participating in elite level athletic competition.⁵⁸

WA also requires that for a transgender female to be eligible she must demonstrate to the satisfaction of an expert panel that the concentration of testosterone in her serum has been less than 5 nmol/L continuously for a period of at least 12 months and she must keep her serum testosterone concentration below 5 nmol/L for so long as she wishes to maintain eligibility to compete in the female category of competition.⁵⁹

The IOC requires that for a transgender female to be eligible, she:⁶⁰

- Must have declared that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.
- Must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition.

III. Effect of Proposed Changes:

SB 2012 creates s. 1006.205, F.S., the Promoting Equality of Athletic Opportunity Act. The bill specifies that it is the intent of the Legislature to provide opportunities for female athletes to demonstrate their strength, skills, and athletic abilities and to provide them with opportunities to obtain recognition and accolades, college scholarships, and the numerous other long-term benefits that result from participating and competing in athletic endeavors. The bill makes a Legislative finding that promoting the equality of athletic opportunity is an important state interest and that requiring the designation of separate sex-specific athletic teams or sports is necessary to promote such equality.

⁵⁵ World Athletics, *World Athletics Eligibility Regulations for Transgender Athletes* (2019), available at http://www.athletics.org.tw/Upload/Web_Page/WA/Eligibility%20Regulations%20for%20Transgender%20Athletes,%20.pdf (last visited Mar. 27, 2021).

⁵⁶ Those who transition from female to male are eligible to compete in the male category without restriction. International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), available at https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (last visited Mar. 26, 2021).

⁵⁷ Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), available at <https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329> (last visited Mar. 26, 2021).

⁵⁸ *Id.*

⁵⁹ *Supra* note 56.

⁶⁰ International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), available at https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (last visited Mar. 26, 2021).

The bill provides a pathway for transgender females to participate on female teams while also protecting competition for female athletes. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by a public school or public postsecondary institution, or any school or institution whose students or teams compete against a public school or public postsecondary institution, to be designated as one of the following based on the biological sex of the team members:
 - Males, men, or boys;
 - Females, women, or girls; or
 - Coed or mixed, including both males and females.
- Prohibits athletic teams or sports designated for females to be open to students of the male sex.
- Specifies that persons who transition from male to female are eligible to compete in the female category if the student has declared a female gender identity to her school or institution and meets both of the following conditions:
 - The student demonstrates that her total testosterone level in serum has been below 10 nanomoles per liter (nmol/L) for at least 12 months before her first competition and monthly throughout the period of desired eligibility; and
 - The student's total testosterone level remains below 10 nmol/L throughout the period of desired eligibility.

If the student does not meet both conditions the student must be suspended from female competition for 12 months.

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules regarding the receipt and timely resolution of disputes by schools and institutions relating to provisions in the bill.

The bill provides protections for educational institutions by prohibiting a governmental entity, a licensing or accrediting organization, or an athletic association or organization from entertaining a complaint, opening an investigation, or taking any other adverse action against any school or public postsecondary institution in Florida for maintaining separate athletic teams or sports for female students.

The bill also provides private causes of action to any student who is deprived of an athletic opportunity, or to a school or institution that suffers harm, as a result of a violation of the bill's provisions and to a student who is subject to retaliation by a school or athletic association for reporting a violation. All such civil actions must be initiated within two years after the alleged harm occurred.

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Classifications based on transgender status are subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment.⁶¹ The Equal Protection Clause does not require courts to disregard the physiological differences between men and women.⁶²

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. School districts, postsecondary institutions, the State Board of Education, and the Board of Governors may incur costs to establish and administer transgender policies required by the Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁶¹ Amend. XIV, U.S. Const. See also *Hecox v. Little*, 479 F. Supp. 3d 930, 975 (D. Idaho 2020) citing *Karnoski v. Trump*, 926 F.3d 1180, 1201 (9th Cir. 2019).

⁶² *Hecox v. Little*, 479 F. Supp. 3d 930, 976 (D. Idaho 2020) (citing *Michael M. v. Superior Court of Sonoma County*, 450 U.S. 464, 481 (1981)).

VIII. Statutes Affected:

This bill creates section 1006.205 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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



407712

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 176 and 177
insert:

(6) APPLICABILITY.—This section does not apply to students who participate, on or before July 1, 2021, in interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public primary or secondary school, a public postsecondary institution, or any school or institution whose students or teams compete against a public primary or secondary school or public postsecondary institution.



407712

12

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

14 And the title is amended as follows:

15 Between lines 23 and 24

16 insert:

17 providing applicability;



315338

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Between lines 176 and 177
insert:

Section 2. This act may not take effect until it is reviewed and approved by the Office for Civil Rights within the United States Department of Education for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. s. 1681 et seq.

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



315338

12 And the title is amended as follows:
13 Between lines 23 and 24
14 insert:
15 prohibiting the act from taking effect until reviewed
16 and approved by the Office for Civil Rights within the
17 United States Department of Education for compliance
18 with a specified federal law;



746008

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Powell) recommended the following:

Senate Amendment (with title amendment)

Between lines 176 and 177
insert:

(6) PROHIBITION ON THE EXPENDITURE OF PUBLIC FUNDS.—Public funds may not be expended for the purpose of defending this section against any constitutional challenge or any challenge brought under Title IX of the Education Amendments of 1972, 20 U.S.C. s. 1681 et seq., or any other provision of federal law.

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



746008

12 And the title is amended as follows:

13 Between lines 23 and 24

14 insert:

15 prohibiting the expenditure of public funds for the
16 purpose of defending against specified legal
17 challenges;

By Senator Stargel

22-01360A-21

20212012__

A bill to be entitled

An act relating to promoting equality of athletic opportunity; creating s. 1006.205, F.S.; providing a short title; providing legislative intent and findings; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic teams or sports designated for female students from being open to male students; specifying conditions under which persons who transition from male to female are eligible to compete in the female category; requiring a student that fails to comply with certain conditions to be suspended from female competition for 12 months; requiring the Board of Governors of the State University System to adopt regulations and the State Board of Education to adopt rules regarding the resolution of disputes; providing protections for educational institutions from certain adverse actions taken by a governmental entity, any licensing or accrediting organization, or any athletic association or organization; providing civil remedies for students and educational institutions; providing a statute of limitation; providing for damages; providing an effective date.

WHEREAS, the United States Supreme Court recognized in *United States v. Virginia*, 518 U.S. 515 (1996), that there are inherent differences between men and women and these differences remain cause for celebration, but not for denigration of the

Page 1 of 7

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

22-01360A-21

20212012__

members of either sex for artificial constraints on an individual's opportunity, and

WHEREAS, the Supreme Court recognized that sex classifications may be used to compensate women for particular economic disabilities they have suffered, to promote equal employment opportunity, and to advance full development of the talent and capacities of our nation's people, and

WHEREAS, one area where sex classifications allow for the full development of the talent and capacities of our nation's people is in the context of sports and athletics, and

WHEREAS, the Olympic Games are considered the world's foremost sporting competitions in which thousands of male and female athletes from more than 200 nations participate, and

WHEREAS, the biological differences between females and males, especially as it relates to natural levels of testosterone, explain the male and female secondary sex characteristics, including physical strength, speed, and endurance, and

WHEREAS, after consulting with hundreds of athletes, doctors, and human rights experts, in November 2015, the International Olympic Committee issued guidelines specifying that an athlete who has transitioned from male to female is eligible to compete if she demonstrates that her total testosterone level in serum has been below 10 nmol/L for at least 12 months before her first competition, with the requirement for any longer period to be based on a confidential case-by-case evaluation considering whether 12 months is a sufficient length of time to minimize any advantage in women's competition, and

Page 2 of 7

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

22-01360A-21

20212012__

WHEREAS, the athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category, and

WHEREAS, these guidelines remain in effect and have successfully led to parity between athletes who have transitioned from male to female and cisgender female athletes, and

WHEREAS, the use of cross-sex hormone therapy is increasing nationwide and in this state, and

WHEREAS, the number of transgender athletes is also increasing in this state, and

WHEREAS, athletes who have transitioned from male to female generally have higher levels of testosterone and may excel in physical strength, speed, and endurance in comparison to cisgender females, and

WHEREAS, the increase in athletes who have transitioned from male to female has and will continue to displace cisgender female athletes in this state and prevent them from excelling in athletic competitions, and

WHEREAS, transgender athletes should compete against athletes with similar abilities, and

WHEREAS, this act, which requires the designation of separate sex-specific athletic teams, is necessary to redress past discrimination against female athletes and to avoid jeopardizing the equality of athletic opportunity in this state, NOW, THEREFORE,

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

22-01360A-21

20212012__

Section 1. Section 1006.205, Florida Statutes, is created to read:

1006.205 Promoting Equality of Athletic Opportunity Act.—

(1) SHORT TITLE.—This section may be cited as the

"Promoting Equality of Athletic Opportunity Act."

(2) LEGISLATIVE INTENT AND FINDINGS.—

(a) It is the intent of the Legislature to provide opportunities for female athletes to demonstrate their strength, skills, and athletic abilities and to provide them with opportunities to obtain recognition and accolades, college scholarships, and the numerous other long-term benefits that result from participating and competing in athletic endeavors.

(b) The Legislature finds that promoting the equality of athletic opportunity is an important state interest. The Legislature finds that requiring the designation of separate sex-specific athletic teams or sports is necessary to promote equality of athletic opportunity.

(3) DESIGNATION OF ATHLETIC TEAMS OR SPORTS.—

(a) Interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public primary or secondary school, a public postsecondary institution, or any school or institution whose students or teams compete against a public school or public postsecondary institution must be expressly designated as one of the following based on the biological sex of team members:

1. Males, men, or boys;

2. Females, women, or girls; or

3. Coed or mixed, including both males and females.

(b) Athletic teams or sports designated for females, women,

22-01360A-21

20212012__

or girls may not be open to students of the male sex.

(c) Persons who transition from male to female are eligible to compete in the female category if all of the following conditions are met:

1. The student has declared a female gender identity to her school or institution.

2. The student demonstrates that her total testosterone level in serum has been below 10 nmol/L for at least 12 months before her first competition and monthly throughout the period of desired eligibility to compete in the female category.

3. The student's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category.

A student that fails to comply with the requirements of subparagraphs 2. or 3. must be suspended from female competition for 12 months.

(d) The Board of Governors of the State University System shall adopt regulations, and the State Board of Education shall adopt rules, regarding the receipt and timely resolution of disputes by schools and institutions, consistent with this subsection.

(4) PROTECTION FOR EDUCATIONAL INSTITUTIONS.—A governmental entity, licensing or accrediting organization, or an athletic association or organization may not entertain a complaint, open an investigation, or take any other adverse action against any school or public postsecondary institution in this state for maintaining separate interscholastic, intercollegiate, intramural, or club athletic teams or sports for students of the

22-01360A-21

20212012__

female sex.

(5) CAUSE OF ACTION; CIVIL REMEDIES.—

(a) Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available under law against the school or public postsecondary institution.

(b) Any student who is subject to retaliation or other adverse action by a school, a public postsecondary institution, or an athletic association or organization as a result of reporting a violation of this section to an employee or a representative of the school, institution, or athletic association or organization, or to any state or federal agency with oversight of schools or public postsecondary institutions in this state, has a private cause of action for injunctive relief, damages, and any other relief available under law against the school, institution, or athletic association or organization.

(c) Any public school or public postsecondary institution that suffers any direct or indirect harm as a result of a violation of this section shall have a private cause of action for injunctive relief, damages, and any other relief available under law against the governmental entity, licensing or accrediting organization, or athletic association or organization.

(d) A civil action brought under this section must be initiated within 2 years after the alleged harm occurred. Persons or organizations who prevail on a claim brought under this section are entitled to monetary damages, including for any

22-01360A-21 20212012__

175 psychological, emotional, or physical harm suffered, reasonable
176 attorney fees and costs, and any other appropriate relief.

177 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 Rules

BILL: SB 7070

INTRODUCER: Education Committee

SUBJECT: Impact of COVID-19 on Educational Institutions

DATE: April 12, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Jahnke	Bouck		ED Submitted as Comm. Bill/Fav
1. Jahnke	Phelps	RC	Pre-meeting

I. Summary:

SB 7070 creates liability protections for educational institutions for actions related to the COVID-19 pandemic and creates accountability and prekindergarten provisions in recognition of the public health emergency caused by COVID-19. Specifically, the bill:

- Creates specified liability protections for an educational institution that has taken reasonably necessary actions to diminish the impact or the spread of COVID-19 and provides immunity from any civil damages, equitable relief, or other remedies relating to such actions.
- Establishes that these liability protections apply retroactively to causes of actions accruing on or after the date of the declaration of the COVID-19 public health emergency by the State Surgeon General, and must apply prospectively to causes of action that accrue before the end of the academic term during which the emergency declaration expires or is terminated.
- Creates waivers from accountability requirements relating to the use of school grades, school improvement ratings, and student performance results from the statewide, standardized assessments for the 2020-2021 school year.
- Authorizes a parent or guardian to request that his or her grade three public school student be retained.
- Waives the provision that requires a summer prekindergarten program delivered by a public school or private prekindergarten provider to consist of at least 300 hours and waives the school readiness program requirement that no more than 22 percent of funds provided to an early learning coalition to implement its approved school readiness program to be used for administrative costs, quality activities, and non-direct services.
- Authorizes a parent or guardian to submit a written request to retain his or her K-5 student, for academic reasons, for the 2021-2022 school year in the grade level to which the student was assigned at the beginning of the 2020-2021 school year.
- Provides an additional year of probationary status for an approved nursing program that has not achieved the required passage rate on the national nursing licensing examination in the 2020 calendar year. The Board of Nursing must grant that extension at a regularly scheduled meeting in 2021.

The bill may have a fiscal impact for the private sector. See Section V.
The bill takes effect upon becoming a law.

II. Present Situation:

COVID-19

The COVID-19 pandemic has drastically affected the state of Florida since the outbreak began affecting the United States in early 2020. The toll on individuals, businesses, and the economy has been catastrophic. According to the Department of Health, 2,033,179 positive COVID-19 cases have been diagnosed in the state, 84,406 residents have been hospitalized, and 33,116 Florida residents have died of the virus.¹

Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak. The order has been extended seven times,² most recently by Executive Order No. 21-45, issued on February 26, 2021.

Department of Education Emergency Orders

2020

In response to the pandemic, on March 23, 2020, the Commissioner of Education (Commissioner), through his delegated authority under the Governor's Executive Order 20-52, issued his first emergency order (EO), which addressed a comprehensive list of issues, including issues related to Florida College System (FCS) Institutions; K-12 assessments, accountability, and promotion; private schools that accept scholarship money; reallocation of funding; and service of students with IEPs or 504 Plans.³

Similar to efforts across the country and the world, this initial EO stated "all school districts are recommended to keep their facilities closed except to staff and teachers, per CDC guidance, through April 15, 2020." The EO then stated "[that] In keeping with their district continuity plan, each district must deliver educational services to students while they remain at home." Districts were encouraged to build out continuity plans to deliver instruction while students were at home, and FCS institutions were strongly recommended to operate virtually.

The Department of Education (DOE) also requested that the United States Department of Education (USDOE) approve Florida's requested waiver⁴ of statewide assessment, accountability, and reporting requirements in ESEA for the 2019-2020 school year due to widespread school closures related to COVID-19.

¹ Florida Department of Health, Division of Disease Control and Health Protection, available at [Florida's COVID-19 Data and Surveillance Dashboard \(arcgis.com\)](https://www.floridahealth.gov/disease-control-and-health-protection/COVID-19/Florida's_COVID-19_Data_and_Surveillance_Dashboard_(arcgis.com).html) (last visited Mar. 27, 2021).

² A state of emergency declared under the State Emergency Management Act may not last for more than 60 days unless it is renewed by the Governor. Section 252.36(2), F.S.

³ Florida Department of Education, *Emergency Order No. 2020-EO-01* (March 23, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁴ Florida Department of Education, *COVID-19 Waiver Response from Assistant Secretary Frank T. Brogan Assistant Secretary for Elementary and Secondary Education* (March 27, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLCovid19WaiverResponse.pdf>.

Resulting guidance⁵ relating to the cancellation of state assessments specified that, because the Grade 3 English language arts (ELA) Florida Standards Assessment (FSA) was a key component districts used to make promotion decisions, and such data would not be available due to the cancellation of statewide assessments for the 2019-2020 school year, promotion decisions should be made in consultation with parents, teachers, and school leaders based on the students' classroom performance and progress monitoring data.

Between March and May 2020, the DOE, local districts, teachers, parents, and all stakeholders worked to try to minimize the negative impacts that school closures and re-opening in a virtual model would have on the students.⁶ On May 13, 2020, the Commissioner issued his second EO⁷, which extended various timeframes, including but not limited to, expiring licenses, applications for licenses, assessment deadlines, and others. This order also suspended the requirement to conduct annual evaluations for teachers and administrators for the 2019-2020 school year, and allowed districts to determine how to meet differentiated pay requirements for teachers on the performance salary schedule.⁸ In addition, the EO suspended requirements that School Readiness Programs use no more than 5 percent for administrative costs and a total of 22 percent for a combination of administrative, quality and non-direct services, as long as the funds are used for purposes of emergency recovery and direct support to providers through June 30, 2020.

The Commissioner's fourth EO⁹ suspended the requirement that summer voluntary prekindergarten (VPK) programs be 300 hours, but required such programs to be at least 200 hours. The EO also modified summer VPK certification requirements and cancelled summer VPK assessments.

On July 6, 2020, the Commissioner issued his sixth EO.¹⁰ The Commissioner stated in the EO that "education is critical to the success of the state and to an individual, and extended school closures can impede educational success of students, [and] impact families' well-being."¹¹ The order would go on to say that "schools are not just the site of academic learning, schools provide many services to students that are critical to the well-being of students and families, such as nutrition, socialization, counseling, and extracurricular activities." The Commissioner also stressed the need for a comprehensive plan for reopening schools for the 2020 fall semester. Additionally, school districts and charter school governing boards with an approved reopening plan would receive both reporting flexibility and financial continuity.

⁵ Florida Department of Education, *Florida Department of Education (FDOE) Q&A Guidance* (March 19, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FDOE-COVID-QA1.pdf> at p. 2.

⁶ Florida Department of Education, *Opening Florida's Schools to Re-Open Florida's Economy* (April 22, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FDOE-Opening.pdf>.

⁷ Florida Department of Education, *Emergency Order No. 2020-EO-02* (May 13, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf>.

⁸ *Id.*

⁹ Florida Department of Education, *Emergency Order No. 2020-EO-04* (June 11, 2020), available at <https://www.fldoe.org/core/fileparse.php/19861/urlt/2020-EO-04.pdf>.

¹⁰ Florida Department of Education, *Emergency Order No. 2020-EO-06* (July 6, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOE-2020-EO-06.pdf>.

¹¹ *Id.*

The EO¹² issued November 30, 2020, found that parents and districts continue to need the educational and financial benefits provided in the previous EO¹³ and it further found that the flexibilities provided by emergency orders are necessary “to respond to and mitigate the impact of the emergency and promote the health, safety and welfare of persons connected with Florida’s educational system.”¹⁴

2021

An EO¹⁵ was issued on February 15, 2021, to provide school districts with expanded statewide testing windows to ensure every student can be safely tested. The modified testing windows for the spring of 2021 for paper-based testing (PBT) and computer based testing (CBT)¹⁶ were intended to allow for more district flexibility in scheduling tests. The EO did not address any other aspect of statewide, standardized testing.

The United States Department of Education (USDOE) issued guidance¹⁷ to states emphasizing the importance of flexibility in administering assessments in 2020-2021 as a result of the pandemic, and supporting the use of assessment data as a source of information for parents and educators to target resources and support, rather than for accountability purposes this year.

The USDOE guidance makes clear that states should consider the ways they can do things differently this year. Flexibility available to states includes:

- Extending the testing window and moving assessments to the summer or fall,
- Giving the assessment remotely, where feasible,
- Shortening the state assessment, to make testing more feasible to implement and prioritize in-person learning time.

The USDOE guidance invited states to request a waiver for the 2020-2021 school year of the accountability and school identification requirements in the Elementary and Secondary Education Act of 1965 (ESEA). A state receiving this waiver would not be required to implement and report the results of its accountability system, including calculating progress toward long-term goals and measurements of interim progress or indicators, or to annually meaningfully differentiate among its public schools using data from the 2020-2021 school year. The state would also not be required to identify schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and additional targeted support and improvement (ATSI) based on data from the 2020-2021 school year. Each state that receives

¹² Florida Department of Education, *Emergency Order No. 2020-EO-07* (Nov. 30, 2020), available at <http://www.fldoe.org/core/fileparse.php/5673/urlt/DOEOrder2020-EO-07.pdf>.

¹³ Florida Department of Education, *Emergency Order No. 2020-EO-06* (July 6, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOE-2020-EO-06.pdf>.

¹⁴ Florida Department of Education, *Emergency Order No. 2020-EO-07* (Nov. 30, 2020), available at <http://www.fldoe.org/core/fileparse.php/5673/urlt/DOEOrder2020-EO-07.pdf>.

¹⁵ Florida Department of Education, *Emergency Order No. 2021-EO-01*, February 15, 2021 available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>.

¹⁶ *Id.*, *Modified Spring 2021 Testing Windows*, February 15, 2021 available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>.

¹⁷ U.S. Department of Education, *U.S. Department of Education Releases Guidance to States on Assessing Student Learning During the Pandemic*, February 22, 2021, <https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-states-assessing-student-learning-during-pandemic> (last visited Feb. 23, 2021).

the accountability and school identification waivers would be required to continue to support previously identified schools in the 2021-2022 school year, resume school identification in the fall of 2022, and ensure transparency to parents and the public.¹⁸

On March 17, 2021, the DOE issued a memo to school district superintendents inviting public comment on the DOE's draft waiver in response to the USDOE guidance inviting states to request a waiver for the 2020-2021 school year of the accountability and school identification requirements in the ESEA.¹⁹

State University System Actions

To respond to the potentially serious impacts of COVID-19 on the health and safety of state university students, faculty, and staff, the Board of Governors of the State University System (BOG) issued guidance to the state universities for the academic and operational continuity of the institutions during the virus outbreak.

On March 11, 2020,²⁰ the BOG directed state universities to make plans to transition to remote instruction as soon as possible. Subsequently, the BOG directed that remote instruction would continue through the end of the Spring 2020 semester at each state university and students who could return home should return home. Universities were also encouraged to consider using remote instruction for the early summer terms.²¹

On June 23, 2020, the BOG approved reopening plans for the state universities that, among other items, included plans to shift back to remote instruction in case of an outbreak, and to continue to provide high-quality educational experiences while utilizing technology and flexibility and prioritizing student and faculty welfare.²²

Liability

Lawsuits Arising from Campus Closures

As universities moved classes online to curtail the spread of COVID-19, students across the country have raised concerns that they were still paying regular tuition prices for what became an online education. Students at several public and private universities in Florida have sued for tuition reimbursements. In one such case, the court explained that the:²³

[COVID-19] pandemic has wreaked havoc on the world. In the Spring of 2020, many schools and colleges, both public and private, were forced to move their curriculum from

¹⁸ U.S. Department of Education, *U.S. Department of Education Releases Guidance to States on Assessing Student Learning During the Pandemic* (February 22, 2021), available at <https://www2.ed.gov/policy/elsec/guid/stateletters/dcl-assessments-and-acct-022221.pdf>.

¹⁹ Florida Department of Education, *Proposed Federal Waiver Request Opportunity for Public Comment through March 31, 2021* (March 17, 2021), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-9100/dps-2021-43.pdf>.

²⁰ Board of Governors, *State University System Statement on COVID-19*, <https://www.flbog.edu/2020/03/11/state-university-system-statement-on-covid-19/> (last visited Mar. 27, 2021).

²¹ Board of Governors, *State University System Extends Remote Learning* (Mar. 17, 2020) <https://www.flbog.edu/2020/03/17/state-university-system-extends-remote-learning/> (Last visited Mar. 27, 2020).

²² Board of Governors, *HIGHLIGHTS: Board of Governors' Meeting* (Last visited Mar. 27, 2021).

²³ *Salerno v. Florida S. Coll.*, 488 F. Supp. 3d 1211 (M.D. Fla. 2020).

in-person to online instruction out of concern for the health of their students, faculty, and staff, and in response to government-mandated closures and social-distancing measures. This case is novel in the sense that there is no legal precedent involving a pandemic's impact on a school's promise to provide in-person learning when doing so would be unsafe and/or against government mandates. And so, like the ripple in a pond after one throws a stone, the legal system is now feeling COVID-19's havoc with the current wave of class action lawsuits that seek tuition reimbursement related to forced online tutelage.

Breach of Contract

A contract is made under Florida law when three elements are present: offer, acceptance, and consideration.²⁴ A valid contract arises when the parties' assent is manifested through written or spoken words, or "inferred in whole or in part from the parties' conduct."²⁵ A contract based on the parties' words is characterized as express, whereas, a contract based on the parties' conduct is said to be implied in fact.²⁶ A party injured by a breach of contract may recover fair and just compensation for the loss or injury caused by the breach of contract.²⁷

Sovereign immunity is the "privilege of the sovereign not to be sued without its consent."²⁸ A state agency or subdivision of the state waives the protections of sovereign immunity only when it enters into an express contract.²⁹ When an alleged contract is merely implied, however, these sovereign immunity protections remain in force.³⁰ Generally, lawsuits relating to the COVID public health emergency, relate to the institution allegedly breaching a contract in the provision of educational services to the students.³¹

Access to Courts – Kluger v. White

The State Constitution provides in Article 1, s. 21, the "Access to courts" section,

The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Case law has demonstrated, however, that this provision is not absolute. In 1973, the Florida Supreme Court issued an opinion, *Kluger v. White*,³² a case which construed the access to courts provision. In broad terms, the case before the Court involved the abolition of a statute governing

²⁴ *SCG Harbourwood, LLC v. Hanyan*, 93 So. 3d 1197, 1200 (Fla. 2d DCA 2012) (citing *Pezold Air Charters v. Phoenix Corp.*, 192 F.R.D. 721, 725 (M.D.Fla.2000)).

²⁵ *Baron v. Osman*, 39 So. 3d 449, 451 (Fla. 5th DCA 2010) (citing *Commerce P'ship v. Equity Contracting Co.*, 695 So.2d 383, 385 (Fla. 4th DCA 1997)).

²⁶ *Id.*

²⁷ *MCI Worldcom Network Services, Inc. v. Mastec, Inc.*, 995 So. 2d 221, 223 (Fla. 2008).

²⁸ *City of Fort Lauderdale v. Israel*, 178 So. 3d 444, 446 (Fla. 4th DCA 2015) (quoting *Va. Office for Prot. & Advocacy v. Stewart*, 563 U.S. 247, 131 (2011)).

²⁹ *City of Fort Lauderdale v. Israel*, 178 So. 3d 444, 447–48 (Fla. 4th DCA 2015).

³⁰ *City of Fort Lauderdale v. Israel*, 178 So. 3d 444, 447–48 (Fla. 4th DCA 2015).

³¹ See, e.g., *Fagundez v. Florida Bd. of Governors*, No. 2020 CA 000910, AMCO 22 (Fla. 2d Cir. Sept. 15, 2020); *Salerno v. Florida S. Coll.*, 488 F. Supp. 3d 1211 (M.D. Fla. 2020); and *LaFleur v. Florida Board of Governors*, No. 8:20-cv-01665, ACAC 15 (M.D. Fla. Aug. 24, 2020).

³² *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

a tort action for property damage in an automobile accident case. When the Legislature abolished the remedy, it did not provide an alternative protection to the injured party.

The Court was confronted with the issue of whether the Legislature could abolish a right of access to the courts. The Court determined that the Legislature may not abolish a pre-1968 common law right or a statutory cause of action unless the Legislature provides a reasonable alternative to that action or unless an overpowering public necessity exists for abolishing the right of action. The Court applies a three-part test to determine whether a statute violates the access to courts provision:

- Does the change abolish a preexisting right of access?
- If so, whether a reasonable alternative exists to protect that preexisting right of access.
- If no reasonable alternative exists, whether an overwhelming public necessity exists.³³

School Accountability

Every Student Succeeds Act

The Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act, was signed into law on December 10, 2015.³⁴

ESSA requires that statewide mathematics and English language arts (ELA) assessments be administered in each of grades 3 through 8 and at least once in grades 9 through 12. Statewide science assessments must be administered at least once in grades 3 through 5, grades 6 through 9, and grades 10 through 12.³⁵

Under ESSA, each state must submit a plan that, in part, establishes a single statewide accountability system to improve student academic achievement and school success.³⁶ A state's accountability system must include all public elementary and secondary schools, including all public charter schools.³⁷ States must identify two broad categories of schools for support and improvement: those that require comprehensive support and improvement, and those that require targeted support and improvement.³⁸ ESSA authorizes additional state school improvement actions for schools identified for comprehensive support and improvement but do not meet exit criteria.³⁹

Florida's ESSA plan received approval from the United States Department of Education (USDOE) on September 26, 2018.⁴⁰

³³ *Eller v. Shova*, 630 So. 2d 537 (Fla. 1993).

³⁴ U.S. Department of Education, *Every Student Succeeds Act (ESSA)*, <https://www.ed.gov/essa?src=mn> (last visited Feb. 22, 2021).

³⁵ U.S. Department of Education, *Elementary and Secondary Education Act of 1965, As Amended Through P.S. 114-95, Enacted December 10, 2015* (2015), available at <https://www2.ed.gov/documents/essa-act-of-1965.pdf>.

³⁶ 34 C.F.R. s. 200.12(a)(1).

³⁷ *Id.* In addition, each state plan must include specified subgroups of students, including economically disadvantaged, race and ethnic groups, children with disabilities, and English learners.

³⁸ United States Department of Education, *Accountability Under Title I, Part A of the ESEA, Frequently Asked Questions*, available at <https://www2.ed.gov/programs/titleiparta/eseatitleiaccountabilityfaqs.pdf>, at 33.

³⁹ *Id.*, at 58.

⁴⁰ Florida Department of Education, *Every Student Succeeds Act (ESSA)*, <http://www.fldoe.org/academics/essa.stml> (last visited Feb. 22, 2021).

Authority to Enforce Public School Improvement

The State Board of Education (SBE), consistent with ESSA requirements, holds all school districts and public schools accountable for student performance and is responsible for a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement.⁴¹ School districts must be held accountable for improving the academic performance of all students and for identifying and improving schools that fail to meet accountability standards.⁴²

The SBE has a duty to supervise Florida's public school system, equitably enforce the accountability requirements of the state school system, and impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students.⁴³ DOE annually identifies each public school in need of intervention and support to improve student academic performance.⁴⁴

School Grading System

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.⁴⁵ School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,⁴⁶ or to determine whether a school is eligible for school recognition funds.⁴⁷

Schools are graded using one of the following grades:⁴⁸

- “A,” schools making excellent progress (62 percent or higher of total applicable points).
- “B,” schools making above average progress (54 to 61 percent of total applicable points).
- “C,” schools making satisfactory progress (41 to 53 percent of total applicable points).
- “D,” schools making less than satisfactory progress (32 to 40 percent of total applicable points).
- “F,” schools failing to make adequate progress (31 percent or less of total applicable points).

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. All schools are graded on the percentage of eligible students who pass assessments in ELA, mathematics, science, and social studies; student learning gains in ELA and mathematics; and students in the lowest 25 percent of ELA and mathematics performers who make learning

⁴¹ Section 1008.33(2)(a), F.S.

⁴² Section 1008.33(2)(c), F.S.

⁴³ Section 1008.33(3)(a), F.S. Based upon the provisions of the Florida K-20 Education Code, chapters 1000-1013; the federal ESEA and its implementing regulations; and the ESEA flexibility waiver approved for Florida by the United States Secretary of Education.

⁴⁴ Section 1008.33(4), F.S.

⁴⁵ Florida Department of Education, *2019 School Grades Overview* (2019), available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

⁴⁶ See s. 1008.33(4), F.S.

⁴⁷ See s. 1008.36, F.S.

⁴⁸ Section 1008.34(2), F.S.; Rule 6A-1.09981(4)(d), F.A.C.

gains.⁴⁹ Middle and high school models include additional components beyond the basic model.⁵⁰

School Improvement Rating

School improvement ratings are calculated for alternative schools and exceptional student education (ESE) center schools that choose to receive a school improvement rating in lieu of a school grade.⁵¹ The commissioner prepares an annual report on the performance of each school receiving a school improvement rating.⁵²

Schools that elect a school improvement rating in lieu of a school grade will have the rating based on student learning gains for statewide, standardized assessments for ELA and mathematics; schools will be rated on only those components for which they have sufficient data.⁵³ School improvement ratings must identify an alternative school or ESE center school as having one of the following ratings:⁵⁴

- “Commendable” – a significant percentage of students attending the school are making learning gains.
- “Maintaining” – a sufficient percentage of students attending the school are making learning gains.
- “Unsatisfactory” – an insufficient percentage of students attending the school are making learning gains

A school having an insufficient percentage of students making learning gains⁵⁵ must have a school improvement plan, which is developed and implemented by the school’s advisory council.⁵⁶ It is the responsibility of each district school board to approve school improvement plans.⁵⁷

School Recognition Program

The Florida School Recognition Program was created to recognize the outstanding faculty and staff in highly productive public schools.⁵⁸ The program provides public recognition and

⁴⁹ Section 1008.34(3)(b), F.S. If a school does not have at least 10 students with complete data for one or more of the components, those components may not be used in calculating the school’s grade. Section 1008.34(3)(a), F.S.

⁵⁰ See s. 1008.34(3)(b), F.S.; Rule 6A-1.09981(4)(a)-(c), F.A.C.

⁵¹ Section 1008.341; 1008.3415, F.S.; Rule 6A-1.099822 and 6A-1.099828, F.A.C.

⁵² Section 1008.341(1), F.S.

⁵³ Florida Department of Education, *2018-19 Guide to Calculating School Improvement Ratings, July 2019* available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SIRCalcGuide19.pdf>.

⁵⁴ Section 1008.341(2), F.S.

⁵⁵ “Learning Gains,” “annual learning gains,” or “student learning gains” means the degree of student learning growth occurring from one school year to the next as required by state board rule for purposes of calculating school grades under section 1008.349(1)(b), F.S.

⁵⁶ Sections 1001.42(18)(a) and 1001.452(2), F.S. School advisory councils (SACs) are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S. See also Section 1002.33(9)(n), F.S. Requires a charter school earning a “D” or “F” to submit a school improvement plan to the sponsor.

⁵⁷ Section 1001.42(18)(a), F.S.

⁵⁸ s. 1008.36 (1), F.S.

financial awards to schools sustaining high student performance or schools that demonstrate exemplary improvement in student performance.⁵⁹

Public schools, including charter schools, that receive a school grade of “A,” improve at least one letter grade from the prior year, or improve more than one letter grade and sustain the improvement the following year are eligible for awards.⁶⁰ In addition, alternative schools that maintain a “commendable” rating or improve at least one improvement-rating level are also eligible for awards.⁶¹

Improvement of Low Performing Schools

Florida’s system of improving low-performing schools is referred to as “school improvement” (SI).⁶² Under SI, intervention and support is provided to traditional public schools earning a letter grade of “D,” or “F.”⁶³ Intensive intervention and support strategies are applied to schools that earn two consecutive grades of “D” or a grade of “F” through turnaround option plans.⁶⁴

All Florida public schools that earn grade of “D” or “F” must have a school improvement plan, which is developed and implemented by the school’s advisory council.⁶⁵ It is the responsibility of each district school board to approve school improvement plans.⁶⁶

The Commissioner must assign a community assessment team to each school district or governing board with a school that earned a grade of “D” or “F” to review the school performance data and determine causes for the low performance, including the role of school, area, and district administrative personnel.⁶⁷

Intervention and Support Strategies

If a school earns two consecutive grades of “D” or a grade of “F,” it must immediately implement a differentiated matrix of intervention and support strategies.⁶⁸ Districts with a school

⁵⁹ Section 1008.36(2), F.S.; Florida Department of Education, Accountability Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/accountability/accountability-reporting/fl-school-recognition-program/FAQ.stml> (last visited March 26, 2021).

⁶⁰ Section 1008.36(2) and (3), F.S. A school that serves any combination of students in kindergarten through grade 3 that does not receive a school grade because its students are not tested and not included in the school grading system receive the school grade designation of a K-3 feeder pattern school, if at least 60 percent of the students in the K-3 school are scheduled to be assigned to the graded school. Section 1008.34(3)(a)2., F.S.

⁶¹ Section 1008.341(2), F.S. Alternative schools have the option of receiving a school improvement rating. There are 3 ratings: commendable, maintaining, and unsatisfactory. *Id.*

⁶² Rule 6A-1.099811(1), F.A.C.

⁶³ Section 1008.33(3)(b), F.S.

⁶⁴ Section 1008.33(3)(c), F.S.

⁶⁵ Sections 1001.42(18)(a) and 1001.452(2), F.S. School advisory councils (SACs) are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S. *See also* Section 1002.33(9)(n), F.S. Requires a charter school earning a “D” or “F” to submit a school improvement plan to the sponsor.

⁶⁶ Section 1001.42(18)(a), F.S.

⁶⁷ Section 1008.345(6)(d), F.S.

⁶⁸ Section 1008.33(4)(a), F.S.

improvement school must coordinate with the DOE, the Regional Executive Director or designee, and the school to identify and implement tailored support and improvement strategies designed to address low performance at the school.⁶⁹

Florida law specifies seven general types of intervention and support strategies for traditional public schools to address student performance. The intervention and support strategies may include school improvement planning; leadership and educator quality improvement; professional development; curriculum review, pacing and alignment across grade levels to improve background knowledge in social studies, science, and the arts; and the use of continuous improvement and monitoring plans and processes.⁷⁰

School Turnaround Options

Schools that earn two consecutive grades of “D” or a grade of “F” must also implement a district managed turnaround plan through which the school district manages the 2-year turnaround plan at the school.⁷¹ The school district must submit a district-managed turnaround plan to the SBE for approval by October 1.⁷²

Once the district-managed turnaround plan is approved by the SBE, the school district must implement the plan for the remainder of the year and continue implementation for the next full school year.⁷³ If the school’s grade does not improve to a “C”, the school must select from the following turnaround options:⁷⁴

- Reassign students to another school and monitor the progress of each student.
- Close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness.
- Contract with an external operator that has a demonstrated record of effectiveness to operate the school.
 - The external operator may include a district-managed charter school in which all instructional personnel are not employees of the school district, but are employees of an independent governing board composed of members who did not participate in the review or approval of the charter.

Based on traditional public schools that received grades in 2018 and 2019:⁷⁵

- 70 percent of schools graded “D” or “F” improved their grade in 2019;
- 77 percent of schools graded “F” in 2018 improved their grade in 2019; and

⁶⁹ Rule 6A-1.099811(5)(a), F.A.C.

⁷⁰ Section 1008.33(3)(c), F.S.; see Rule 6A-1.099811(5)(b)1.-9., F.A.C.

⁷¹ Rule 6A-1.099811(5)(a)-(b), F.A.C.

⁷² Section 1008.33(4)(a), F.S.

⁷³ The state board may allow a school an additional year of implementation before the school must implement a turnaround option required under paragraph if it determines that the school is likely to improve to a grade of “C” or higher after the first full school year of implementation. *Id.*

⁷⁴ Section 1008.33(4)(b)1.-3., F.S.

⁷⁵ Florida Department of Education, *School Improvement Presentation to the House PreK-12 Innovation Subcommittee* (October 16, 2019), available at

[https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting Packets&FileName=pki 10-16-19.pdf](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting%20Packets&FileName=pki%2010-16-19.pdf).

- 85 percent of first year turnaround schools in 2018 improved their grade to a “C” or higher and exited turnaround in 2019.

For the 2019-2020 school year, 142 schools are in SI requiring intervention and support, including:⁷⁶

- 91 schools earning a grade of “D” for the first time.
- 3 schools earning a grade of “F” for the first time.
- 20 schools earning two grades of “D” or a “D” and an “F” for their last two school grades.

High-Performing School Districts and Charter School Systems

A high-performing school district meets the following criteria:⁷⁷

- Earns a grade of “A” for 2 consecutive years; and
- Has no district-operated school that earns a grade of “F”;
- Complies with all class size requirements; and
- Has no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted.

The SBE annually designates academically high-performing school districts. Seventeen school districts were designated as high-performing school districts for the 2018-2019 school year.⁷⁸

A high-performing charter school system means an entity⁷⁹ that:⁸⁰

- Operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- Operated a system of charter schools in which at least 50 percent of the charter schools were designated as high-performing charter schools, and no charter school earned a school grade of “D” or “F” in any of the previous 3 school year, with exceptions identified in law;⁸¹ and
- Did not receive a financial audit that revealed one or more of the financial emergency conditions specified in law⁸² in the most recent 3 fiscal years for which such audits are available.

The Commissioner must verify all charter schools served by an entity, verify that the entity meets the specified criteria, and provide a letter to the entity stating that it is a high-performing charter school system. The commissioner must annually determine whether a high-performing

⁷⁶ Florida Department of Education, *School Improvement Presentation to the House PreK-12 Innovation Subcommittee* (October 16, 2019), available at [https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting Packets&FileName=pki 10-16-19.pdf](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting%20Packets&FileName=pki%2010-16-19.pdf).

⁷⁷ Section 1003.621(1)(a), F.S.

⁷⁸ State Board of Education, *Consent Item, Designation of 2018-2019 Academically High-Performing School Districts* available at <http://www.fldoe.org/core/fileparse.php/19916/urlt/19-1.PDF>.

⁷⁹ “Entity” means a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit corporation with tax-exempt status under s. 501(c)(3) of the Internal Revenue Code; or a private, for-profit education management corporation. Section 1002.332(1)(a), F.S.

⁸⁰ Section 1002.332(1)(b), F.S.

⁸¹ Section 1002.332(1)(b)2.a. and b., F.S.

⁸² Section 218.503(1), F.S.

charter school system continues to meet specified criteria.⁸³ Five entities were designated as high-performing charter school systems for the 2018-2019 school year.⁸⁴

Statewide Assessment Program

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff. The data is to be used by districts to improve instruction; by students, parents, and teachers to guide learning objectives; by education researchers to assess national and international education comparison data; and by the public to assess the cost benefit of the expenditure of taxpayer dollars.⁸⁵

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).⁸⁶ Results from the assessments are used to calculate school grades and school improvement ratings,⁸⁷ and determine student readiness for promotion to 4th grade and high school graduation.⁸⁸

Student Progression Measured by Statewide Assessments

To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3.⁸⁹ The student must be retained if the student's reading deficiency is not remedied by the end of grade 3, by scoring a Level 2 or higher on the statewide, standardized assessment required for grade 3.⁹⁰

The district school board may only exempt students from mandatory retention in grade 3 for good cause. A student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention. Good cause exemptions are limited to students in grade 3 and relate to limited English proficiency students, students with disabilities, the use of alternative assessments or portfolios, and students previously retained in grades K-3.⁹¹

Receipt of a standard high school diploma requires successful completion of 24 credits,⁹² including passing statewide, standardized assessments. Specifically, a student must pass the grade 10 ELA statewide, standardized assessment and the Algebra I end-of-course (EOC) assessment.⁹³

⁸³ Section 1002.332(2)(a), F.S.

⁸⁴ Email, Florida Department of Education (Feb. 25, 2021).

⁸⁵ Section 1008.22(1), F.S.

⁸⁶ Section 1008.22(3), F.S. and Florida Department of Education, *Statewide Assessment Program 2019-2020*, available at <http://www.fldoe.org/core/fileparse.php/5663/urlt/swapig.pdf>.

⁸⁷ See ss. 1008.34 and 1008.341, F.S.

⁸⁸ See ss. 1008.25(5) and 1003.4282(3), F.S.

⁸⁹ Section 1008.25(5)(b), F.S.

⁹⁰ *Id.*

⁹¹ Section 1008.25(6)(b), F.S.

⁹² Section 1003.4282(1)(a), F.S.

⁹³ Section 1003.4282(3)(a) and (b), F.S.

School Personnel Evaluations

School districts establish procedures for evaluating the performance of instructional, administrative, and supervisory personnel in order to increase student academic performance by improving the quality of services in public schools.⁹⁴

Instructional personnel and school administrator performance evaluations must be based upon the performance of students assigned to their classrooms or schools.⁹⁵ A school district's performance evaluation system is not limited to student performance, but may include other criteria to evaluate instructional personnel and school administrators' performance.⁹⁶ The performance evaluation must be based upon sound educational principles and contemporary research in effective educational practices. The evaluation criteria must include:⁹⁷

- At least one-third based on performance of students;
- At least one-third based on instructional practice;
- At least one-third based on instructional leadership (administrators only); and
- Other indicators of performance.⁹⁸

The Commissioner has approved a formula to measure individual student learning growth on the statewide, standardized assessments in English Language Arts and mathematics.⁹⁹ Each school district may, but is not required to, measure student growth using the formula approved by the commissioner.¹⁰⁰ The Commissioner approved using a value-added model (VAM) to measure learning growth for purposes of teacher evaluation, in part because of the model's capacity to reflect an individual educator's contribution to that learning growth.¹⁰¹ Use of the VAM data as part of the performance of student's component in a teacher's evaluation is a local district decision.

Exceptional Student Education

The Individuals with Disabilities Education Act (IDEA) requires school districts to make free appropriate public education (FAPE) available to such students ages three through 21.¹⁰² A FAPE must include special education and related services¹⁰³ provided by the public school

⁹⁴ Section 1012.34, F.S.

⁹⁵ Section 1012.34(3), F.S.

⁹⁶ *Id.*

⁹⁷ Section 1012.34(3)(a), F.S.

⁹⁸ For instructional personnel and school administrators, the remainder of a performance evaluation may include, but is not limited to, professional and job responsibilities as recommended by the State Board of Education or identified by the district school board and, for instructional personnel, peer reviews, objectively reliable survey information from students and parents based on teaching practices that are consistently associated with higher student achievement, and other valid and reliable measures of instructional practice. *Id.*

⁹⁹ Section 1012.34(7)(a), F.S.

¹⁰⁰ Section 1012.34(7)(b), F.S.

¹⁰¹ Florida Department of Education, *Performance Evaluation, Why do we have VAM?* <http://www.fldoe.org/teaching/performance-evaluation/> (last visited Feb. 23, 2021).

¹⁰² 20 U.S.C. s. 1400(d)(1)(A); 34 C.F.R. s. 300.101; Rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

¹⁰³ "Related services" means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes."

district at no cost to the parent, which meet the standards of the state and are in conformity with the student's Individualized Education Plan (IEP).¹⁰⁴ An IEP must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements.¹⁰⁵

The student's IEP Team¹⁰⁶ is required to review the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved. The IEP must team must respond to the parent's right to ask for a revision to the IEP, and to revise the IEP, as appropriate, to address any lack of progress toward annual goals or consider anticipated needs.¹⁰⁷

Early Care and Education Programs

While the SBE is responsible for K-20 public education in the state, Florida's Office of Early Learning (OEL) is responsible for statewide implementation of the School Readiness and Voluntary Prekindergarten (VPK) programs.¹⁰⁸

The Voluntary Prekindergarten Education Program

The Florida Constitution requires the State to provide every four-year old child a high quality prekindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to professionally accepted standards.¹⁰⁹ In 2004, the State established a free VPK program offered to eligible four-year-old children.¹¹⁰ Parents may choose either a school-year or summer program offered by either a public or private school.¹¹¹

"Related services" also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34(a).

¹⁰⁴ 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C. An individualized education plan means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the IDEA. 20 U.S.C. s. 1414(d).

¹⁰⁵ Rule 6A-03028(3), F.A.C.

¹⁰⁶ The membership of the IEP Team is specified in Rule 6A-6.03028(3)(c), F.A.C.

¹⁰⁷ Rule 6A-6.03028(3)(j), F.A.C.

¹⁰⁸ See ss. 20.15(3)(i)1. and 1001.213, F.S.

¹⁰⁹ Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

¹¹⁰ Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), Fla. Const.

¹¹¹ Section 1002.53(3), F.S.

Voluntary Prekindergarten Education Programs			
Program Characteristics	School-Year Programs		Summer Program ¹¹²
	Public School ¹¹³	Private Prekindergarten Provider ¹¹⁴	
Provider Type	Public school	Private prekindergarten provider	Public school or private prekindergarten provider
Minimum Program Length	540 instructional hours	540 instructional hours	300 instructional hours
Class Size	4 to 20 students	4 to 20 students	4 to 12 students
Prekindergarten Director Credential¹¹⁵	Not required	Required	Private prekindergarten provider only
Minimum Required Instructor Credential	Child Development Associate (CDA) plus 2 trainings or equivalent	CDA plus 2 trainings or equivalent	Florida-certified teacher or bachelor's or higher degree in specified major
Second Instructor for Large Classes (credential not required)	For classes of 12 to 20 students	For classes of 12 to 20 students	Not allowed

During the 2019-2020 academic year, the VPK program served 156,956 students.¹¹⁶ Overall, the 2019-20 fiscal year enrollment was 17.31 FTE higher than estimated at the August 2020 Conference.¹¹⁷ Summer VPK enrollment was particularly affected by the COVID-19 outbreak, with just 1,433.20 FTE for the full 2020 summer program, a decline of 2,932.43 FTE relative to the full 2019 summer program.¹¹⁸ For summer 2020, July and August FTE were overall higher than May and June FTE, increasing from 521.09 FTE to 912.11 FTE.¹¹⁹

The School Readiness Program

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.¹²⁰ The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.¹²¹ To participate in the school readiness program, a provider

¹¹² Section 1008.61, F.S.

¹¹³ Section 1002.63, F.S.

¹¹⁴ Section 1002.55, F.S.

¹¹⁵ The Florida Department of Education establishes the minimum standards for a credential for directors of private prekindergarten providers delivering the VPK program. Section 1002.57(1), F.S.; *see also* Rule 6M-8.610, F.A.C.

¹¹⁶ Florida Office of Early Learning, *2019-20 Annual Report* (Dec. 2020) at 8, available at [http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf).

¹¹⁷ The Office of Economic & Demographic Research, *Voluntary Prekindergarten Estimating Conference, Executive Summary* (Dec. 10, 2020), available at <http://edr.state.fl.us/Content/conferences/vpk/VPKsummary.pdf>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Section 1002.87, F.S.

¹²¹ Section 1002.86, F.S.

must execute a school readiness contract.¹²² During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.¹²³

School Readiness Funding

Funding for the school readiness program is allocated among the early learning coalitions (ELC) according to law and the General Appropriations Act.¹²⁴ The school readiness program is funded primarily by the Child Care and Development Block Grant (CCDF).¹²⁵ State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.¹²⁶ However, no more than five percent of the of the state, federal, and local matching funds provided to the ELC may be used for administrative costs and no more than 22 percent of those funds may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services.¹²⁷

Nursing Education Program Accountability

The Florida Board of Nursing (BON) approves new pre-licensure nursing education programs that meet the application requirements specified in Section 464.019, F.S. This section of Florida law also defines the BON's regulatory authority over established nursing education programs.¹²⁸

Approved programs must have a graduate passage rate not lower than ten percent below the national average for two consecutive years. Programs are placed on probation for low performance with NCLEX¹²⁹ scores for two consecutive years and are subject to termination. The program director is required to present a plan for remediation to the BON that includes specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any one calendar year. If the program does not achieve the required passage rate in any one calendar year after a program has been placed on probationary status, the

¹²² Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract_7-8-20_ADA_final.pdf.

¹²³ Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 20 (last visited Mar. 19, 2021).

¹²⁴ Section 1002.89(1), F.S.

¹²⁵ The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, http://www.floridaeearlylearning.com/oel_resources/ccdf_plan.aspx (last visited Mar. 19, 2021).

¹²⁶ Section 1002.89(5), F.S.

¹²⁷ Section 1002.89(6), F.S.

¹²⁸ The Florida Board of Nursing, *Education and Training Programs*, <https://floridasnursing.gov/education-and-training-programs/> (last visited Mar. 31, 2021).

¹²⁹ The National Council of State Boards of Nursing (NCSBN) is an independent, non-profit organization involved in the regulation of nurses and is a separate entity from the American Nurses Association (ANA) Council on State Boards of Nursing, which represents professional nurses. The NCSBN's membership is now composed of state boards of nursing and other nursing regulatory bodies that are charged with the responsibility of providing regulatory excellence for public health, safety, and welfare. To meet that goal, NCSBN developed a nurse licensure examination consistent with current nursing practice: the Nursing Council Licensure Examination (NCLEX) for registered nurse (RN) and licensed practical nurse (LPN). National Council of State Boards of Nursing, Inc., History, available at <https://www.ncsbn.org/history.htm> (last visited Mar. 31, 2021).

BON is authorized to terminate the program or may extend the probation for one additional year, subject to specified conditions.¹³⁰

Florida Nurse Education Program Graduate Passage Rates - 2019¹³¹

In 2001 the Legislature created The Florida Center for Nursing (FCN) to establishing and maintaining a database on nursing supply and demand and evaluate nursing program-specific data for each approved program and accredited nursing education program to determine each program's student populations and NCLEX passage rates.

The FCN found that Florida's NCLEX passage rates varied by program type, and by the program's classification as public or private. According to the FCN in 2019, "For the third year in a row, Florida's NCLEX passage rates for RN and LPN programs were at or near the bottom of the United States and Territories."¹³² RN programs include graduates of bachelor's degree nurse (BSN) programs and associate degree nurse (AARN) programs. As a group, BSN graduates performed the best, followed by LPN graduates. AARN graduates collectively performed at the lowest level.

Florida's performance standard requires each program's passage rate to be no more than 10 percentage points below than national passage rates of comparable degree programs in the same calendar year. Nearly half of all Florida programs scored below the state's performance standard, including 89 AARN (54 percent), 66 LPN (47 percent), and 18 BSN (31 percent) programs.

2019 Florida NCLEX Passage Rates by Program Type

Program	National	Florida Public		Florida Private	
	Passage Rate	Passage Rate	Programs	Passage Rate	Programs
BSN	91.2	92.9	10	86.5	18
AARN	85.2	89.3	31	52.3	92
LPN	85.6	82.8	57	55.9	61

According to the FCN, prior to the COVID-19 pandemic, Florida was already experiencing a critical shortage of RNs and LPNs which was expected to worsen as demand increased.

National NCLEX Passage Rates and COVID-19

In response to the COVID-19 pandemic, the NCSBN introduced several carefully-evaluated and tested modifications to the NCLEX examinations. These modifications expired on Sept. 30, 2020, and, beginning Oct. 1, 2020, both NCLEX-RN and NCLEX-LPN exams will retain some of the characteristics of the modified exam. The difficulty levels and passing standards of the exams have not changed.¹³³

¹³⁰ Section. 464.019(5), F.S.

¹³¹ This is the most recent Florida Center for Nursing report available, as of this writing.

¹³² Florida Center for Nursing, *Review of Florida Nurse Education Program Graduate Passage Rates on the National Council of State Boards of Nursing Licensure Examination: Calendar Year 2019*, April 2020, available at <https://floridasnursing.gov/forms/2019-nclex-pass-rates.pdf> (last visited Mar. 28, 2021) (emphasis original).

¹³³ National Council of State Boards of Nursing, Inc., *COVID-19 Impact to NCLEX Candidates*, available at <https://www.ncsbn.org/14428.htm> (last visited Mar. 28, 2021).

NCLEX pass rates appear to be starting to decrease slightly as the COVID-19 pandemic continues. NCLEX Data shows the following:

- RN: NCSBN data shows that NCLEX test takers for the RN version had been hovering around a pass rate of 89 percent for all of 2019 and into early 2020. However, the first-time passage rate for the RN test had dropped to just under 85 percent.
- LPN: NCLEX first-time test takers for the LPN version had been around 86 percent passage rate in 2019 and early 2020. The passage rate had dropped down to slightly below 83 percent.

III. Effect of Proposed Changes:

Liability

The bill creates s. 768.39, F.S., to provide liability protections for educational institutions for actions related to the COVID-19 pandemic. Specifically, the bill:

- Defines an educational institution as a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.
- Extends the protections to an educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 and provides immunity from any civil damages, equitable relief, or other remedies relating to such actions.
- Defines reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic to include, but not limited to, any of the following:
 - Shifting in-person instruction to online or remote instruction for any period of time.
 - Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution.
 - Pausing or modifying ancillary student activities and services available through the educational institution.
- Deems the provision of in-person or on-campus education and related services to have been impossible for educational institutions during any period of time in which such institutions took reasonably necessary actions described to protect students, staff, and educators in response to the COVID-19 public health emergency.
- Deems the reasonably necessary actions as justified as a result of the various governmental orders and the need for educational institutions to protect their communities.

The bill specifies that in any action against an educational institution for the reimbursement of tuition or fees, general publications of the institution are not evidence of an implied contract to provide in-person or on-campus education and related services or access to facilities during the COVID-19 public health emergency.

Additionally, the bill specifies that the provisions do not apply to losses or damages that:

- Resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event, or
- Caused by an act or omission of a college or university which was in bad faith or malicious.

The bill provides that if any aspect of the immunity relating to the reasonably necessary actions taken by an educational institutions due to COVID-19 is limited by a court or by operation of

law from applying to certain types of claims or causes of action, the immunity must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

The bill establishes the provision that these liability protections apply retroactively to causes of actions accruing on or after March 1, 2020, the date of the declaration of the COVID-19 public health emergency by the State Surgeon General, and must apply prospectively to causes of action that accrue before the end of the academic term during which the emergency declaration expires or is terminated.

School Accountability

Relating to the use of school grades for accountability provisions in the 2020-2021 school year, the bill:

- Authorizes school grades calculated for the 2020-2021 school year to be used for eligibility for the Florida School Recognition Program, as provided in the General Appropriations Act.
- Allows a school currently in turnaround status to exit turnaround status if the school receives a grade of “C” or better.
- Specifies that a school or approved virtual instruction provider that receives the same or lower grade or school improvement rating for the 2020-2021 school year compared to the 2018-2019 school year is not subject to sanctions or penalties that would occur as a result of the 2020-2021 school grade or school improvement rating.
- Provides that a charter school system or school district designated as high performing may not lose its designation based on 2020-2021 school grades.

Statewide Assessment Program

The bill authorizes a parent or guardian to request that his or her K-5 public school student be retained, for academic reasons, for the 2021-2022 school year in the grade level to which the student was assigned at the beginning of 2020-2021 school year. Specifically, the bill:

- Requires that a parent or guardian who wishes for his or her K-5 student to be retained must submit, in writing, a retention request to the school principal. Only retention requests received by the principal on or before June 30, 2021, must be considered. A principal may consider a request received after that date at his or her discretion.
- Requires that the principal inform the student’s teacher and to collaboratively discuss the request with the parent or guardian any basis for agreement or disagreement with the request. As part of the discussion with the parent or guardian, the principal must disclose that the requested retention could impact the student’s eligibility to participate in high school interscholastic sports due to the student’s age.
- Specifies that in lieu of retention, the principal, teachers, and parent or guardian may collaborate to develop a customized 1-year education plan for the student with the intent of helping the student return to grade level readiness by the end of the next academic year.
 - Supplemental educational support, services and interventions;
 - Summer education;
 - Promotion in some, but not all courses; and
 - Midyear promotion.
- Specifies that the parent or guardian has the final decision whether to retain the student.

- Requires that for a student retained by request with an IEP in effect, the student's IEP team must convene to review and revise the student's IEP, as appropriate.
- Requires school districts, by June 30, 2022, to report to the DOE the number of students retained by request for all or part of the 2021-2022 school year.

The bill specifies that a student who meets all high school graduation requirements except for passing either or both statewide, standardized assessments for ELA and mathematics must be considered to have met all requirements for graduation.

The bill also states that student performance results from the 2020-2021 statewide, standardized assessments may not be used for calculating student performance measurement and evaluating personnel.

Early Care and Education Programs

The bill waives the provision that requires a summer prekindergarten program delivered by a public school or private prekindergarten provider to consist of at least 300 hours. The bill states the 2021 summer prekindergarten program must consist of at least 200 hours. The full-time equivalent calculation for a student in a summer 2021 prekindergarten program delivered by a public school or private prekindergarten provider must be prorated for the number of instructional hours reported.

Additionally, for the 2020-21 and 2021-2022 school years, the bill waives the requirement that no more than 22 percent of the state, federal, and local matching funds provided to an ELC to implement its approved school readiness program plan be used for any combination of administrative costs, quality activities, and nondirect services, provided that the funds are used for purposes of emergency recovery and direct support to providers.

Nursing Education Program Approval and Accreditation

The bill amends s. 464.019, F.S., to provide an additional year of probationary status for an approved nursing program that has not achieved the required passage rate on the national nursing licensing examination in the 2020 calendar year. The Board of Nursing must grant that extension at a regularly scheduled meeting in 2021.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may:

- Provide educational institutions with liability protections so that these institutions may avoid costly litigation due to actions related to the COVID-19 virus.
- Impact school eligibility for school recognition funds, if the program is funded.
- Allow early learning coalitions to provide additional financial supports to school readiness providers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 464.019 of the Florida Statutes.

This bill creates section 768.39 of the Florida Statutes.

The bill creates an undesignated section of Florida Law.

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.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (5) of section
464.019, Florida Statutes, is amended to read:

464.019 Approval of nursing education programs.—

(5) ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage
rate for first-time test takers which is not more than 10
percentage points lower than the average passage rate during the



502390

same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

a. Professional nursing education programs that terminate in a bachelor's degree.

b. Professional nursing education programs that terminate in an associate degree.

c. Professional nursing education programs that terminate in a diploma.

d. Practical nursing education programs.

2. If an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage



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rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board may extend the program's probationary status for 1 additional year, provided the program has demonstrated adequate progress toward the graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan. If the program is not granted the 1-year extension or fails to achieve the required passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120. If a program on probationary status fails to achieve the required passage rate for the 2020 calendar year, including a program subject to termination during the 2021 calendar year, the board shall extend the program's probationary status for 1 additional year. The board shall grant such extension at a regularly scheduled meeting during the 2021 calendar year.

Section 2. Section 768.39, Florida Statutes, is created to read:

768.39 Immunity for educational institutions for actions related to the COVID-19 pandemic.—

(1) The Legislature finds that during the COVID-19 pandemic, educational institutions had little choice but to close or restrict access to their campuses in an effort to protect the health of their students, educators, staff, and communities. Despite these efforts, more than 120,000 cases of



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COVID-19 have been linked to colleges and universities nationwide, and the deaths of more than 100 college students have been attributed to the disease. The Legislature further finds that lawsuits against educational institutions based on their efforts to provide educational services while keeping students, faculty, staff, and communities safe during the COVID-19 public health emergency are without legal precedent. One court has even acknowledged that the "legal system is now feeling COVID-19's havoc with the current wave of class action lawsuits that seek tuition reimbursement related to forced online tutelage." Under these circumstances, the Legislature finds that there is an overpowering public necessity for, and no reasonable alternative to, providing educational institutions with liability protections against lawsuits seeking tuition or fee reimbursements or related damages resulting from the institutions changing the delivery of educational services, limiting access to facilities, or closing campuses during the COVID-19 public health emergency.

(2) For the purposes of this section, the term "educational institution" means a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic, and also includes the Board of Governors of the State University System and the State Board of Education.

(3) (a) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such



502390

actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

1. Shifting in-person instruction to online or remote instruction for any period of time.

2. Closing or modifying the provision of facilities, other than housing or dining facilities, on the campus of the educational institution.

3. Pausing or modifying ancillary student activities and services available through the educational institution.

(b) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions during any period of time in which such institutions took reasonably necessary actions described in paragraph (a) to protect students, staff, and educators in response to the COVID-19 public health emergency.

(c) As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in paragraph (a) are deemed justified.

(4) In any action against an educational institution for the reimbursement of tuition or fees, general publications of the institution are not evidence of an implied contract to provide in-person or on-campus education and related services or access to facilities during the COVID-19 public health emergency.

(5) (a) This section does not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.



502390

(b) This section does not apply to losses or damages caused by an act or omission of a college or university which was in bad faith or malicious.

(6) If any aspect of the immunity under subsection (3) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

(7) If an educational institution is required by federal, state, or local order issued in response to the COVID-19 public health emergency to alter instruction, the burden of proof for any plaintiff bringing an action against the educational institution for such change shall be by clear and convincing evidence to prevail for damages against the institution.

Section 3. This act is effective upon becoming a law.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the impact of COVID-19 on
educational institutions; amending s. 464.019, F.S.;
requiring the Board of Nursing to extend an approved
program's probationary status under certain
circumstances; creating s. 768.39, F.S.; providing
legislative findings; defining the term "educational
institution"; prohibiting an educational institution
that has taken certain reasonably necessary actions to



502390

diminish the impact or spread of COVID-19 from being
civilly liable for such actions; specifying that the
provision of certain services by educational
institutions was impossible during certain periods of
time; providing that certain reasonably necessary
actions are deemed justified; providing that general
publications of educational institutions are not
evidence of an implied contract to provide specified
services during the COVID-19 public health emergency;
providing exceptions; providing severability;
specifying conditions for an action against an
educational institution; providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Gruters) recommended the following:

Senate Amendment to Amendment (502390) (with title amendment)

Delete lines 92 - 139
and insert:
nonpublic. The Board of Governors of the State University System and the State Board of Education are also included within the immunity protections afforded by this section.

(3) (a) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may



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not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

1. Shifting in-person instruction to online or remote instruction for any period of time.

2. Closing or modifying the provision of facilities, other than housing or dining facilities, on the campus of the educational institution.

3. Pausing or modifying ancillary student activities and services available through the educational institution.

(b) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions during any period of time in which such institutions took reasonably necessary actions described in paragraph (a) to protect students, staff, and educators in response to the COVID-19 public health emergency.

(c) As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in paragraph (a) are deemed justified.

(4) In any action against an educational institution, the Board of Governors of the State University System, or the State Board of Education for the reimbursement of tuition or fees, invoices, catalogs, and general publications of an educational institution are not evidence of an express or implied contract to provide in-person or on-campus education and related services or access to facilities during the COVID-19 public health



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emergency.

(5) (a) This section does not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.

(b) This section does not apply to losses or damages caused by an act or omission of a college or university which was in bad faith or malicious.

(6) If any aspect of the immunity under subsection (3) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

(7) If an educational institution is required by federal, state, or local order or a directive of the Board of Governors of the State University System or the State Board of Education issued in response to the COVID-19 public health emergency to alter the mode of delivery of instruction and related services or access to facilities, the burden of proof for

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

And the title is amended as follows:

Delete lines 162 - 164

and insert:

actions are deemed justified; providing that certain publications of educational institutions are not evidence of an express or implied contract to provide specified



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (502390) (with title amendment)

Between lines 142 and 143
insert:

Section 3. In recognition of the public health emergency caused by the COVID-19 pandemic, and notwithstanding any other provision in law:

(1) School grades calculated for the 2020-2021 school year may be used for eligibility for the Florida School Recognition Program established under s. 1008.36, Florida Statutes, as



487960

provided in the General Appropriations Act.

(2) A school currently in turnaround status pursuant to s. 1008.33, Florida Statutes, may exit turnaround status if the school receives a grade of "C" or better.

(3) A school or approved provider under s. 1002.45, Florida Statutes, which receives the same or a lower school grade or school improvement rating for the 2020-2021 school year compared to the 2018-2019 school year is not subject to sanctions or penalties that would otherwise occur as a result of the 2020-2021 school grade or school improvement rating. A charter school system or a school district designated as high-performing may not lose the designation based on the 2020-2021 school grade of any of the schools within the charter school system or school district, as applicable.

(4) Notwithstanding s. 1008.25, Florida Statutes, a parent or guardian may request that his or her K-5 public school student be retained for the 2021-2022 school year in the grade level to which the student was assigned at the beginning of the 2020-2021 school year, provided that such request is made for academic reasons.

(a) A parent or guardian who wishes for his or her student to be retained as provided by this act must submit, in writing, to the school principal a retention request that specifies the academic reasons for the retention. Only requests received by the principal on or before June 30, 2021, must be considered. A principal may consider a request received after that date at his or her discretion.

(b)1. A principal who considers a retention request submitted pursuant to this subsection shall inform the student's



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41 teachers of the retention request and collaboratively discuss
42 with the parent or guardian any basis for agreement or
43 disagreement with the request. As part of the discussion with
44 the parent or guardian, the principal shall disclose that
45 retention may impact the student's eligibility to participate in
46 high school interscholastic or intrascholastic sports due to the
47 student's age.

48 2. In lieu of retention, the principal, teachers, and
49 parent or guardian may collaborate to develop a customized 1-
50 year education plan for the student with the intent of helping
51 the student return to grade level readiness by the end of the
52 next academic year. Such plan may include, but need not be
53 limited to, supplemental educational support, services, and
54 interventions; summer education; promotion in some, but not all,
55 courses; and midyear promotion.

56 3. The parent's or guardian's decision to promote or retain
57 his or her student after discussing the retention request with
58 the principal shall control.

59 (c) If a student retained under this subsection has an
60 individual education plan (IEP) in effect, the student's IEP
61 team shall convene to review and revise the student's IEP, as
62 appropriate.

63 (d) By June 30, 2022, school districts shall report to the
64 Department of Education the number of students retained pursuant
65 to this act for all or part of the 2021-2022 school year.

66 (5) A student who meets all of the requirements for
67 graduation at the end of the 2020-2021 school year except for
68 passing either or both statewide, standardized assessments
69 required pursuant to s. 1003.4282(3)(a) and (b), Florida



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Statutes, will be deemed to have met all of the requirements for graduation.

(6) Student performance results from the 2020-2021 statewide, standardized assessments may not be used for calculating student performance measurement and evaluating personnel pursuant to s. 1012.34, Florida Statutes.

(7) The provision in s. 1002.61(2)(a), Florida Statutes, that requires a summer prekindergarten program delivered by a public school or private prekindergarten provider to consist of at least 300 hours is waived. The 2021 summer prekindergarten program must consist of at least 200 hours. The full-time equivalent calculation for a student in a summer 2021 prekindergarten program delivered by a public school or private prekindergarten provider under s. 1002.71(2)(b), Florida Statutes, shall be prorated for the number of instructional hours reported.

(8) The requirement in s. 1002.89(6), Florida Statutes, that no more than 22 percent of the state, federal, and local matching funds provided to an early learning coalition to implement its approved school readiness program plan be used for any combination of administrative costs, quality activities, and nondirect services is waived for the 2020-2021 and 2021-2022 school years, provided that the funds are used for purposes of emergency recovery and direct support to providers.

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

And the title is amended as follows:

Delete line 168
and insert:



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educational institution; authorizing school grades calculated during a certain school year to be used for eligibility for the Florida School Recognition Program; authorizing a school in turnaround status to exit turnaround status if the school receives a grade of "C" or better; exempting certain schools or approved providers from being subject to sanctions or penalties as a result of school grade or school improvement ratings earned during a certain school year; prohibiting a high-performing charter school system or school district from losing such designation based on school grades earned during a certain school year; authorizing a parent or guardian to request that his or her K-5 student be retained in a grade level for academic reasons for a specified school year; requiring that such a request be submitted in a specified manner; requiring school principals to consider such requests if they are timely received; authorizing school principals to consider requests that are not timely received; requiring a school principal who considers a request for retention to inform the student's teachers of the request and collaboratively discuss with the parent or guardian any basis for agreement or disagreement with the request; requiring such discussion to disclose that retention may impact the student's eligibility to participate in high school interscholastic or intrascholastic sports; authorizing the principal, teachers, and parent or guardian to collaborate to



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develop a customized 1-year education plan for the student in lieu of retaining the student; requiring a parent's or guardian's decision regarding retention to control; requiring the individual education plan (IEP) team for a retained student to review and revise the student's IEP, as appropriate; requiring school districts to report certain data to the department by a specified date; authorizing certain students to graduate; prohibiting certain performance results from being used for calculating student performance measurement and for evaluating personnel; waiving a provision requiring summer prekindergarten programs to consist of at least 300 hours; waiving a requirement that no more than 22 percent of certain funds provided to an early learning coalition be used for certain purposes; providing an effective date.



269424

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (502390) (with title amendment)

Between lines 142 and 143
insert:

Section 3. Notwithstanding s. 1008.25, Florida Statutes, a parent or guardian may request that his or her K-5 public school student be retained for the 2021-2022 school year in the grade level to which the student was assigned at the beginning of the 2020-2021 school year, provided that such request is made for academic reasons.



269424

12 (1) A parent or guardian who wishes for his or her student
13 to be retained as provided by this act must submit, in writing,
14 to the school principal a retention request that specifies the
15 academic reasons for the retention. Only requests received by
16 the principal on or before June 30, 2021, must be considered. A
17 principal may consider a request received after that date at his
18 or her discretion.

19 (2) (a) A principal who considers a retention request
20 submitted pursuant to this subsection shall inform the student's
21 teachers of the retention request and collaboratively discuss
22 with the parent or guardian any basis for agreement or
23 disagreement with the request. As part of the discussion with
24 the parent or guardian, the principal shall disclose that
25 retention may impact the student's eligibility to participate in
26 high school interscholastic or intrascholastic sports due to the
27 student's age.

28 (b) In lieu of retention, the principal, teachers, and
29 parent or guardian may collaborate to develop a customized 1-
30 year education plan for the student with the intent of helping
31 the student return to grade level readiness by the end of the
32 next academic year. Such plan may include, but need not be
33 limited to, supplemental educational support, services, and
34 interventions; summer education; promotion in some, but not all,
35 courses; and midyear promotion.

36 (c) The parent's or guardian's decision to promote or
37 retain his or her student after discussing the retention request
38 with the principal shall control.

39 (3) If a student retained under this subsection has an
40 individual education plan (IEP) in effect, the student's IEP



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team shall convene to review and revise the student's IEP, as appropriate.

(4) By June 30, 2022, school districts shall report to the Department of Education the number of students retained pursuant to this act for all or part of the 2021-2022 school year.

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

And the title is amended as follows:

Delete line 168

and insert:

educational institution; authorizing a parent or guardian to request that his or her K-5 student be retained in a grade level for academic reasons for a specified school year; requiring that such a request be submitted in a specified manner; requiring school principals to consider such requests if they are timely received; authorizing school principals to consider requests that are not timely received; requiring a school principal who considers a request for retention to inform the student's teachers of the request and collaboratively discuss with the parent or guardian any basis for agreement or disagreement with the request; requiring such discussion to disclose that retention may impact the student's eligibility to participate in high school interscholastic or intrascholastic sports; authorizing the principal, teachers, and parent or guardian to collaborate to develop a customized 1-year education plan for the student in lieu of retaining the student; requiring a



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70 parent's or guardian's decision regarding retention to
71 control; requiring the individual education plan (IEP)
72 team for a retained student to review and revise the
73 student's IEP, as appropriate; requiring school
74 districts to report certain data to the department by
75 a specified date; providing an effective date.

By the Committee on Education

581-03571-21

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1 A bill to be entitled
 2 An act relating to the impact of COVID-19 on
 3 educational institutions; amending s. 464.019, F.S.;
 4 requiring the Board of Nursing to extend an approved
 5 program's probationary status under certain
 6 circumstances; creating s. 768.39, F.S.; providing
 7 legislative findings; defining the term "educational
 8 institution"; prohibiting an educational institution
 9 that has taken certain reasonably necessary actions to
 10 diminish the impact or spread of COVID-19 from being
 11 civilly liable for such actions; specifying that the
 12 provision of certain services by educational
 13 institutions was impossible during certain periods of
 14 time; providing that certain reasonably necessary
 15 actions are deemed justified; providing that general
 16 publications of educational institutions are not
 17 evidence of an implied contract to provide specified
 18 services during the COVID-19 public health emergency;
 19 providing exceptions; providing severability;
 20 providing for retroactive applicability; authorizing
 21 school grades calculated during a certain school year
 22 to be used for eligibility for the Florida School
 23 Recognition Program; authorizing a school in
 24 turnaround status to exit turnaround status if the
 25 school receives a grade of "C" or better; exempting
 26 certain schools or approved providers from being
 27 subject to sanctions or penalties as a result of
 28 school grade or school improvement ratings earned
 29 during a certain school year; prohibiting a high-

Page 1 of 11

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

581-03571-21

20217070__

30 performing charter school system or school district
 31 from losing such designation based on school grades
 32 earned during a certain school year; authorizing a
 33 parent or guardian to request that his or her K-5
 34 student be retained in a grade level for academic
 35 reasons for a specified school year; requiring that
 36 such a request be submitted in a specified manner;
 37 requiring school principals to consider such requests
 38 if they are timely received; authorizing school
 39 principals to consider requests that are not timely
 40 received; requiring a school principal who considers a
 41 request for retention to inform the student's teachers
 42 of the request and collaboratively discuss with the
 43 parent or guardian any basis for agreement or
 44 disagreement with the request; requiring such
 45 discussion to disclose that retention may impact the
 46 student's eligibility to participate in high school
 47 interscholastic or intrascholastic sports; authorizing
 48 the principal, teachers, and parent or guardian to
 49 collaborate to develop a customized 1-year education
 50 plan for the student in lieu of retaining the student;
 51 requiring a parent's or guardian's decision regarding
 52 retention to control; requiring the individual
 53 education plan (IEP) team for a retained student to
 54 review and revise the student's IEP, as appropriate;
 55 requiring school districts to report certain data to
 56 the Department of Education by a specified date;
 57 authorizing certain students to graduate; prohibiting
 58 certain performance results from being used for

Page 2 of 11

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581-03571-21

20217070__

calculating student performance measurement and for evaluating personnel; waiving a provision requiring summer prekindergarten programs to consist of at least 300 hours; waiving a requirement that no more than 22 percent of certain funds provided to an early learning coalition be used for certain purposes; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) of section 464.019, Florida Statutes, is amended to read:

464.019 Approval of nursing education programs.—

(5) ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage rate for first-time test takers which is not more than 10 percentage points lower than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

a. Professional nursing education programs that terminate in a bachelor's degree.

b. Professional nursing education programs that terminate in an associate degree.

581-03571-21

20217070__

c. Professional nursing education programs that terminate in a diploma.

d. Practical nursing education programs.

2. If an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board may extend the program's probationary status for 1 additional year, provided the program has demonstrated adequate progress toward the graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan. If the program is not granted the 1-year extension or fails to achieve the

581-03571-21 20217070

required passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120. If a program on probationary status fails to achieve the required passage rate for the 2020 calendar year, including a program subject to termination during the 2021 calendar year, the board shall extend the program's probationary status for 1 additional year. The board shall grant such extension at a regularly scheduled meeting during the 2021 calendar year.

Section 2. Section 768.39, Florida Statutes, is created to read:

768.39 Immunity for educational institutions for actions related to the COVID-19 pandemic.-

(1) The Legislature finds that during the COVID-19 pandemic, educational institutions had little choice but to close or restrict access to their campuses in an effort to protect the health of their students, educators, staff, and communities. Despite these efforts, more than 120,000 cases of COVID-19 have been linked to colleges and universities nationwide, and the deaths of more than 100 college students have been attributed to the disease. The Legislature further finds that lawsuits against educational institutions based on their efforts to provide educational services while keeping students, faculty, staff, and communities safe during the COVID-19 public health emergency are without legal precedent. One court has even acknowledged that the "legal system is now feeling COVID-19's havoc with the current wave of class action lawsuits that seek tuition reimbursement related to forced online tutelage." Under these circumstances, the Legislature finds that there is an overpowering public necessity for, and no

581-03571-21 20217070

reasonable alternative to, providing educational institutions with liability protections against lawsuits seeking tuition or fee reimbursements or related damages resulting from the institutions changing the delivery of educational services, limiting access to facilities, or closing campuses during the COVID-19 public health emergency.

(2) For the purposes of this section, the term "educational institution" has the same meaning as in s. 768.38(2).

(3) (a) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

1. Shifting in-person instruction to online or remote instruction for any period of time.

2. Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution.

3. Pausing or modifying ancillary student activities and services available through the educational institution.

(b) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions during any period of time in which such institutions took reasonably necessary actions described in paragraph (a) to protect students, staff, and educators in response to the COVID-19 public health emergency.

581-03571-21

20217070

(c) As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in paragraph (a) are deemed justified.

(4) In any action against an educational institution for the reimbursement of tuition or fees, general publications of the institution are not evidence of an implied contract to provide in-person or on-campus education and related services or access to facilities during the COVID-19 public health emergency.

(5) (a) This section does not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.

(b) This section does not apply to losses or damages caused by an act or omission of a college or university which was in bad faith or malicious.

(6) If any aspect of the immunity under subsection (3) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

(7) This section shall apply retroactively to causes of actions accruing on or after March 1, 2020, the date of the declaration of the COVID-19 public health emergency by the State Surgeon General, and shall apply prospectively to causes of action that accrue before the end of the academic term during which the emergency declaration expires or is terminated.

Section 3. In recognition of the public health emergency

581-03571-21

20217070

caused by the COVID-19 pandemic, and notwithstanding any other provision in law:

(1) School grades calculated for the 2020-2021 school year may be used for eligibility for the Florida School Recognition Program established under s. 1008.36, Florida Statutes, as provided in the General Appropriations Act.

(2) A school currently in turnaround status pursuant to s. 1008.33, Florida Statutes, may exit turnaround status if the school receives a grade of "C" or better.

(3) A school or approved provider under s. 1002.45, Florida Statutes, which receives the same or a lower school grade or school improvement rating for the 2020-2021 school year compared to the 2018-2019 school year is not subject to sanctions or penalties that would otherwise occur as a result of the 2020-2021 school grade or school improvement rating. A charter school system or a school district designated as high-performing may not lose the designation based on the 2020-2021 school grade of any of the schools within the charter school system or school district, as applicable.

(4) Notwithstanding s. 1008.25, Florida Statutes, a parent or guardian may request that his or her K-5 public school student be retained for the 2021-2022 school year in the grade level to which the student was assigned at the beginning of the 2020-2021 school year, provided that such request is made for academic reasons.

(a) A parent or guardian who wishes for his or her student to be retained as provided by this act must submit, in writing, to the school principal a retention request that specifies the academic reasons for the retention. Only requests received by

581-03571-21 20217070__

233 the principal on or before June 30, 2021, must be considered. A
 234 principal may consider a request received after that date at his
 235 or her discretion.

236 (b)1. A principal who considers a retention request
 237 submitted pursuant to this subsection shall inform the student's
 238 teachers of the retention request and collaboratively discuss
 239 with the parent or guardian any basis for agreement or
 240 disagreement with the request. As part of the discussion with
 241 the parent or guardian, the principal shall disclose that
 242 retention may impact the student's eligibility to participate in
 243 high school interscholastic or intrascholastic sports due to the
 244 student's age.

245 2. In lieu of retention, the principal, teachers, and
 246 parent or guardian may collaborate to develop a customized 1-
 247 year education plan for the student with the intent of helping
 248 the student return to grade level readiness by the end of the
 249 next academic year. Such plan may include, but need not be
 250 limited to, supplemental educational support, services, and
 251 interventions; summer education; promotion in some, but not all,
 252 courses; and midyear promotion.

253 3. The parent's or guardian's decision to promote or retain
 254 his or her student after discussing the retention request with
 255 the principal shall control.

256 (c) If a student retained under this subsection has an
 257 individual education plan (IEP) in effect, the student's IEP
 258 team shall convene to review and revise the student's IEP, as
 259 appropriate.

260 (d) By June 30, 2022, school districts shall report to the
 261 Department of Education the number of students retained pursuant

581-03571-21 20217070__

262 to this act for all or part of the 2021-2022 school year.

263 (5) A student who meets all of the requirements for
 264 graduation at the end of the 2020-2021 school year except for
 265 passing either or both statewide, standardized assessments
 266 required pursuant to s. 1003.4282(3)(a) and (b), Florida
 267 Statutes, will be deemed to have met all of the requirements for
 268 graduation.

269 (6) Student performance results from the 2020-2021
 270 statewide, standardized assessments may not be used for
 271 calculating student performance measurement and evaluating
 272 personnel pursuant to s. 1012.34, Florida Statutes.

273 (7) The provision in s. 1002.61(2)(a), Florida Statutes,
 274 that requires a summer prekindergarten program delivered by a
 275 public school or private prekindergarten provider to consist of
 276 at least 300 hours is waived. The 2021 summer prekindergarten
 277 program must consist of at least 200 hours. The full-time
 278 equivalent calculation for a student in a summer 2021
 279 prekindergarten program delivered by a public school or private
 280 prekindergarten provider under s. 1002.71(2)(b), Florida
 281 Statutes, shall be prorated for the number of instructional
 282 hours reported.

283 (8) The requirement in s. 1002.89(6), Florida Statutes,
 284 that no more than 22 percent of the state, federal, and local
 285 matching funds provided to an early learning coalition to
 286 implement its approved school readiness program plan be used for
 287 any combination of administrative costs, quality activities, and
 288 nondirect services is waived for the 2020-2021 and 2021-2022
 289 school years, provided that the funds are used for purposes of
 290 emergency recovery and direct support to providers.

581-03571-21

20217070__

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Section 4. This act is effective upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/HB 259

INTRODUCER: Judiciary Committee; Education and Employment Committee; and Representatives Williamson, Byrd, and others

SUBJECT: Safety of Religious Institutions

DATE: April 13, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ravelo</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

I. Summary:

CS/CS/HB 259 addresses the possession of a concealed weapon or firearm for defensive purposes on property used by religious institutions that are co-located with schools. Under existing law, a person who has a concealed weapon or firearm license may legally carry a firearm inside a church, synagogue, or other religious institution. However, the person is generally prohibited from carrying a firearm on property that is located in an area where firearms are prohibited, such as a school. Under the bill, a person who has a concealed weapon or firearm license may carry a concealed weapon or firearm on the property of a religious institution regardless of whether the property is also used as a school.

The bill expressly states that it “does not limit the private property rights of a church, synagogue, or other religious institution to exercise control over property that the church, synagogue, or other religious institution owns, rents, leases, borrows, or lawfully uses.” Accordingly, religious institutions and owners of property borrowed or used by a religious institution may continue to regulate and prohibit firearms on their own property.

The bill becomes effective upon becoming law.

II. Present Situation:

Concealed Weapon and Firearm Licenses

Florida is known as a “shall issue”¹ state for applications for concealed weapon and firearm licenses.² The Department of Agriculture and Consumer Services (department) must review and either issue or deny a license within 90 days after receiving an application.³ As of February 28, 2021, there were 2,515,678 concealed weapon or firearm licensees in Florida.⁴

Denial of a license must occur if an applicant:

- Is not a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is not 21 years of age or older;
- Suffers from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has been convicted of a felony;
- Has been found guilty of a controlled substances crime within the previous 3 years;
- Has been committed for the abuse of a controlled substance;⁵
- Suffers from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;⁶
- Does not intend to carry a concealed weapon or firearm for lawful self-defense;
- Fails to demonstrate competency with a firearm;⁷
- Has been adjudicated as an incapacitated person;
- Has been committed to a mental institution;⁸

¹ Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a “shall issue,” or “may issue” basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law. New York may deny a license, for example, if the applicant fails to demonstrate “proper cause” or lacks “good moral character” as determined by a judge reviewing the application. N.Y. Penal Law s. 400.00.

² Section 790.06(2), F.S.

³ Section 790.06(6)(c), F.S.

⁴ Florida Department of Agriculture and Consumer Services, Division of Licensing, *Number of Licenses by Type*, January 31, 2021, available at https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited March 4, 2021).

⁵ An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.

⁶ The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a 3-year period preceding the date which the application is submitted.

⁷ There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services.

⁸ An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.

- Has had an adjudication of guilt withheld or a suspended sentence for a felony unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; or
- Is prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.⁹

Additionally, the department must suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.¹⁰ The department is also required to suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹¹

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.¹² According to s. 790.06(12)(a), F.S, the license, however, “does not authorize any person to carry a concealed weapon or firearm into:”

- Any place of nuisance;¹³
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;¹⁴
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;¹⁵

⁹ Section 790.01(2), F.S.

¹⁰ Section 790.06(3), F.S.

¹¹ *Id.*

¹² Section 790.06(1), F.S.

¹³ See s. 823.05, F.S., for an extensive description of places of nuisance.

¹⁴ However, Judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.

¹⁵ However, a “student, employee, or faculty member” may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.

- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.¹⁶

While a concealed weapon or firearm license is generally needed when carrying a concealed firearm, there are instances where an individual may legally possess or carry a firearm without a license, so long as they are not a prohibited firearm possessor.¹⁷ These instances include an individual:

- Fishing, camping, or hunting or going to or returning from fishing, camping, or hunting;
- Who is in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- Firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- Traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession; or
- At his or her home or place of business.¹⁸

Firearms Prohibited on School Property

A person may not possess any firearm on the property of any school except as authorized in support of school activities.¹⁹

There are five exceptions to this general rule. A person may carry a firearm on school property:

- In a case to a firearms program, class, or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;
- In a case to a career center having a firearms training range;
- In a vehicle pursuant to s. 790.25(5), F.S.; except that school districts may adopt written and published policies that waive this exception for purposes of student and campus parking privileges, thereby not allowing students to have firearms in their vehicles on campus;²⁰
- If he or she is a law enforcement officer;²¹ or
- If he or she is a school guardian acting under the Coach Aaron Feis Guardian Program.²²

¹⁶ Section 790.06(12)(a)1.-15., F.S.

¹⁷ Those prohibited from possessing a firearm include convicted felons whose civil rights have not been restored. Section 790.23, F.S.

¹⁸ Section 790.25(3), F.S. This authority to carry a concealed firearm without a license applies to where "business is transacted." *State v. Little*, 104 So. 3d 1263, 1266 (Fla. 4th DCA 2013) (Finding that a labor union official could not be charged with carrying a concealed firearm while at the union hall because the union hall was his place of business).

¹⁹ Section 790.115(2)(a), F.S.

²⁰ Section 790.115(2)(a)1.-3., F.S. Note that the ability to adopt written and published policies waiving the exception for student and campus parking does not extend to institutions of higher learning, i.e. colleges and universities. *Florida Carry v. University of North Florida*, 133 So.3d 966 (Fla.1st DCA 2013).

²¹ Section 790.115(3), F.S.

²² Section 1006.12, F.S.

“School” means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.²³

Firearms and Religious Institutions

In response to violent incidents targeting religious institutions,²⁴ some churches in other states have opted to form “security teams” for the purpose of keeping their congregation safe during services.²⁵ These security teams are often comprised of individuals having concealed weapons licenses who carry concealed firearms during service on a voluntary basis.²⁶

Florida law does not prohibit a licensee from carrying a concealed firearm inside a church or other religious institution. However, some churches are co-located with a school where concealed firearms are expressly prohibited.²⁷ The firearm prohibition makes it more difficult for co-located religious institutions to implement a security team because the religious institution would be limited to using individuals who are authorized to carry a concealed firearm on school properties, such as law enforcements officers.²⁸

III. Effect of Proposed Changes:

Under the bill, a person who has a concealed weapons license may carry a concealed weapon or firearm on the property of a religious institution, such as a church or a synagogue, which is co-located with a school. The bill provides that notwithstanding any other law, for purposes of safety, security, personal protection, or any other lawful purpose, a person with a concealed weapons license may carry a concealed weapon or firearm on property owned; rented; leased; borrowed; or lawfully used by a church, synagogue, or other religious institution.²⁹

The bill expressly states that it “does not limit the private property rights of a church, synagogue, or other religious institution to exercise control over property that the church, synagogue, or other religious institution owns, rents, leases, borrows, or lawfully uses.”

The bill takes effect upon becoming law.

²³ Section 790.115(2)(a), F.S.

²⁴ Section 199.183(2)(a), F.S., defines “religious institutions” as churches and ecclesiastical or denominational organizations having established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted, as well as church cemeteries.

²⁵ Nichole Manna, *After shooting, how can Texas churches keep members safe and still welcome all people?*, FORT WORTH STAR TELEGRAM (December 31, 2019), <https://www.star-telegram.com/news/state/texas/article238834258.html> (last visited February 24, 2021). Texas revised its law in 2019, following a church shooting, to clarify that persons could carry firearms in churches unless given notice to the contrary. See S.B. 535, Senator Campbell, effective September 1, 2019, available at <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00535F.pdf> (last visited March 2, 2021). See also Hon. Ken Paxton, Attorney General of Texas, Opinion No. KP-0176, December 21, 2017, available at <https://www.texasattorneygeneral.gov/sites/default/files/opinion-files/opinion/2017/kp0176.pdf> (last visited March 2, 2021).

²⁶ *Id.*

²⁷ Sections 790.115(2)(a) and 790.06(12)(a), F.S.

²⁸ Section 790.115(3), F.S.

²⁹ The terms church, synagogue, and religious institution are not defined in the bill.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill may reduce security costs for religious institutions. Churches co-located with schools, for example, may use volunteers having concealed weapons licenses in lieu of hiring off-duty law enforcement officers to provide security.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



706888

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 12 - 26

and insert:

Section 1. Subsection (12) of section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(12) (a) A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or firearm into:

1. Any place of nuisance as defined in s. 823.05;



706888

12 2. Any police, sheriff, or highway patrol station;
13 3. Any detention facility, prison, or jail;
14 4. Any courthouse;
15 5. Any courtroom, except that nothing in this section would
16 preclude a judge from carrying a concealed weapon or determining
17 who will carry a concealed weapon in his or her courtroom;
18 6. Any polling place;
19 7. Any meeting of the governing body of a county, public
20 school district, municipality, or special district;
21 8. Any meeting of the Legislature or a committee thereof;
22 9. Any school, college, or professional athletic event not
23 related to firearms;
24 10. Any elementary or secondary school facility or
25 administration building;
26 11. Any career center;
27 12. Any portion of an establishment licensed to dispense
28 alcoholic beverages for consumption on the premises, which
29 portion of the establishment is primarily devoted to such
30 purpose;
31 13. Any college or university facility unless the licensee
32 is a registered student, employee, or faculty member of such
33 college or university and the weapon is a stun gun or nonlethal
34 electric weapon or device designed solely for defensive purposes
35 and the weapon does not fire a dart or projectile;
36 14. The inside of the passenger terminal and sterile area
37 of any airport, provided that no person shall be prohibited from
38 carrying any legal firearm into the terminal, which firearm is
39 encased for shipment for purposes of checking such firearm as
40 baggage to be lawfully transported on any aircraft; or



706888

41 15. Any place where the carrying of firearms is prohibited
42 by federal law.

43 (b) A person licensed under this section may ~~shall~~ not be
44 prohibited from carrying or storing a firearm in a vehicle for
45 lawful purposes.

46 (c)1. Subject to the prohibitions contained in this
47 subsection or s. 790.115, a church, a synagogue, or any other
48 religious institution as defined in s. 496.404 may authorize a
49 person licensed under this section to carry a concealed firearm
50 in an established physical place of worship at which religious
51 services are regularly conducted, provided that:

52 a. If such property is not owned by the religious
53 institution, the religious institution receives the permission
54 of the property owner or administrator; and

55 b. If the religious institution is using property that is
56 an elementary or a secondary school facility, a career center,
57 or is located on the property of a school as defined in s.
58 790.115, the person may not carry a concealed firearm on school
59 property during school hours or during any time when curricular
60 or extracurricular school-sponsored activities are taking place
61 on the property.

62 2. This paragraph does not authorize the carrying of a
63 firearm in any place or in any manner prohibited by federal law
64 or on the property of a public or private college, university,
65 or other postsecondary educational institution.

66 ~~(d)(e)~~ This section does not modify the terms or conditions
67 of s. 790.251(7).

68 ~~(e)(d)~~ Any person who knowingly and willfully violates ~~any~~
69 ~~provision of~~ this subsection commits a misdemeanor of the second



706888

degree, punishable as provided in s. 775.082 or s. 775.083.

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

And the title is amended as follows:

Delete lines 3 - 7

and insert:

institutions; amending s. 790.06, F.S.; authorizing a
church, a synagogue, or any other religious
institution to allow a concealed weapon or firearm
licensee to carry a concealed firearm in certain
places of worship under specified circumstances;
providing applicability;

CS/CS/HB 259

2021

1 A bill to be entitled
2 An act relating to the safety of religious
3 institutions; amending s. 790.06, F.S.; authorizing,
4 for specified purposes, a concealed weapons or
5 firearms licensee to carry a concealed weapon or
6 firearm on certain property of a church, synagogue, or
7 other religious institution; providing applicability;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsections (13) through (17) of section
13 790.06, Florida Statutes, are renumbered as subsections (14)
14 through (18), respectively, and a new subsection (13) is added
15 to that section to read:
16 790.06 License to carry concealed weapon or firearm.—
17 (13) Notwithstanding any other law, for the purposes of
18 safety, security, personal protection, or any other lawful
19 purpose, a person licensed under this section may carry a
20 concealed weapon or firearm on property owned, rented, leased,
21 borrowed, or lawfully used by a church, synagogue, or other
22 religious institution. This subsection does not limit the
23 private property rights of a church, synagogue, or other
24 religious institution to exercise control over property that the
25 church, synagogue, or other religious institution owns, rents,

Page 1 of 2

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

hb0259-02-c2

CS/CS/HB 259

2021

26 leases, borrows, or lawfully uses.
27 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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

hb0259-02-c2

CourtSmart Tag Report

Room: KB 412
Caption: Senate Rules Committee

Case No.: -
Judge:

Type:

Started: 4/14/2021 9:04:15 AM

Ends: 4/14/2021 2:00:14 PM

Length: 04:56:00

9:04:13 AM Meeting called to order
9:04:19 AM Roll call
9:04:22 AM Quorum is present
9:04:51 AM Chair Passidomo: Tab 2 CS/SB 78 Dues and Uniform Assessments by Senator Rodrigues and Tab 9 SB 2012 Promoting Equality of Athletic Opportunity by Senator Stargel are temporarily postponed
9:05:08 AM Chair Passidomo relays instructions to the public at the Civic Center on appearances
9:05:56 AM Tab 1 HB 529 Moments of Silence in Public Schools by Representative Fine and others
9:06:03 AM Senator Mayfield moves reconsideration motion of Senator Farmer carried over from our last meeting
9:06:20 AM Chair: Senator Mayfield moves to reconsider passage of HB 529; is there any debate: none
9:06:23 AM The motion fails
9:06:47 AM Tab 5 CS/SB 266 Home-based Businesses by Senator Perry
9:06:55 AM Senator Perry explains the bill
9:07:07 AM Amendment 248258 by Senator Perry is explained
9:07:36 AM No questions
9:07:43 AM No public appearance
9:08:08 AM No debate
9:08:10 AM Senator Perry waives close
9:08:13 AM Amendment 248258 is adopted
9:08:21 AM Back on the bill
9:08:35 AM Questions:
9:08:45 AM Senator Gibson with a question regarding neighborhoods
9:08:51 AM Senator Perry responds
9:09:06 AM Senator Gibson asks about height restrictions
9:09:21 AM Senator Perry refers to the bill
9:09:55 AM Public appearance:
9:09:58 AM Tim Nungesser, National Federal Independent Business with information
9:11:02 AM David Cruz, Florida League of Cities Inc., speaks on the bill
9:11:41 AM Jason Steele, City of Satellite Beach, City of Indialantic, speaks in opposition
9:13:07 AM Courtney Barker, City Manager of Satellite Beach, speaks in opposition
9:14:36 AM In debate:
9:14:42 AM Senator Gibson in debate on amendment
9:15:41 AM Senator Perry closes
9:16:18 AM Roll call
9:16:21 AM CS/CS/SB 266 is reported favorably
9:17:01 AM Tab 6 426 State Preemption of Seaport Regulations by Senator Boyd
9:17:19 AM Amendment 189734 by Senator Boyd is explained
9:18:22 AM No questions
9:19:23 AM Public appearance
9:19:39 AM Warren Husband, Florida Harbor Pilots Association, speaks in support of the bill
9:24:04 AM Michael Rubin, Florida Port's Council, speaks in support of the amendment
9:24:27 AM Question from Senator Powell to Michael Rubin
9:24:50 AM Michael Rubin answers
9:24:50 AM No further public appearance on the amendment
9:25:30 AM No debate
9:25:37 AM Senator Boyd closes
9:25:42 AM Amendment 189734 is adopted
9:26:08 AM Back on the bill as amended
9:26:15 AM Questions: Senator Thurston asks about affected ports
9:26:35 AM Senator Boyd responds
9:27:11 AM Public appearance:
9:27:17 AM Michael Halpern, Small Businesses of Key West, speaks in support
9:31:05 AM Danny Hughes, past Port Commissioner for Key West, speaks in support

9:34:39 AM Holly Parker Curry, Surfrider Foundation, speaks against
 9:36:25 AM Jessica Lewis, Sierra Club Florida, speaks against
 9:37:51 AM Warren Husband, Florida Harbor Pilots Association in support
 9:38:15 AM Teri Johnston, Mayor of Key West, speaks in opposition
 9:42:00 AM Chair recalls Teri Johnston, Mayor Key West to answer question
 9:42:08 AM Senator Powell questions Mayor re: referendum impact
 9:43:07 AM Mayor Johnston responds
 9:44:16 AM Senator Powell asks if initiative is restrictive
 9:44:39 AM Mayor Johnston responds
 9:45:33 AM Josh Aubuchon, Florida Ports for Economic Independence, speaks against
 9:45:51 AM People from Key West in opposition:
 9:48:30 AM Evan Haskell, Key West Bicycle Shop, speaks against
 9:51:02 AM Billy Litmer, Biologist and Captain of Charter Boat -speaks against
 9:53:39 AM Chair asks speakers to limit their comments to 2 minutes
 9:53:56 AM Arlo Haskell, Key West, Florida, speaks against
 9:57:00 AM Jolly Benson, Lighting Design & Installer, speaks against the bill
 9:59:59 AM Chair reminds speakers about time limitations
 10:00:05 AM Nathaniel Linville, Business Owner and Fisherman, speaks against
 10:01:48 AM Shawn Martin, Surfrider Foundation - Florida Keys, speaks against
 10:03:53 AM Kate Miano, Inn Owner, speaks against
 10:06:08 AM Captain Will Benson, Flats Fishing Representative for the Florida National Marine Sanctuary Advisory Council, speaks against
 10:08:16 AM Jack Davis, Commercial Fisherman, blue collar business owner, speaks against
 10:09:49 AM Chad Huff, Florida Keys Flats Fishing Guide, speaks against
 10:12:35 AM Chair makes comments to speakers at the civic center
 10:12:56 AM Jillian Tisdale, Women in Fishing, Flyfishing speaks against
 10:14:26 AM Tony Yanizel, Former City Commissioner of Key West, speaks against
 10:16:03 AM Capt. Andrew Tipler, President Lower Keys Guides Association, speaks against
 10:17:49 AM Rita Troxel, Retired Film Commissioner Tourism, speaks against
 10:19:09 AM Ian Slater, Fishing Guide, speaks against
 10:20:48 AM Brian Stilley, Fishing Guide, Lower Keys Angling LLC, speaks against
 10:23:02 AM Jose Pagan, Sugar Loaf Shores Property Owners Association, speaks against
 10:24:30 AM Ida V. Eskamani, Florida Rising, speaks against
 10:25:07 AM Debate
 10:25:12 AM Senator Book in debate
 10:25:42 AM Senator Book comments on how bill has changed
 10:26:04 AM Senator Powell in debate
 10:26:33 AM Senator Farmer in debate
 10:29:19 AM Senator Bracy in debate and asks Senator Boyd to address the concerns heard from the Key West residents
 10:30:18 AM Senator Boyd closes
 10:33:51 AM Roll call: CS/CS/CS/SB426 is reported favorably
 10:34:56 AM CS/CS/SB 90 Election Administration by Senator Baxley
 10:35:29 AM Amendment 940740 by Senator Thurston strike all
 10:35:55 AM Senator Thurston explains the amendment
 10:37:20 AM Questions
 10:37:39 AM Senator Powell with a question
 10:38:12 AM Senator Thurston responds
 10:38:17 AM Senator Powell with a follow-up
 10:38:48 AM Senator Thurston responds
 10:39:49 AM Senator Powell with follow up
 10:40:03 AM Senator Thurston responds
 10:41:05 AM No public appearance
 10:41:28 AM Debate
 10:41:35 AM Senator Powell in debate
 10:42:28 AM Senator Baxley comments on amendment
 10:42:51 AM Senator Thurston closes
 10:43:28 AM Amendment 940740 not adopted
 10:44:34 AM Amendment 262784 by Senator Baxley
 10:44:52 AM Senator Baxley explains the amendment
 10:50:38 AM Questions
 10:51:43 AM Senator Gibson with question to Senator Baxley

10:52:05 AM Senator Baxley responds
10:52:35 AM Senator Gibson with follow up
10:53:06 AM Senator Baxley responds to question
10:53:20 AM Senator Gibson with follow up
10:53:32 AM Senator Baxley with response
10:54:31 AM Senator Gibson with follow up question
10:54:48 AM Senator Baxley responds
10:55:18 AM Senator Gibson with follow up
10:55:39 AM Senator Baxley with response
10:55:56 AM Senator Gibson with follow up
10:56:09 AM Senator Baxley with response
10:56:29 AM Senator Gibson with follow up
10:57:31 AM Senator Baxley responds
10:57:56 AM Senator Gibson with a question
10:58:59 AM Senator Baxley responds
10:59:34 AM Senator Gibson with follow up question
11:00:14 AM Senator Baxley responds
11:01:09 AM Senator Gibson with question
11:02:13 AM Senator Baxley with response
11:02:32 AM Senator Gibson with follow up
11:02:57 AM Senator Baxley with response
11:03:34 AM Senator Gibson with follow up question
11:03:55 AM Senator Baxley with response
11:04:08 AM Senator Gibson with question
11:04:21 AM Senator Baxley responds
11:04:26 AM Senator Gibson with question
11:04:38 AM Senator Baxley with response
11:04:59 AM Senator Gibson with follow up
11:05:11 AM Senator Baxley with response to question
11:06:00 AM Senator Gibson with follow up
11:06:09 AM Senator Baxley with response to follow up
11:06:29 AM Senator Gibson with follow up question
11:06:49 AM Senator Baxley with response
11:07:02 AM Senator Gibson with follow up
11:07:12 AM Senator Baxley with response
11:07:39 AM Senator Gibson with follow up question
11:08:33 AM Senator Baxley with response
11:09:01 AM Senator Gibson with follow up
11:09:57 AM Senator Gibson and Senator Baxley with a series of questions
11:13:20 AM Amendment barcode 937976 by Senator Farmer
11:13:42 AM Senator Farmer explains amendment
11:14:06 AM Questions
11:14:08 AM Senator Powell with question
11:14:23 AM Senator Farmer responds
11:14:47 AM Senator Powell with follow up
11:14:57 AM Senator Farmer with response
11:15:20 AM Debate
11:16:10 AM Senator Baxley comments on amendment
11:16:21 AM Senator Farmer closes on amendment barcode 937796
11:17:07 AM Amendment barcode 937796 is not adopted
11:18:09 AM Senator Thurston withdraws amendment 105356
11:18:26 AM AA 396232 by Senator Farmer
11:18:45 AM Senator Farmer explains amendment to amendment
11:19:16 AM Questions
11:19:36 AM Senator Powell with question
11:19:47 AM Senator Farmer responds
11:20:04 AM Debate
11:20:30 AM Senator Mayfield in debate
11:20:36 AM Senator Baxley comments on amendment
11:20:42 AM Senator Farmer closes on amendment
11:20:59 AM Amendment barcode 396232 is adopted
11:21:40 AM Amendment barcode 284554 by Senator Farmer

11:21:46 AM Senator Farmer explains the amendment
11:22:05 AM Questions
11:22:19 AM Senator Powell with question
11:22:33 AM Senator Farmer with response
11:23:04 AM Senator Powell with follow up question
11:23:27 AM Senator Farmer with response to follow up
11:23:58 AM Senator Powell with follow up
11:24:42 AM Senator Farmer with response to final question
11:25:05 AM Debate
11:25:50 AM Senator Baxley comments on amendment
11:25:56 AM Senator Farmer closes on amendment
11:27:20 AM Amendment barcode 284554 is not adopted
11:28:22 AM Amendment 742050 by Senator Farmer
11:28:33 AM Senator Farmer explains amendment 742050
11:29:15 AM No Questions
11:29:27 AM Debate
11:29:38 AM Senator Baxley comments on amendment
11:29:52 AM Senator Farmer closes on amendment
11:31:10 AM Amendment barcode 742050 is not adopted
11:32:13 AM Amendment barcode 153722 by Senator Farmer
11:32:23 AM Senator Farmer explains amendment barcode 153722
11:32:37 AM No questions
11:32:43 AM Debate
11:32:50 AM Senator Baxley comments on amendment
11:33:01 AM Senator Farmer closes on amendment to amendment
11:33:19 AM Amendment barcode 153722 is not adopted
11:34:10 AM Amendment barcode 139050 by Senator Brandes
11:34:21 AM Senator Brandes explains amendment barcode 139050
11:34:33 AM Questions
11:34:45 AM Senator Powell with question
11:35:03 AM Senator Brandes with response to question
11:35:23 AM Debate
11:36:24 AM Senator Baxley comments on amendment
11:36:38 AM Senator Brandes closes on amendment barcode 139050
11:37:08 AM Amendment barcode 139050 is not adopted
11:37:25 AM Amendment 522990 by Senator Brandes
11:37:28 AM Senator Brandes explains amendment to amendment barcode 522990
11:37:59 AM No questions
11:38:39 AM Debate
11:38:47 AM Senator Baxley comments on amendment
11:38:54 AM Senator Brandes closes on amendment barcode 522990
11:39:21 AM Amendment barcode 522990 is not adopted
11:39:44 AM Amendment barcode 525218 by Senator Brandes
11:39:57 AM Senator Brandes explains amendment barcode 525218
11:40:31 AM Questions
11:41:32 AM Senator Powell with question
11:41:47 AM Senator Brandes responds
11:42:59 AM Public appearance
11:43:15 AM Mark Earley, Leon County Supervisor of Elections, speaks in support of amendment
11:43:32 AM Debate
11:43:37 AM Senator Powell with debate
11:43:49 AM Senator Baxley comments on amendment
11:44:54 AM Senator Brandes closes on amendment barcode 525218
11:45:56 AM Amendment barcode 525218 is not adopted
11:46:47 AM Amendment 112822 by Senator Brandes
11:46:55 AM Senator Brandes explains amendment barcode 112822
11:47:28 AM No questions
11:48:40 AM Debate
11:48:45 AM Senator Farmer requests to ask a question of Mark Earley
11:49:09 AM Senator Farmer with question to Mark Earley
11:49:39 AM Mark Earley responds
11:50:21 AM Debate

11:50:27 AM	Senator Baxley comments on amendment
11:50:32 AM	Senator Brandes waives close
11:50:37 AM	Amendment barcode 112822 is adopted
11:50:48 AM	Senator Brandes explains amendment barcode 524636
11:51:18 AM	No questions
11:51:59 AM	Debate
11:52:02 AM	Senator Baxley comments on amendment
11:52:07 AM	Senator Brandes closes on amendment barcode 524636
11:52:21 AM	Amendment barcode 524636 is adopted
11:53:10 AM	Back on main amendment barcode 262784
11:53:39 AM	Questions
11:53:43 AM	Senator Gibson with question on interest of location
11:54:18 AM	Senator Baxley with response
11:54:55 AM	Senator Gibson with follow up question
11:55:20 AM	Senator Baxley with response
11:56:28 AM	Senator Gibson with question on dropbox
11:57:32 AM	Senator Baxley responds to Senator Gibson
11:58:15 AM	Senator Gibson with question on clarity
11:59:20 AM	Senator Baxley responds
12:01:00 PM	Senator Gibson with follow up question on dropbox
12:01:23 PM	Senator Baxley with response
12:01:49 PM	Senator Gibson with question on supervisor of elections
12:02:28 PM	Senator Baxley with response
12:04:12 PM	Senator Bracy with question
12:05:25 PM	Senator Baxley with response
12:06:09 PM	Senator Bracy with follow up on dropbox
12:07:32 PM	Senator Baxley with response
12:08:25 PM	Senator Bracy with follow up
12:10:14 PM	Senator Baxley with response
12:10:50 PM	Senator Bracy with question on signature
12:11:52 PM	Senator Baxley with response
12:12:51 PM	Senator Bracy with question on registration
12:13:11 PM	Senator Baxley with response
12:14:16 PM	Senator Bracy with follow up question
12:14:44 PM	Senator Baxley with response
12:15:19 PM	Senator Bracy with question on expanding
12:16:20 PM	Senator Baxley with response
12:17:33 PM	Senator Bracy with question
12:18:39 PM	Senator Baxley with response
12:19:31 PM	Senator Brandes with question
12:20:36 PM	Senator Baxley with response to Senator Brandes
12:20:53 PM	Senator Brandes with follow up question
12:21:06 PM	Senator Baxley with response
12:21:26 PM	Senator Brandes with follow up question on signatures
12:22:03 PM	Senator Baxley with response
12:22:19 PM	Senator Brandes with follow up
12:22:26 PM	Senator Baxley with response
12:22:39 PM	Senator Brandes with question on ID
12:23:04 PM	Senator Baxley with response
12:23:23 PM	Senator Brandes with follow up
12:24:15 PM	Senator Baxley with response
12:27:20 PM	Senator Brandes with question on duplication of ballots
12:28:22 PM	Senator Baxley with response
12:28:50 PM	Senator Brandes with question on limitation of ballots
12:29:16 PM	Senator Powell with question
12:30:02 PM	Senator Baxley with response
12:31:10 PM	Senator Powell with follow up question on voting file
12:32:14 PM	Senator Baxley with response
12:34:06 PM	Senator Powell with question
12:35:08 PM	Senator Baxley with response
12:35:28 PM	Senator Powell with follow up question
12:36:40 PM	Senator Baxley with response

12:37:39 PM	Senator Powell with question on driver's license
12:38:48 PM	Senator Powell with question on rights restored
12:39:51 PM	Senator Baxley with response
12:40:09 PM	Senator Brandes with clarity
12:40:51 PM	Senator Powell with question on ID updates
12:41:38 PM	Senator Baxley with response
12:42:24 PM	Senator Powell with question on registration
12:43:04 PM	Senator Baxley with response
12:43:15 PM	Senator Powell with question on supervisors
12:43:41 PM	Senator Baxley with response
12:44:27 PM	Senator Powell with question on time
12:45:13 PM	Senator Powell with question
12:46:15 PM	Senator Baxley with response
12:46:28 PM	Senator Powell with question
12:47:51 PM	Senator Powell with question
12:47:54 PM	Senator Baxley with response
12:48:23 PM	Senator Powell with question on signature
12:49:28 PM	Senator Baxley with response
12:50:28 PM	Senator Powell with question on close enough
12:51:32 PM	Senator Baxley with response
12:52:30 PM	Senator Farmer with questions
12:53:25 PM	Senator Baxley with response
12:53:45 PM	Senator Farmer with question
12:54:09 PM	Senator Baxley with response
12:54:32 PM	Senator Farmer with question on drop box
12:54:49 PM	Senator Baxley with response
12:54:58 PM	Senator Farmer with question on dropbox
12:55:40 PM	Senator Baxley with response
12:55:52 PM	Senator Farmer with question
12:56:01 PM	Senator Baxley with response
12:56:10 PM	Senator Farmer with question on limitation
12:56:29 PM	Senator Baxley with response
12:57:18 PM	Senator Farmer with question
12:58:10 PM	Senator Baxley with response
12:58:35 PM	Senator Farmer with question on time limitation
12:58:56 PM	Senator Baxley with response
12:59:08 PM	Senator Farmer with question
12:59:22 PM	Senator Baxley with response
12:59:33 PM	Public Appearance
1:00:05 PM	Mark Earley, FSE Association, speaks on the amendment
1:05:08 PM	Senator Brandes with question to Mark Earley
1:05:24 PM	Mr. Earley responds
1:06:46 PM	No debate on amendment
1:07:10 PM	Senator Baxley waives close
1:07:32 PM	TP bill until members come back
1:07:55 PM	Amendment barcode 262784 is adopted
1:08:28 PM	Back on bill as amended
1:08:35 PM	Questions
1:08:37 PM	Appearance forms
1:09:14 PM	Patty Farley, Democratic Womens Club of Florida, speaking against
1:10:22 PM	Kira Romero-Craft, Latino Justice PRLDEF against
1:11:22 PM	Ida Eskamani, Florida Rising & Florida Immigrant Coalition, speaking against
1:12:28 PM	Senator Farmer with question for Ida Eskamani
1:12:34 PM	Ida Eskamani responds
1:12:58 PM	Pastor Markus McCoy Jr., State Director for Equal Ground Action Fund, speaking against
1:13:54 PM	Theresa King, FL Building & Construction Trades, speaking against
1:14:48 PM	Aliki Moncrief, Florida Conservative Voters, is against - Jonathan Webber, Florida Conservation Voters, speaks against
1:16:07 PM	Jessica Lewis, Serra Club, speaking against
1:17:15 PM	Carrie Boyd, SPLC Action Fund, speaking against
1:18:22 PM	Helena Sims, representing self, speaking in favor
1:19:41 PM	Ben Serber, Graduate Assistant, waives against

1:19:45 PM Karen Woodall, Florida Center for Fiscal & Economic Policy, waives against
1:19:49 PM Jordan Lenhotz, Graduate Student waives against
1:19:53 PM Pamela Burch Fort, ACLU & NAACP FL State Conference, waives against
1:20:00 PM Trish Neely League Women Voters, waives against
1:20:06 PM Barbara DeVane FL Now & FL Alliance for Retired Americans, waives against
1:20:09 PM Rich Templin, Florida AFL - CIO waives, against
1:20:11 PM Aislinn Roxanne Brookshire, Graduate Research Assistant, waives against
1:20:16 PM Jordan Scott, Graduate Assistant, waives against
1:20:54 PM Vincenza Berardo, Graduate Assistant, waives against
1:21:36 PM Ben Serber, Graduate Assistant speaks against
1:23:05 PM Vincenza Berardo, Grad Assistant FSU, speaks against
1:23:40 PM Roxy Brookshire citizen speaks against
1:23:45 PM Karen Marian, speaking against the bill
1:24:53 PM Steve Kirn, Gainesville, speaking against
1:25:45 PM Matthew Latto, Tallahassee, speaking against
1:26:36 PM Brad Ashwell, Director of All Things Local, speaking against
1:27:55 PM Michael Dobson, The Dream Foundation, speaking against
1:29:14 PM Krystal Williams, Grad Assistant FAMU, speaking against
1:30:32 PM End of public appearance
1:30:34 PM Debate - we will not have a time certain vote on this today
1:31:02 PM Senator Bracy with debate
1:33:21 PM Senator Powell with debate
1:37:21 PM Senator Thurston with debate
1:46:45 PM Senator Gibson with debate
1:52:09 PM Senator Farmer with debate
1:59:10 PM Time of adjournment having arrived and by operation of the Senate Rules we are adjourned.